



File No:

Form 12 | Section 77B of the *Land Court Act 2000*

GENERAL APPLICATION

Court reference:

MRA026-21, MRA027-21 and EPA028-21

In the matter of:

Applicant

New Acland Coal Pty Ltd

v

Respondent(s)

Oakey Coal Action Alliance Inc & Ors

TAKE NOTICE that the Respondent (OCAA) in this proceeding makes an application to the Land Court under:

Land Court Act 2000

Section 100 of the *Land Court Act 2000* as currently in force and pursuant to sections 7A(2)(a) and (c) and 52B(1)(b) of the Act in force as if the *Justices and Other Legislation Amendment Bill 2020* had not been enacted

***This application is to be heard by the Court at 10:00am on Thursday, 11 March 2021 in Brisbane (for directions)**

*Contact the Land Court registry for the allocation of a date and time for hearing

Parties served with this application must appear before the Court in person or by lawyer or authorised agent unless the Court otherwise orders.

Briefly state the facts circumstances or other relevant matters on which this application is based:

See Annexure B to this Form.

Orders or other relief sought:

See Annexure A to this form.

Grounds on which the orders or other relief are sought:

See Annexure B to this form.





DECLARATION

I have read and understood the Privacy Statement below.

Privacy Statement

The Land Court and Tribunal Registry (which forms part of the Department of Justice and Attorney-General) is collecting information provided on and with this form to assess the suitability of the matter for the Land Court.

Any information you provide will only be used by the Registry for the purpose for which it was provided. For more information about how DJAG manages personal information please refer to DJAG's [Privacy Guide](#).

Please ensure that the personal information you provide on this form is true and correct, including the information you provide about other parties. I certify the above information provided is accurate and correct.

DECLARATION SIGNATURE

The general application **MUST** be signed by **ALL** appellants / applicants or their Solicitor or Authorised Agent. (If there is more than one signature required on this form, please click the plus button on the bottom right hand corner of the table to add additional signatures)

Signed by: (please select one)

- Applicant / Appellant
 Solicitor
 Authorised agent

(this form may be signed via digital ID in the space provided below, otherwise please print the form and sign it by hand)

X Environmental Defenders Office

Name of signatory:

Environmental Defenders Office

Description: (of signatory)

Solicitor for the Oakey Coal Action Alliance Inc

Date:

Wednesday, 10 March 2021



PROCEDURE FOR FILING

You or your representative must file this **Form 12** in the Land Court. Please submit this completed **Form 12**, which may be sent via email to landcourt@justice.qld.gov.au or:

In Person:
Land Court Registry
Level 8
363 George Street
BRISBANE QLD 4000

By Post:
The Registrar
Land Court Registry
GPO Box 5266
BRISBANE QLD 4001

By Fax:
The Registrar
Land Court Registry
(07) 3738 7434

The application MUST be filed and served on each other Party to the proceeding AT LEAST 5 BUSINESS DAYS before the date set for the hearing of the application.

ANNEXURE A

LAND COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: EPA028-21
MRA027-21
MRA026-21

Applicant: **NEW ACLAND COAL PTY LTD**
AND
Objectors: **Oakey Coal Action Alliance Inc & ORS**
AND
Statutory Party: **CHIEF EXECUTIVE, DEPARTMENT OF
ENVIRONMENT AND SCIENCE**

ORDERS SOUGHT BY OCAA IN GENERAL APPLICATION FOR DECLARATIONS AND STAY

Pursuant to section 100 of the *Land Court Act 2000* (the Act) as currently in force and pursuant to sections 7A(2)(a) and 52B(1)(b) of the Act in force as if the *Justices and Other Legislation Amendment Bill 2020* had not been enacted, declare that:

1. The application to amend the environmental authority under the *Environmental Protection Act 1994* (Qld) (EPA) for the mine relevantly includes proposed mining activities spanning four mining leases (ML), as identified in sections 2.2 and 2.2.1 and Figure 2-1 of the Coordinator-General's Report for stage 3 of the mine, namely:
 - (a) ML 50170 (**stage 1 ML**) – on which, relevantly, the coal handling and processing plan (CHPP) for the coal from stage 3 is proposed to be located;
 - (b) ML 50216 (**stage 2 ML**) – on which, relevantly, part of the stage 3 mining pits (the northern parts of Manning Vale East Pit and Willeroo Pit) are located and across which the coal from the stage 3 ML is transported;
 - (c) ML 50232 (**stage 3 ML**) – on which the majority of the mining pits for stage 3 are proposed to be located; and
 - (d) ML 700002 (**the rail corridor ML**) – on which the rail corridor is proposed to be located.
2. The application to amend the environmental authority under the EPA for the mine cannot authorise or impose conditions on mining activities unless those mining activities are themselves authorised under the *Mineral Resources Act 1989* (Qld) (MRA).
3. No valid mining lease was granted for stage 1 or 2 of the mine (ML 50170 and ML 50216 respectively) as no mining lease was granted stating the conditions it would be subject to, contrary to section 276 of the MRA in force at the time the mining leases were purportedly granted.

4. To the extent that valid mining leases were granted for stage 1 and 2 of the mine, the mining leases and the environmental authority granted for stage 1 and 2 of the mine:
 - (a) authorised the mining, transport and processing of coal from the mining pits identified in the applications for those stages only, namely the three pits identified as North Pit, South Pit and Centre Pit shown as Figure 2-1 (New Acland Project Layout) in the stage 2 environmental impact statement, Ch 2 (Description of the Project), January 2006; and
 - (b) did not authorise the mining, transport and processing of coal from:
 - (i) “West Pit”, which the applicant has mined on the stage 2 mining lease since 2016; or
 - (ii) the extension of South Pit beneath Bottle Tree Hill that the applicant mined in 2018-2019.
5. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid as it seeks to authorise activities on the stage 1 and 2 mining leases that are not authorised under the MRA and for which no application has been made under the MRA.
6. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid as it seeks to authorise mining activities on the stage 1 and 2 mining leases that have already been undertaken by applicant in the mining and processing of coal from:
 - (a) “West Pit” since 2016; and
 - (b) the extension of South Pit beneath Bottle Tree Hill in 2018-2019.
7. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid and any conditions authorising or regulating mining activities on the stage 1 or 2 mining leases would be unlawful under section 59 of the *Regional Planning Interests Act 2014* (Qld) (**RPIA**) to the extent:
 - (a) it purports to authorise processing of coal from stage 3 of the mine on the stage 1 mining lease; and
 - (b) it seeks to authorise activities on the stage 1 and 2 mining leases that are inconsistent with the conditions 1 and 2 of the regional interests development approval (**RIDA**) for the resource activities for the mine granted on 25 August 2020, which limit the infrastructure necessary to support the coal handling processing plant (e.g. wash plant, water dam, crushers, conveyor belts, stackers and reclaimers) to the stage 3 mining lease area.

Pursuant to section 100 of the Act as currently in force and pursuant to sections 7A(1)(b), 7(2)(c) and 52B(1)(b) of the Act in force as if the *Justices and Other Legislation Amendment Bill 2020* had not been enacted, order that:

8. The hearing of objections for mining lease applications 50232 and 700002 under the MRA and the objections to the application to amend the environmental authority for stage 3 of the mine under the EPA be stayed indefinitely.
9. To the extent necessary, OCAA be given leave to amend its grounds of objection to the application to amend the environmental authority under the EPA to include the grounds raised in this General Application.

ANNEXURE B

LAND COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: EPA028-21
MRA027-21
MRA026-21

Applicant: **NEW ACLAND COAL PTY LTD**
AND

Objectors: **Oakey Coal Action Alliance Inc & ORS**
AND

Statutory Party: **CHIEF EXECUTIVE, DEPARTMENT OF
ENVIRONMENT AND SCIENCE**

FACTS, CIRCUMSTANCES AND OTHER RELEVANT MATTERS ON WHICH THIS APPLICATION IS BASED AND GROUNDS ON WHICH THE ORDERS OR OTHER RELIEF ARE SOUGHT

The grounds, facts, circumstances and other relevant matters on which the General Application are sought are:

Declarations of EA amendment application invalidity

1. The application to amend the environmental authority under the *Environmental Protection Act 1994* (Qld) (**EPA**) for the mine relevantly includes proposed mining activities spanning four mining leases (**ML**), as identified in sections 2.2 and 2.2.1 and Figure 2-1 of the Coordinator-General's Report for stage 3 of the mine, namely:
 - (a) **ML 50170 (stage 1 ML)** – on which, relevantly, the coal handling and processing plan (**CHPP**) for the coal from stage 3 is proposed to be located;
 - (b) **ML 50216 (stage 2 ML)** – on which, relevantly, part of the stage 3 mining pits (the northern parts of Manning Vale East Pit and Willeroo Pit) are located and across which the coal from the stage 3 ML is transported;
 - (c) **ML 50232 (stage 3 ML)** – on which the majority of the mining pits for stage 3 are proposed to be located; and
 - (d) **ML 700002 (the rail corridor ML)** – on which the rail corridor is proposed to be located.
2. The application to amend the environmental authority under the EPA for the mine cannot authorise or impose conditions on mining activities unless those mining activities are themselves authorised under the *Mineral Resources Act 1989* (Qld) (**MRA**).

3. No valid mining lease was granted for stage 1 or 2 of the mine (ML 50170 and ML 50216 respectively) as no mining lease was granted stating the conditions it would be subject to, contrary to section 276 of the MRA in force at the time the mining leases were purportedly granted.
4. To the extent that valid mining leases were granted for stage 1 and 2 of the mine, the mining leases and environmental authority granted for stage 1 and 2 of the mine:
 - (a) authorised the mining, transport and processing of coal from the mining pits identified in the applications for those stages only, namely the three pits identified as North Pit, South Pit and Centre Pit shown as Figure 2-1 (New Acland Project Layout) in the stage 2 environmental impact statement, Ch 2 (Description of the Project), January 2006; and
 - (b) did not authorise the mining, transport and processing of coal from:
 - (i) “West Pit”, which the applicant has mined on the stage 2 mining lease since 2016 (as identified in Figure 1); or
 - (ii) the extension of South Pit beneath Bottle Tree Hill that the applicant mined in 2018-2019 (as identified in Figure 1).

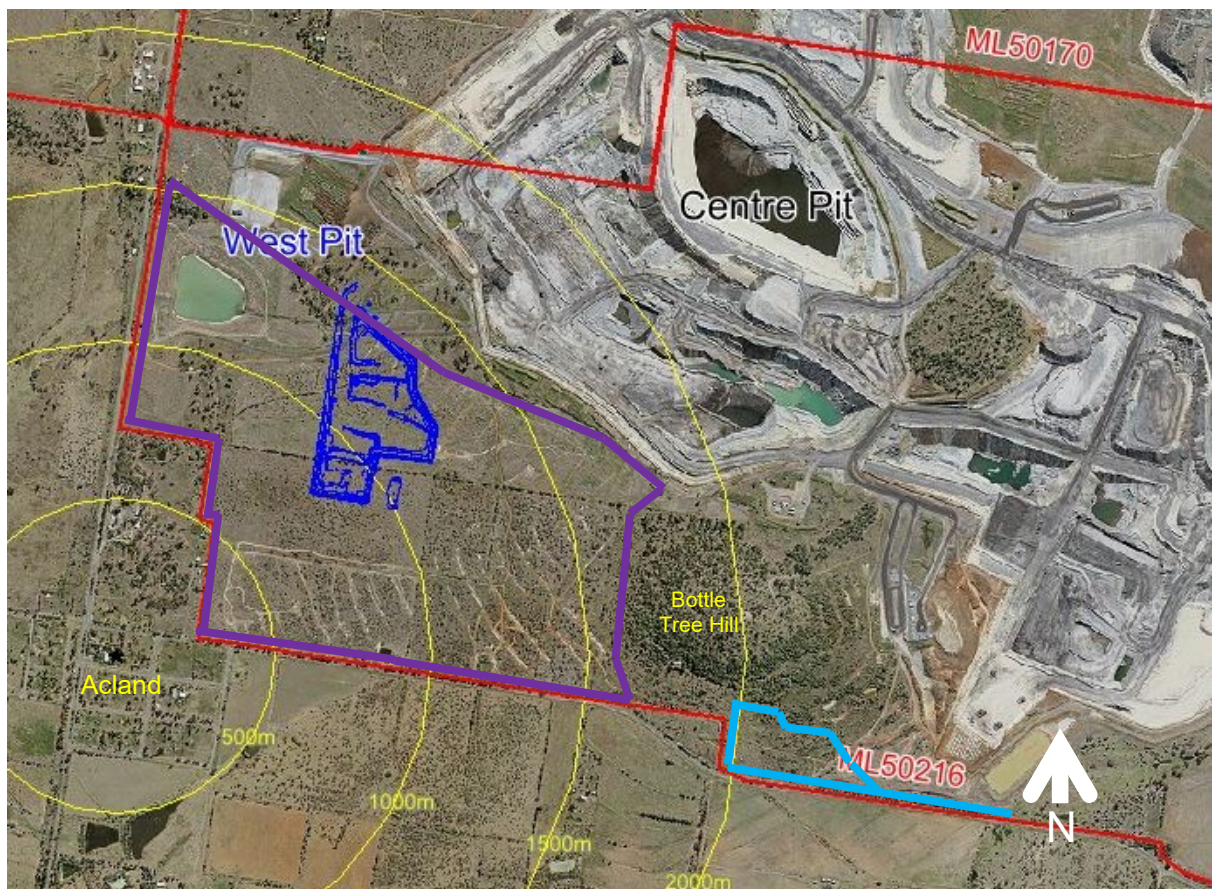


Figure 1: Particulars of: (a) the general location of West Pit in the southwestern corner of the existing stage 2 mining lease (ML 50216) and distances from the house of Mr Glen Beutel in Acland: as at 4 August 2016 (dark blue outline); and as at 1 February 2021 (purple outline); and (b) the general location of the extension of South Pit in 2018-2019 outside of the mine footprint applied for and approved in 2005-2006 as at 1 February 2021 (light blue outline).

5. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid as it seeks to authorise activities on the stage 1 and 2 mining leases that are not authorised under the MRA and for which no application has been made under the MRA.
6. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid as it seeks to authorise mining activities on the stage 1 and 2 mining leases that have already been undertaken by applicant in the mining and processing of coal from:
 - (a) “West Pit” since 2016; and
 - (b) the extension of South Pit beneath Bottle Tree Hill in 2018-2019.
7. The application to amend the environmental authority under the EPA for stage 3 of the mine is invalid and any conditions authorising or regulating mining activities on the stage 1 or 2 mining leases would be unlawful under section 59 of the *Regional Planning Interests Act 2014* (Qld) (**RPIA**) to the extent:
 - (a) it purports to authorise processing of coal from stage 3 of the mine on the stage 1 mining lease; and
 - (b) it seeks to authorise activities on the stage 1 and 2 mining leases that are inconsistent with the conditions 1 and 2 of the regional interests development approval (**RIDA**) for the approved resource activities for the mine granted on 25 August 2020, which limit the infrastructure necessary to support the coal handling processing plant (e.g. wash plant, water dam, crushers, conveyor belts, stackers and reclaimers) to the stage 3 mining lease area.

Stay of proceedings

8. If the application to amend the environmental authority under the EPA is declared to be invalid, the hearing of objections for mining lease applications 50232 and 700002 under the MRA and the objections to the application to amend the environmental authority for stage 3 of the mine ought to be stayed indefinitely.

Environmental Defenders Office Inc
Solicitor for OCAA
10 March 2021