

STATEMENT OF REASONS

Statement of reasons for the decision to approve mining leases under section 271A of the *Mineral Resources Act 1989* (MRA)

INTRODUCTION

I, Dr Anthony Lynham, Minister for Natural Resources and Mines, provide the following statement of reasons for my decision of 3 April 2016, under section 271A of the *Mineral Resources Act 1989* (the **MRA**), to grant Mining Leases (**MLs**) 70441, 70505 and 70506 applied for by Adani Mining Pty Ltd (**Adani**) to mine coal.

BACKGROUND

1. On 8 November 2010, Adani applied for ML 70441.
2. On 9 July 2013, Adani applied for MLs 70505 and 70506.
3. The three MLs constitute a single project known as the Carmichael mine.
4. Land in the area of Mining Lease Applications (**MLAs**) 70505 and 70506 included land in the area of Exploration Permit for Coal (**EPC**) 1080, held by Waratah Coal Pty Ltd. Waratah Coal's written consent to the grant of MLs 70505 and 70506 pursuant to the MRA, s 248 was lodged with the applications on 9 July 2013.
5. On 31 July 2013, the delegate (the Regional Director, Central Region, Department of Natural Resources and Mines (**DNRM**)) of the then Minister for Natural Resources and Mines approved the initial development plan for MLA 70441 under the MRA, ch 8, pt 9, div 3.
6. Land in the area of MLAs 70505 and 70506 included land in the area of Authority to Prospect (**ATP**) 1044. On 1 November 2013, the holder of ATP 1044, Queensland Energy Resources Limited, gave its written consent to the grant of MLs 70505 and 70506 pursuant to the MRA, s 318BO(1)(c)(ii).
7. On 24 December 2013, the Regional Director, Central Region, DNRM, as delegate approved the initial development plan for MLAs 70505 and 70506.
8. On 13 March 2014, Adani lodged a partial abandonment of surface area of MLA 70505 pursuant to the MRA, s 307. This removed Lot 5091 on PH 1882 and part of Lot 1 on SP 164918 ("Lignum Station") from the surface area of the MLA.
9. On 16 April 2014, the Principal Mining Registrar issued, for MLAs 70441, 70505 and 70506, certificates of application pursuant to the MRA, s 252 and certificates of public notice pursuant to the MRA, s 252A with the last objection day being 17 June 2014.
10. On 16 April 2014, Adani's representative signed the certificates of application pursuant to the MRA, s 252(3).
11. The consent of the owner of Lot 1 on SP 164918 ("Lignum Station") to the grant of an ML over the surface of land that was restricted land when the MLA was lodged was not obtained before the end of the last objection day.
12. On 16 June 2014, one objection to the MLAs was lodged by Land Services of Coast and Country Pty Ltd (**LSCC**) pursuant to the MRA, s 260. Two submissions about Adani's application for an Environmental Authority (**EA**) pursuant to the *Environmental Protection Act 1994* (**EP Act**), ch 5 for mining

activities relating to the three Carmichael MLs were also lodged by LSCC and Conservation Action Trust (CAT).

13. On 18 June 2014, the submissions about the EA application were referred to the Department of Environment and Heritage Protection (EHP), the administering authority for the EA application.
14. On 20 June 2014, Adani gave the delegate of the chief executive of DNRM statutory declarations pursuant to the MRA, s 252C as to its compliance with s 252B for the three MLAs.
15. On 28 August 2014, EHP issued a draft EA pursuant to the EP Act, s 181(2)(b)(i). The last day a submitter was able to give an objection notice pursuant to the EP Act, s 182(3)(a) was 26 September 2014.
16. On 10 September 2014, LSCC as a submitter gave an objection notice in relation to the EA application.
17. On 25 September 2014, CAT as a submitter gave an objection notice in relation to the EA application.
18. On 29 September 2014, the chief executive's delegate referred the MLAs and LSCC's objection to the Land Court for hearing and EHP referred the EA application to the Land Court for decision.
19. On 3 December 2014, Adani lodged a second partial abandonment of MLA 70505 removing the entire area of Lot 5091 on PH 1882 from the MLA area, reducing the area of MLA 70505 to 13,524.9ha.
20. On 15 December 2015, the Land Court made the following orders (*Adani Mining Pty Ltd v Land Services of Coast and Country Inc* [2015] QLC 48):
 1. Pursuant to s 269(1) of the *Mineral Resources Act 1989*, I recommend to the Honourable the Minister administering the *Mineral Resources Act 1989* that, subject to the inclusion of additional conditions in the environmental authority as set out in Order 2 below, mining leases 70441, 70505 and 70506 be granted over the application area.
 2. Pursuant to s 190(1)(a)(ii) of the *Environmental Protection Act 1994*, I recommend to the administering authority that the environmental authority be issued in the terms of the draft environmental authority issued on 28 August 2014, subject to the insertion of the following conditions into the BTF [Black-throated finch] Species Management Plan referred to in Condition 16 of the environmental authority:
 - (a)
 - i. monitoring of water bodies should be conducted over at least a six hour period commencing from dawn in order to accurately capture utilization of the watering points;
 - ii. detailed botanical assessment should be focussed on all BTF siting locations to record habitat values within those locations;
 - iii. more effort should be placed into actively locating BTF and collecting information on their movements across the project and offset areas;
 - iv. call playback should be used when BTF are encountered to assist in gaining a more complete identification of birds present in the local area;
 - v. specific surveys targeting breeding be undertaken to provide details on locations and habitat values in breeding areas;

- vi. persons undertaking the survey/monitoring should be experienced ecologists with sound understanding of the BTF and its habitats;
 - vii. any future revision of the current survey and monitoring programs should be developed in consultation with researchers from the BTF recovery team and independently peer reviewed.
- (b) The research management plan include provision for funding a research project to determine the correlation between water source, woody habitat and Poaceae food resources across the MLA areas and the proposed offset areas, to determine the interrelationships between these factors.
 - (c) The research management plan include a provision that the Ten Mile Bore and its surrounds be investigated to determine whether that area maintains an important function in sustaining the BTF population.
4. I direct the Registrar of the Land Court to provide a copy of these reasons to the Honourable the Minister administering the *Mineral Resources Act 1989* and to the administering authority under the *Environmental Protection Act 1994* and to direct those persons' attention specifically to my observations in [583] – [586].
21. The Land Court's observations at [583]-[586] were:
- [583] As discussed above, I have accepted that the survival of the globally significant population of the endangered BTF will be threatened by the proposed mine. There was evidence that the area around the Ten Mile Bore (which is located near the dividing boundary between MLA 70441 and MLA 70506) may be important in sustaining the BTF population. There is also evidence that the applicant has given consideration to changing the mine design by increasing the area of underground mining to replace open cut mining in the northern part of the lease area. There is also evidence that this may reduce the impact of the mine on the BTF habitat in that area.
 - [584] I draw this evidence to the attention of the Honourable Minister and the administering authority with the suggestion that this proposal be explored further with the applicant, with a view to improving the chances of survival of the BTF.
 - [585] I also draw to the attention of the Honourable the Minister administering the *Mineral Resources Act 1989* that the evidence was that the estimate in the EIS of the number of Queensland jobs to be generated by the mine alone was 10,000 full time equivalent jobs per annum from 2024. The applicant's evidence given by Dr Fahrer at the hearing was that the Carmichael Coal and Rail Project will increase average annual employment by 1,206 fte jobs in Queensland and 1,464 jobs in Australia.
 - [586] Further the applicant's input figures contained in the CGE and CBA modelling probably overstate the selling price of the coal and therefore the royalties generated by the project and the corporate tax payable. In addition, the discount rates adopted by Dr Fahrer, to value future income in present day values, are lower than those recommended in some guidelines. The consequence is that the benefits of the project are likely to be less than modelled by Dr Fahrer.
22. On 2 February 2016, EHP decided pursuant to the EP Act, s 194 that the EA application be approved with the conditions recommended by the Land Court. On 3 February 2016 EHP issued the EA pursuant to the EP Act, s 195 (EPML 01470513) and gave a copy to the Principal Mining Registrar.
23. On 4 March 2016, Adani filed with the Principal Mining Registrar a compensation agreement with the Isaac Regional Council for road reserves in the area of MLAs 70441 and 70505. This agreement included the consent of the Council as owner of the reserves pursuant to the MRA, s 271A(2)(a).

24. On 15 March 2016, Adani filed with the Principal Mining Registrar a compensation agreement with the owner of Lot 1 on SP 164918 "Lignum Station" which is within the area of MLs 70441 and 70505.
25. On 3 April 2016, I decided pursuant to the MRA, s 271A to grant Adani MLs 70441, 70505 and 70506 each for a term of 30 years.

STATEMENT OF REASONS

26. This statement of reasons for my decision of 3 April 2016 to grant Adani MLs 70441, 70505 and 70506 sets out:
 - (a) the evidence or other material on which findings of fact in relation to the decision were made;
 - (b) my findings on material questions of fact in relation to the decision; and
 - (c) the reasons for my decision.

Evidence or other material on which findings of fact were made

27. The evidence or other material on which I made findings of fact in relation to the decision was as follows:
 - (a) a brief recommending grant of MLs 70441, 70505 and 70506 prepared by the Principal Mining Registrar Assessment, Coal Assessment Hub, DNRM dated 18 March 2016, including the following attachments:

Attachment 1:	ML 70441 Resource Authority Departmental Report
Attachment 2:	ML 70505 Resource Authority Departmental Report
Attachment 3:	ML 70506 Resource Authority Departmental Report
Attachment 4:	Summary of the Land Court of Queensland Recommendation
Attachment 5:	Land Court of Queensland Recommendation
Attachment 6:	Mining Registrar's Assessment
Attachment 7:	Other Matters for the Minister to Consider
Attachment 8:	Final Environmental Authority EPML 01470513 Carmichael Coal Mine
Attachment 9:	Documented Native Title Outcome for ML 70441
Attachment 10:	Documented Native Title Outcome for MLs 70505 and 70506
Attachment 11:	Carmichael Mine Project Satellite Map 1 Carmichael Mine Project Satellite Map 2 Carmichael Mine Project Sketch 1 Carmichael Mine Project Sketch 2
Attachment 12:	Coordinator-General's Evaluation Report on the Environmental Impact Statement
Attachment 13:	Map of Restricted Land within Lignum Station
Attachment 14:	Map of Make Good Agreements
Attachment 15:	Legal Advice on compliance with the MRA

Attachment 16: Approved Initial Development Plans for MLs 70441, 70505 and 70506.

- (b) a supplementary brief (CTS 07223/16) prepared by the Principal Mining Registrar Assessment, Coal Assessment Hub, DNRM dated 30 March 2016, including the following attachments:

Attachment 1: Certificates of Application and Certificates of Public Notice

Attachment 2: Photos of Datum Post and Combined Notice

Attachment 3: Sketch Location of Datum Posts

Attachment 4: Notice of Proposed Grant of Mining Lease 70441

Attachment 5: Notice of Proposed Grant of Mining Leases 70505 and 70506

Attachment 6: Formal Public Notice Processes

28. I note that the briefing note referred to attachment 9 as "Native title work decision for ML 70441", which was a document dated 11 May 2013 (the '**original attachment**'). I did not see that document. I have been informed that due to an administrative error when the briefing pack was first compiled, the original attachment was included and referred to within the briefing note. After the briefing pack was provided to me, but before I considered it, departmental officers realised that the wrong document had been included as attachment 9. I am told that on 10 September 2015 a new survey plan for lot 662 on PH 1491 was registered with DNRM which changed the description of this land parcel to lot 662 on SP 106939. DNRM undertakes an assessment of all land covered by each mining lease application to establish whether native title has been extinguished and records this process on a form now called a "documented native title outcome", but previously called a "native title work decision". On 11 February 2016 a new documented native title outcome form was completed for ML 70441 to address the fact that the lot and plan reference had changed, and it is this form that was intended to be included in the briefing pack. Once it was realised that the old form had been mistakenly attached to the brief as the original attachment, it was removed from my briefing pack and the correct form was included.

Findings on material questions of fact

29. With respect to the Land Court's recommendation (see MRA, s 271(a)), I made the following findings:
30. The administering authority made several changes to the conditions of the draft EA as a result of the Land Court's recommendation. The conditions recommended by the Land Court have been included the final EA.
31. With respect to the matters mentioned in section 269(4) of the MRA (see MRA, s 271(b)), I made the following findings:

(a) *whether the provisions of the MRA have been complied with*

32. The Principal Mining Registrar advised that, generally speaking, the Act had been complied with, but that there was only partial compliance with section 252B because the certificate of public notice was not posted on the datum posts for the entirety of the objection period. I considered that there was no practical

consequence of this non-compliance and that all those affected or likely to be affected had every reasonable opportunity to object to the grants. Having regard to s 392, I found that the provisions of the MRA had been complied with.

(b) *whether the area of land applied for is mineralised or the other purposes for which the lease is sought are appropriate*

33. I was satisfied that the area of land applied for is mineralised with in excess of 11 Billion Tonnes (BT) of Joint Ore Resources Committee resource defined thermal coal. I found that the areas that were not mineralised will be required for purposes appropriately associated with coal mining.

(c) *whether, if the land applied for is mineralised, there will be an acceptable level of development and utilisation of the mineral resources within the area applied for*

34. I found that the proponent intends to extract the resource at a rate of up to 60 million tonnes per annum (mtpa) over a period of approximately 56 years. I considered that this was an acceptable level of development and utilisation of the mineral resources within the area applied for.

(d) *whether the land and the surface area of the land in respect of which the mining lease is sought is of an appropriate size and shape in relation to—*

(i) *the matters mentioned in paragraphs (b) and (c); and*

(ii) *the type and location of the activities proposed to be carried out under the lease and their likely impact on the surface of the land*

35. I found that the shape of the MLs had been defined by the shape of the pre-requisite permits, the underlying coal resource and the infrastructure required to support the proposed mining operation. In the areas where mining is not taking place, other related mining infrastructure will be located. I found the size and shape of the MLs to be appropriate.

(e) *whether the term sought is appropriate*

36. I found that the total resource is in excess of 11 BT and the rate of extraction is up to 60 mtpa. At this rate, the resource would not be depleted within the 30-year terms that Adani has applied for. I found that a term of 30 years was appropriate for the MLs on the basis that it will be open to Adani to apply to renew the MLs upon their expiry to extract the remaining coal.

(f) *whether the applicant has the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease*

37. Adani Mining Pty Ltd is a wholly owned subsidiary of the Adani Group. The Adani Group is one of India's leading business houses with interests in power generation, coal mining and port development. The Adani group is majority-owned by the Adani family, with several entities under its fold, and three listed companies with group revenue of ~US\$14 billion as at March 2015.

38. Adani has to date shown that it has significant business interests in Australia and has made significant investment in Australia with a view to developing the coal resources underlying the MLAs. Part of this investment includes Adani's acquisition of a 99-year lease over the Abbot Point Coal Terminal and the acquisition from Linc Energy of EPC 1690 underlying ML 70441. In 2012, Adani purchased the pastoral holding lease of Moray Downs (Lot 662 on SP 106939). Moray Downs covers the majority of the surface area required for the Carmichael Mine.

39. Adani is also the proponent for a proposed 189-km rail line to connect the proposed Carmichael Mine to the Goonyella Rail line, then on to the export facilities at the Port of Abbot Point. The rail and off-lease facilities will be constructed within the Galilee Basin State Development Area (GBSDA) which will require Adani to invest a significant amount of capital in the project.
40. I was satisfied that Adani has in place a team of experienced and technically competent professionals in the field of geology, drilling and mining and the financial strength and capability to take up projects. The Adani group commenced coal trading in 1999 and has built a substantial business and revenue from coal trading in India from that date.
41. I found that Adani has the necessary financial and technical capabilities to carry on operations under the MLs and the ability to source the skills necessary as and when required.

(g) whether the past performance of the applicant has been satisfactory

42. I found that Adani had never been convicted of any breach of the MRA or issued with a notice to show cause or notice to rectify non-compliance. I found that the company's past performance in relation to the MRA had been satisfactory.
43. I noted that the Land Court had heard that two investigations had been conducted by the Department of Agriculture and Fisheries (DAF) in relation to quarry material from the Red Hill Quarry which is within the area of the applicant's existing EPC. One of those investigations was concluded after Adani paid royalties and agreed to pay investigation costs. The other was ongoing at the conclusion of the Land Court hearing.
44. I noted that the Land Court concluded that the investigations relating to the extraction of quarry material were not relevant to section 269(4)(g). I also noted that there was no evidence that the applicant has been prosecuted or convicted of any offence under the relevant legislation. The investigations did not relate to any allegations of environmental harm.

(h) whether any disadvantage may result to the rights of—

- (i) holders of existing exploration permits or mineral development licences; or*
- (ii) existing applicants for exploration permits or mineral development licences*

45. I found that MLs 70505 and 70506 overlap EPC 1080 held by Waratah Coal Pty Ltd. Waratah Coal had given its written consent to the grant of MLs 70505 and 70506. I therefore found that it would not be disadvantaged by the grant of the MLs.
46. There were no other permits or applications for permits by persons other than Adani in the area of the MLAs. I found that there were no other holders of or applicants for EPCs or mineral development licences that may be disadvantaged by the grant of the Carmichael MLAs.

(i) whether the operations to be carried on under the authority of the proposed mining lease will conform with sound land use management

47. The project is an open-cut and underground mining operation for which Adani has completed an EIS under the *State Development and Public Works Organisation Act 1971 (SDPWO Act)*. The EIS addressed land management and management of impacts from the operation. EHP has considered both the EIS and Coordinator-General's (CG) EIS evaluation report under the SDPWO Act and has issued a final EA for the project. The current land usage is

predominantly grazing and the proposed mining operation has undergone assessment and conditioning relating to a number of potential land use management impacts.

48. The Land Court accepted that Adani has developed a number of management plans to ensure that the land is managed in an appropriate way, including a mine waste management strategy plan, environmental management plans for the mine and offsite land and closure and rehabilitation strategies for the mine and offsite land. The Land Court noted that the applicant has made commitments in respect of the mine to ensure that the activities on the mine constitute sound land use management.

I found that the operations to be carried out within the Carmichael MLs will conform to sound land use management.

(j) *whether there will be any adverse environmental impact caused by those operations and, if so, the extent thereof*

49. There are clearly environmental impacts that will be caused by the proposed mining operations; of particular concern are the impacts on the Black Throated Finch (BTF) and the Doongmabulla Springs. The Land Court recommended that additional conditions be included in the EA to address these concerns and increase the required monitoring for the BTF. The additional conditions recommended by the Land Court have been incorporated into the final EA which was issued on 3 February 2016. I have noted the issue of whether the mine design may be altered in a way which may reduce the impact of the mine on the BTF habitat in the area, as drawn to my attention by the Land Court. I consider that the final EA adequately addresses impact on the BTF, and I do not consider that I ought to impose special conditions on the mining lease to address the issue.
50. Adani conducted an EIS and a supplementary EIS (SEIS) under the SDPWO Act for the Carmichael project and the CG approved the project with 190 conditions. The Commonwealth Environment Minister has granted an approval for the project under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**), pt 9, which includes a further 36 conditions.
51. The Land Court heard evidence in relation to greenhouse gas (**GHG**) emissions from the project and its potential impact on the Great Barrier Reef (**GBR**) as follows:
- (a) Dr Christopher Taylor was called by Adani to give evidence in relation to climate change issues. Dr Malte Meinshausen was called by the first objector in relation to climate change emissions and Dr Ove Hoegh-Guldberg in relation to ocean acidification and impacts on the GBR.
 - (b) Dr Taylor and Dr Meinshausen agreed that the combined Scope 1, 2 and 3 emissions from the Carmichael mine would equal approximately 0.53% - 0.56% of the carbon budget that remains after 2015 to have a chance of not exceeding 2-degree celsius warming. In their evidence to the Court it was reported that scope 1 and 2 emissions from the mine would account for 0.01% of the world's and 0.025% of Australia's remaining carbon budget having regard to the 2-degree celsius target. The cumulative emissions related to the mine were reported to be amongst the highest in the world for any individual project and the highest in the southern hemisphere.
 - (c) In considering the first objector's submissions on climate change the Land Court held that in considering section 269(4)(j) of the MRA it was required

to consider any adverse environmental impact caused by those operations (that is, the operations to be carried on under the authority of the proposed MLs) and not secondary matters that may occur that have no direct authority under the MRA, such as burning of coal for power generation by second and third parties outside of the footprint of the lease.

- (d) The Land Court accepted expert evidence given by Mr Stanford that the supply of coal is governed by global demand which will not change as a result of the commissioning of the Carmichael Mine. Mr Stanford surmised that if the mine was not approved the coal would be sourced elsewhere. The Court held that it follows that there will be no nett increase in GHG emissions if the proposed mine is approved.
 - (e) The Land Court concluded that under the public interest test of the MRA, the evidence was that there would be no increase in Scope 3 emissions if the Carmichael mine was approved because other coal will be obtained from elsewhere.
52. While the Land Court found that there would be environmental impact, it concluded that the adverse consequences of the Scope 1 and 2 emissions are outweighed by the benefits that will flow from the mine.
53. I also noted that the CG's EIS evaluation report concluded that there was unlikely to be any direct impacts on the GBR as a result of the mine itself due to the significant distance between the two areas.
54. The Carmichael River, which transects the area of the MLs, joins a network of river systems within the Belyando River catchment. This catchment forms part of the Burdekin River Basin which discharges through the Burdekin Falls Dam to the coast at Upstart Bay within the GBR World Heritage Area.
55. The CG's EIS evaluation report concluded that due to the significant distance between the ML area and the coast, the construction and operation of the mine was unlikely to have a direct impact on the GBR. However, there are three potential sources of indirect impacts that could occur via the 320-km course of the river (approximate):
- (a) release of mine affected water from the site—this could reduce quality of downstream waters through contamination by hydrocarbons, metals and waste materials
 - (b) stormwater run-off and increased flow velocity across disturbed areas—this could mobilise sediments leading to higher levels of sedimentation, turbidity and contamination in downstream waters
 - (c) a reduction in downstream flow as a result of the extraction of water resources and loss of catchment area—this could potentially increase concentrations of existing contaminants in downstream waters.
56. Adani has committed to a number of mitigation measures set out in Appendix 7 of the CG's EIS evaluation report that the CG has supplemented with 27 conditions listed at Schedule F of the report.
57. The EA has been conditioned to ensure contaminants that will cause, or have the potential to cause, environmental harm must not be released directly or indirectly to any waters except as permitted under the conditions of the EA. This will mitigate potential impacts on the GBR. Schedule F of the EA also details 27 conditions relating to discharge of mine affected water, including release points, sources and limits, a water management plan and monitoring points. Schedule K of the EA details 32 conditions relating to regulated structures such as dams and levees that have a potential to affect surface water.

58. I found that the adverse impacts had been adequately addressed by the conditioning of the environmental approvals in accordance with the Land Court's recommendation.

(k) *whether the public right and interest will be prejudiced*

59. I found that there is public infrastructure located within the area applied for. Several road reserves traverse the area, for which a compensation agreement and consent from the Isaac Regional Council had been lodged.

60. Adani considered the public rights and interests in its Social Impact Assessment (SIA) and social impact management plan (SIMP) which was provided to the CG with the EIS.

61. According to the CG's EIS evaluation report, the SIMP action plan focuses on issues such as landholder management, workforce management, local housing, community development, cumulative social impact management, Indigenous participation and local employment and business outcomes. Adani has made a number of commitments to mitigate potential social impacts and maximise social opportunities of the project, which have been included in the SIMP.

62. I found that there will be significant employment opportunities provided by the project. The LCT recommendation refers to evidence given by Dr Jerome Fahrer. His assessment concluded that:

(a) the net economic benefits of the Carmichael Coal Mine and the Rail Project were likely to be "very large";

(b) the net benefits when reduced to present values were:

(i) under the CGE model – between \$18.6 billion and \$22.8 billion (real economic output at net present value in 2014-2015 terms) for Queensland; and

(ii) in the narrowly defined CBA model – between \$13.0 billion and \$17.6 billion (in real present value terms);

(iii) in the more broadly defined CBA model – between \$35.1 billion and \$45.3 billion;

(c) the project – as defined for the Fahrer assessment as the Carmichael Coal Mine and Rail Project – was projected to create a net change in employment on average of 1,464 FTE direct and indirect jobs each year;

(d) a noticeable increase in consumer welfare (calculated by reference to real income) would arise from the project;

(e) the conclusions that the benefits of the Project will exceed its costs does not change even if much lower coal prices, much lower coal volumes and much higher environmental costs are assumed.

63. In accordance with order 4 in the Land Court's recommendation, I had regard to the Court's observations at [585]-[586]. However, as noted in para (e) above, Dr Fahrer's assessment was that the benefits of the project will exceed its costs even on the basis of much lower coal prices and volumes and higher environmental costs.

64. I found that the development of the Carmichael resources will have a significant impact on the regional and state economies through expenditure in the local community and the State generally and an indirect impact as a result of the flow through of wages and services through the community.

(l) *whether any good reason has been shown for a refusal to grant the mining lease*

65. The three Carmichael MLAs have progressed through assessment processes under the MRA, the SDPWOA and the EP Act. The project has also received federal approval under the EPBC Act. The project has been through a number of public notification processes. In total, over the past six years the various applications for the project have been open for public consultation for 347 days.
66. Other consultation has been undertaken by DNRM and Adani including workshops, such as that held by Agforce in Alpha on 3 December 2013, and a landholders' meeting held on 7 October 2014 at Clermont regarding impacts on water.
67. Adani has regularly engaged with a wide range of community stakeholders such as:
 - (a) engagement with the five affected traditional owner claimant groups has proceeded with four of the five groups signing Indigenous Land Use Agreements required for the Mine, Rail and Port project;
 - (b) discussions with landholders regarding make-good agreements for water;
 - (c) public consultation for Material Change of Use applications for the North Galilee Basin Rail Project and off-lease activities such as the proposed airport;
 - (d) regular contact with the Isaac Regional Council about the project, particularly about agreements for reserves, roads and stock routes;
 - (e) engagement with non-government organisations such as the BTF Recovery Team;
 - (f) regular contact and negotiations with neighbouring landholders to Moray Downs.
68. Objections to the applications have been heard by the Land Court which recommended that, subject to the proposed conditions being imposed on the EA in relation to the BTF, the mining lease be granted. The EA has been granted accordingly.
69. I found that the project had completed one of the most rigorous assessments of any mining project in Queensland. I found that any reasons to refuse to grant the mining lease have been adequately addressed by the various approvals and the conditions that will apply to the MLs under the MRA.

(m) *whether, taking into consideration the current and prospective uses of that land, the proposed mining operation is an appropriate land use.*

70. I found that the land is currently used for cattle grazing and road reserves. Considering the scope of the project and that the mineral resource will be appropriately exploited, I found that the proposed mining operation was an appropriate land use.
71. Section 271A(2) of the MRA provides that a mining lease may only be granted for land that is the surface of a reserve if:
 - (a) the owner of the land has given written consent to the grant over the surface area and the applicant has lodged the consent with the chief executive; or
 - (b) the Governor in Council has consented to the grant over the surface area.
72. The owner of the reserve land, being Isaac Regional Council, gave its written consent to the application and that consent was lodged with the chief executive's delegate, the Principal Mining Registrar, on 4 March 2016.

73. Section 279 of the MRA provides that compensation between the applicant and each person who is the owner of land the surface of which is the subject of the application and of any surface access to the mining lease land, is to be determined by agreement or Land Court determination before grant or renewal of a mining lease.
74. Compensation agreements were not required for Lot 1 on AY 35 "Carmichael Station" and Lot 663 on SP 228220 "Doongmabulla" as there is no surface area sought over these parcels of land.
75. The Carmichael River is unallocated state land and therefore a compensation agreement is not required.
76. Lot 662 on SP106939 "Moray Downs" is owned by Adani so there is no requirement for a compensation agreement in respect of this land.
77. Compensation has been agreed between the applicant and the owner of the roads in the application area, Isaac Regional Council, and was filed pursuant to the MRA, s 279(3)(b) on 4 March 2016.
78. Compensation for Lot 1 on SP 164918 "Lignum Station" was agreed and filed on 15 March 2016.
79. I therefore found that compensation between Adani and each person who was the owner of land the surface of which was the subject of the Carmichael MLAs had been determined by agreement between Adani and each owner as required by s section 279 of the MRA.
80. Section 284(2) of the MRA states that the initial term of a mining lease must not be for a period longer than the period for which compensation has been agreed or determined under section 279, 281 or 282.
81. Compensation for the road reserves was agreed to commence upon grant of the MLs and will continue to remain in force until expiry, termination or surrender of the MLs. Compensation for Lignum Station was agreed for the initial term of 30 years.
82. The MRA, ch 8 (Provisions for coal seam gas) applies to coal mining lease applications, in particular, those that overlap petroleum tenements.
83. I found that the areas of MLAs 70505 and 70506 partly included the area of ATP 1044, so that the MRA, ch 8, pt 2 applied to those MLAs (s 318AO) at the time MLAs 70505 and 70506 were made. I found that the holders of ATP 1044 gave their written consent to the grant of MLAs 70505 and 70506 which was lodged with the Principal Mining Registrar on 1 November 2013.
84. I found that Adani had lodged development plans for each of the MLAs pursuant to s 318AP(1)(b).
85. I found that the proposed initial development plan (IDP) for ML 70441 had been assessed by the Senior Project Officer, Mining and Petroleum, and approved pursuant to the MRA, s 318DZ by the delegate, the Regional Director, Central Region, DNRM on 31 July 2013.
86. I found that the proposed IDP for MLs 70505 and 70506 had also been assessed by the Senior Project Officer, Mining and Petroleum, and approved pursuant to s 318DZ by the delegate the Regional Director, Central Region on 24 December 2013.
87. Section 391A of the MRA requires that the decision or recommendation to grant a mining tenement must not be done or made unless a relevant environmental authority under the EP Act has been issued.

88. I found that on 3 February 2016, EHP issued the EA EPML01470513 for MLs 70441, 70505 and 70506.
89. Native title has been resolved.
90. ML 70441 proceeded through the right to negotiate (RTN) process under the *Native Title Act 1993* (Cth) (NTA), pt 2, div 3, subdiv P. On 7 November 2012, Adani lodged a Future Act Determination Application (FADA) in the National Native Title Tribunal (NNTT) pursuant to ss 35 and 75 of the NTA. On 7 May 2013, the NNTT determined that the grant of ML 70441 to Adani may be done. Accordingly, the grant of ML 70441 would be a valid future act: NTA, ss 28 and 38, and so I found that Native Title had been resolved for the grant of ML 70441.
91. On 8 April 2015, the NNTT determined that the grant of MLs 70505 and 70506 to Adani may be done. Accordingly, those grants would also be valid future acts, and so I found that Native Title had been resolved for MLs 70505 and 70506.

Reasons for my decision to grant the mining leases

92. My decision of 3 April 2016 to grant the Carmichael MLs was made after careful consideration of both the challenges and benefits of the project.
93. I approached the decision bearing in mind the objectives of the Act. The principal objectives of the MRA under s 2 are to:
 - (a) encourage and facilitate prospecting and exploring for and mining of minerals;
 - (b) enhance knowledge of the mineral resources of the State;
 - (c) minimise land use conflict with respect to prospecting, exploring and mining;
 - (d) encourage environmental responsibility in prospecting, exploring and mining;
 - (e) ensure an appropriate financial return to the State from mining;
 - (f) provide an administrative framework to expedite and regulate prospecting and exploring for and mining of minerals;
 - (g) encourage responsible land care management in prospecting, exploring and mining.
94. Under the MRA, s 271(a) and (b) I was required to consider for each application:
 - (a) any Land Court recommendation for the application; and
 - (b) the matters mentioned in section 269(4).
95. I had regard to the Land Court's recommendation, particularly as regards the matters set out in its orders and the passage from the recommendation which it drew to my attention, both of which are reproduced above.
96. I also had regard to the s 269(4) matters based on the findings I made in respect of each of them which are set out above.
97. Fundamentally the decision involved a balance between the environmental impacts of the mine and the economic benefits. However, there were other factors involved, including native title issues and Mr Janakaraj's history. I deal with each of these matters below.

Environmental challenges

98. The Carmichael Coal Mine is part of the Carmichael Coal Mine and Rail Project that has environmental approval under the SDPWO Act. The CG approved the

project, subject to compliance with 190 stringent and wide-ranging conditions to protect landholders, local flora and fauna, groundwater resources, and surface water as well as placing controls on dust and noise. The CG's EIS evaluation report set strict conditions to control project impacts, including compliance with specific management plans required to identify, minimise and manage potential impacts on the environment.

99. The Commonwealth Environment Minister determined that the Carmichael project was a "controlled action" under the EPBC Act on 6 January 2011 for likely significant impacts on world heritage, national heritage, wetlands of international importance, listed threatened species and ecological communities, listed migratory species and the Great Barrier Reef Marine Park.
100. The Carmichael project was assessed for the purposes of the EPBC Act by EIS under the bilateral agreement between the Australian and Queensland Governments. Federal approval was initially given by the Minister for the Environment on 24 July 2014. On 12 January 2015, the Mackay Conservation Group filed an application for judicial review of the decision. On 4 August 2015, by consent of the parties, the Federal Court set aside the EPBC Act approval of the project for failure to consider its impact on the ornamental snake and the yakka skink.
101. The Commonwealth Environment Minister reassessed the project and on 14 October 2015 determined to approve it under ss 130(1) and 133 of EPBC Act subject to 36 conditions.
102. As detailed above, the Land Court of Queensland has also examined the MLAs and the EA application by reference to matters specified under s 269(4) of the MRA, including s 269(4)(j) (adverse environmental impacts). The Land Court recommended the grant of the MLAs and the EA on the basis of the draft conditions and the additional recommended conditions which were included in the final EA.
103. I also had regard to paragraphs [583] and [584] of the Land Court's recommendation. I was satisfied that measures to minimise the mine's impact on the BTF were sufficiently addressed by the administering authority in its conditioning of the EA in accordance with the Land Court's recommendation.
104. It is my view that the environmental impacts have been fully considered by all the relevant authorities and are being adequately addressed by the conditioning of the various environmental approvals including the EA.

Economic benefits

Employment impact

105. I was aware that there are differences of opinion as to the predicted number of jobs the Carmichael Coal and Rail Project will create. As noted above, I had regard to the Land Court's specific observations that the overall economic benefits of the project were likely to be less than modelled by Dr Fahrer. However, I consider that the Carmichael Coal Mine will bring significant employment opportunities to Queensland with both direct and indirect opportunities.
106. The Land Court drew my attention to evidence given at the hearing that the project would increase average annual employment by 1,206 FTE jobs in Queensland and 1,464 jobs in Australia.

107. These numbers were based on an economic modelling report prepared by Dr Fahrer that only considered the first phase of the mine project (30 years) and a maximum coal production of approximately 40 mtpa for the purposes of the Land Court proceedings. These assumptions mean that the predicted economic impact of the project was less than it would be for a project with a 60-year mine life, a maximum capacity of approximately 60 mtpa particularly if assessed in combination with the rail project component.
108. Having taken into account the differences of opinion between the experts who provided evidence at the Land Court hearing, on balance I was satisfied that the employment opportunities presented by this project would be significant.

Royalties and return to State

109. The Land Court considered that there was strong evidence that major economic benefits will flow from the project to the local region, Queensland and Australia.
110. I accepted that those benefits will come at the cost of some environmental harm. As noted, substantial and stringent conditions have been imposed on the applicant by means of the CG's approval, the EA and the EPBC Act approval which should result in the adverse environmental impacts being appropriately managed and mitigated.
111. On balance, I considered that the economic benefits to the State outweighed the environmental impacts as managed and mitigated in that way.

Native title challenges

112. I am aware that Adrian Burragubba has applied to the Federal Court for judicial review of the NNTT's 8 April 2015 determination that the grant of MLs 70505 and 70506 may be done. The Federal Court has reserved its decision.
113. That did not affect my ability to grant the mining lease. My intention on 29 October 2015 was to await the outcome of Mr Burragubba's judicial review application. It was not apparent at that time how long the judicial review proceeding would take. In the event, the application was heard on 23 and 24 November 2015 and there was a further hearing on 1 and 2 February 2016.
114. Ultimately I considered that the public interest in proceeding to a final decision outweighed any interest in awaiting the Court's decision and I therefore proceeded to make the final decision on the MLAs on 3 April 2016.

Jeyakumar Janakaraj's history

115. I am aware of an incident involving Konkola Copper Mines (KCM) in Zambia. I understand that Mr Jeyakumar Janakaraj was a director of that company before he became director of Adani Mining Pty Ltd. I understand that KCM pleaded guilty to charges of environmental offences.
116. Although this is a concern, I considered that this issue does not outweigh the significant factors in favour of granting the mining lease.
117. I reached that conclusion because Adani is unrelated to KCM, there are numerous persons other than Mr Janakaraj involved in Adani's management and Adani will be operating in Queensland under very stringent mining and environmental laws that will be closely monitored by several government agencies.

Conclusion

118. My decision to grant Mining Leases 70441, 70505 and 70506 to Adani Mining Pty Ltd was reached only after careful consideration of the facts and matters outlined above.
119. The economic benefits that will accrue to Queensland and Australia in terms of employment, payment of royalties and other taxes are significant. They will also accrue in terms of employment opportunities for indigenous groups. Many of these benefits will accrue to towns and regions in central and northern Queensland.
120. In considering potential impacts on the environment I considered the impacts identified through both the EIS processes and the Land Court and I am satisfied that the conditions imposed on the project will provide a strong framework to mitigate and manage any potential impacts.
121. With regard to the specific issue of potential impact on the Great Barrier Reef, I have considered various possible threats. However, I considered that there were unlikely to be any direct impacts on the GBR as a result of the mine itself due to the significant distance between the two areas.
122. With regard to the GHG impacts of the project, I concluded that they cannot be considered unique to the project, and that if the mine does not proceed similar or possibly greater volumes of coal will be burned to meet electricity demand in India.
123. The Queensland Government has made a commitment to creating jobs in Queensland through economic growth. The Carmichael project offers an opportunity to achieve this goal. In reaching that conclusion I was conscious of the potential for impacts on the environment, landholders, communities and native title holders.
124. I am confident however that the consideration given to these matters by the Federal Minister for the Environment and by the Co-ordinator General and embodied in the approvals including the Environmental Authority by way of conditions will mitigate the risks. I am also confident that the interests of landholders have been protected by negotiated agreements.
125. I am also confident that decision to approve the Mining Leases has been done within a robust framework that adequately allows for an objection process. Overall, I considered that the adverse impacts of the mine would be outweighed by the economic benefits flowing from it. I therefore considered on balance that it was in the State's best interests that the MLs be granted.

Signed:


The Honourable Anthony Lynham MP
Minister for Natural Resources and Mines

Dated:

13/5/16