

# Submission on the application for a RIDA for the New Acland Coal Stage 3 project

January 2020



67 Payneham Road  
College Park SA 5069  
P 0422 974 857  
E [admin@dea.org.au](mailto:admin@dea.org.au)  
W [www.dea.org.au](http://www.dea.org.au)

Healthy planet, healthy people.

#### DEA Scientific Committee

Prof Colin Butler  
Prof David de Kretser AC  
Prof Robyn McDermott  
Prof Emeritus Sir Gustav Nossal AC  
Prof Fiona Stanlev AC

Prof Stephen Boyden AM  
Prof Peter Doherty AC  
Prof Stephen Leeder AO  
Prof Lidia Morawska  
Prof Hugh Possingham  
Dr Rosemarv Stanton OAM

Prof Emeritus Chris Burrell AO  
Prof Michael Kidd AM  
Prof Ian Lowe AO  
Prof Peter Newman AO  
Prof Lawrie Powell AC  
Dr Norman Swan

Please accept this submission on the application for a regional interest's development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

<https://planning.dsdmip.qld.gov.au/planning/regional-planning-interests-act/rpi-act-applications-submissions-and-decision-notice>

Doctors for the Environment Australia (DEA) is an independent, self-funded, non-Government organisation of medical doctors in all Australian States and Territories. Our members work across all specialties in community, hospital and private practices. We work to prevent and address the diseases - local, national and global - caused by damage to our natural environment. We are a public health voice in the sphere of environmental health with a primary focus on the health harms from pollution and climate change.

## Recommendations

We recommend the application be rejected based on

- Its impacts on climate change, water resources and biodiversity which along with other mining is rendering the Surat Basin unsustainable as a prime agricultural source
- The legacy of poor health and environmental management of this company and poor regulatory management that have conferred harm on local communities as detailed in legal judgement
- The detrimental impacts on Australia and the state of Queensland from the expansion of the mine.
- The irregularities in the application from New Acland Coal (NAC)

## Previous involvement of DEA

DEA has worked on the health and environmental consequences of the Acland mine since 2011 when we received a plea for help for the Oakey Coal Action Alliance. (1)

Since 2012 Doctors for the Environment Australia has written 5 submissions to government and made extensive representations to governments, Ministers and other elected representatives. (2-6)

## Submission

New Acland Coal (NAC) is seeking a Regional Interest Development approval for Acland Stage 3, to allow them to mine coal in this mapped Priority Agricultural Area which encompasses some of the richest farmland in Queensland. The Darling Downs is widely

recognised as being the food bowl of Queensland. The original Land Court judgement on this issue recognised the area as being amongst the best 1.5% of agricultural land in State.

This application to the Regional Planning Interests Act (RPIA) must be seen in the context of the sustainability of Australia under rapid environmental change due to the climate, water and biodiversity crises.

The 2019 Underground Water Impact Report for the Surat Cumulative Management Area (7) provided an important snapshot of the sustainability of the Surat basin.

Our submission on this report (8) seriously questions the current sustainability of the Basin on the basis of water usage; yet many more coal and gas mining approvals requiring water are being made including the current application by Acland which will support the mines expansion. We recommended:

1. The Queensland government take note of current scientific findings in the climate emergency and the biodiversity crisis and review its policy for further expansion of mining in the Surat and related regions.
2. Accordingly, it would be prudent to have sustainability as the main objective with the pillars of human health, water and productive land, as the prime considerations.
3. Current water usage by mining is of concern and the evidence suggests the underground water system is becoming depleted; particular concern is expressed for the use of Great Artesian water usage and state-wide cumulative use studies should be initiated. Climate modelling must be done to aid further assessment.

Indeed, the Surat basin and its agricultural capability is compromised by climate change, water and biodiversity all of which are being harmed by fossil fuel mining.

## Climate change

It is essential that the climate emergency be taken into account in the current deliberations. As we have seen from the current bushfire season, Australia has now moved into different "new normal" for climate change and its consequences. For the Surat Basin, further diminution of decreasing rainfall, increasing air temperatures and increasing evaporation will compromise sustainability.

### ***National Consequences***

The recent IPCC report demands urgent and deep reductions in the emissions of carbon dioxide methane, tropospheric ozone and black carbon. IPCC modelling shows that if emissions of these pollutants are not in rapid decline by 2030, we have little chance of limiting warming to 1.5°C or even 2°C.

"Limiting warming to 1.5°C implies reaching net zero CO2 emissions globally around 2050 and concurrent deep reductions in emissions of non-CO2 forcers, particularly

methane (high confidence)". (9) Accordingly, fossil fuel production and use have to be seriously curtailed by 2030.

Many more coal and gas mines are being approved for the Surat and lower Bowen Basins and it is difficult to understand the Queensland government's support. In effect short term financial gain is being traded against increasing and irreversible damage to the sustainability of the region.

### ***International consequences***

Australia's inadequate climate policy, emission reductions reduction and coal exports are the subject of protest in the UK and many European cities. We are seen as a wealthy, advanced, technologically able country which is not taking its international responsibilities seriously in this world crisis. It is incomprehensible to many countries which accept their own responsibilities that Australia is approving coal mines which export coal during a bushfire crisis that threatens our own land. It is noted by many that Australia is the world's largest exporter of coal and the top exporter of gas.

The Surat and lower Bowen basins have played a key role in the coal and gas production at the behest of successive Queensland governments.

In addition, we now know from the Land Court Judgement that this mine has subjected local communities to health and environmental hazards over ten years which have not been addressed by the mine owners or the government.

The international outcomes are already evident.

- Loss of standing which will harm Australia's and Queensland's tourism industry - a vital sustainable future role.
- Harm to Australia's trade from climate diplomacy (10), which is now increasing from Europe in relation to trade negotiations. (11)

Furthermore, our standing with international institutions is harmed for we are a wealthy country not fulfilling its Sustainable Development Goals on Energy (Goal 7) and Climate Change (Goal 13). (12)

## **Water Resources**

The issue of current cumulative modelling of water resources for the region arises because the current report does not cover the use of water by other developments such as current and future coal mining.

The New Hope Acland mine was subjected to a recent Land Court judgement (13) which, on review of all past and current evidence, is condemnatory of government and industry for the unsustainable use of water. The words used in refusing a water Licence in Land Court judgment were:

"There is an important starting point with respect to groundwater; that is, that groundwater is a fundamental issue to those living and working in the Acland area. There is no doubt that legal access to groundwater is held by numerous land holders in

the general vicinity of the New Acland Mine, and that the groundwater obtained by those landholders is essential to their rural businesses. Groundwater is not only used for irrigation; it is also used for stock watering purposes in the beef cattle sector and for both stock and production purposes by dairy farmers such as Mr Wieck. It is further beyond doubt, and accepted by NAC, that mining operations under the revised Stage 3 will impact on groundwater aquifers. The key issue is the nature and the extent of any such impact on groundwater supplies.

"I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely.

"In key areas NAC's own experts agreed with major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model."

The Land Court judge said:

"The principles of intergenerational equity are breached in at least one regard by the proposed revised Stage 3, with the potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come.

"In conclusion, over 6 years this company had trampled on the complaints and health concerns of the local residents.

"Their concerns were ignored by the instruments of government which were supposed to protect them."

It is important to note that this is one of the few occasions that assessment of a mining company and government regulation of it has escaped the confines of a very closed system of assessment in Queensland. As a result of a Land Court hearing expert witnesses exposed health, water, sustainability and many of the other unacceptable aspects detailed in this current submission.

### ***Additional Legal aspects***

The Land Court decision referred to above is being appealed in relation to the jurisdiction of the Court on make judgement on water usage. The current Planning Permission application is part of this proposed expansion of the mine and should be rejected.

Of relevance, the Queensland Government Human Rights Act 20 was passed by Parliament 11 January 2020 and it is recommended that government departments take the Act into consideration in their deliberations. The right to water by individuals and communities is accepted as an international human rights issue In terms of the Land Court Judgement on water and Acland, it is accepted that courts are generally reluctant

to give legislation retrospective effect, the Act needs to be taken into account in any new deliberation and could be subject to human rights challenge.

## **Harm to biodiversity as a sustainability issue**

The world and national biodiversity crises are highly relevant to this application.

The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) summarised this crisis and stated: "The overwhelming evidence of the IPBES Global Assessment, from a wide range of different fields of knowledge, presents an ominous picture," said IPBES Chair, Sir Robert Watson from Queensland. "The health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever. We are eroding the very foundations of our economies, livelihoods, food security, health and quality of life worldwide." (14)

In Australia, the Interim Report by the Senate Inquiry into Faunal Extinction, Senate Environment and Communications References Committee Australia's faunal extinction crisis (15), provides a damning testimony of the appalling loss of wildlife and habitats facilitated by the failures of the Federal and state Governments to protect the environment.

"The State of the world's biodiversity for food and agriculture" from the Commission on Genetic Resources for Food and Agriculture, organisation of the United Nations (16) and The 2019 IPCC special report Climate Change and Land (17) covering desertification, land degradation, sustainable land management, and food security, is highly relevant to Australia's water scarcity and sustainability and doubtless these reports will be essential reading for the Planning Committee.

The Surat Basin needs to retain and nurture its biodiversity to maintain sustainability as a viable food producing resource for biodiversity loss resulting in deteriorating soil ecology will have a critical impact on food production as detailed by the IPBES report.

## **Anomalies in the planning application**

Doctors for the Environment Australia has donated hundreds of hours of medical time voluntarily to supporting the claims of the local communities. The assessment committee must please forgive us in not having time to read all of the 962 pages of the planning application in the limited time provided over the holiday period. However, we support the points raised by experts from Lock the Gate

We agree with the point that by NAC's own admission this mine will effectively destroy the cropping potential of this Priority Agricultural Area - in future it will only be able to be used for grazing at best, and there is much conjecture as to whether even that will be possible over large areas.

It seems clear from NAC's submission that since purchasing the land over which the application is sought they have deliberately stopped cropping it so that it would no longer be classified as a land 'used for a priority agricultural land use' under the Regional Planning Interests regulation, in order for it to then become available for mining.

Therefore, if the application is approved you will approve the deliberate degradation of mapped high-quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan.

The following specific points are raised in relation to NAC's application:

1. It is misleading in the application documents that the Acland Pastoral Company provided a letter of 'support' without stating clearly that it is also a wholly owned subsidiary of the New Hope group, and hence the landowner and the proponent are effectively one and the same. We also note that NAC claim they should be exempt from s22 of the Regional Planning Interests Act 2014 (RPIA) because they have approval from the landholder, but the Act specifies that only applies if the resource authority holder is not the owner of the land. In this case, it is clear that they are one and the same.
2. NAC should not be allowed to apply only for the area that is the subject of the first five years of mining. They should be required to apply for a RIDA for the full extent of the area of regional interest they are expected to impact on all MLs and areas where associated infrastructure will be located. We are concerned that NAC have only applied for a subset of the area because they would not pass the relevant tests under the RPIA on the lands that have been excluded from the application. This approach of carving up the application appears inconsistent with s 16 1) of the RPIA and should not be allowed.
3. The application is inconsistent with the Darling Downs Regional Plan which says that "*Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use.*" The DDRP defines a PALU as '*a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7*'. The vast majority of the area applied for by NAC is mapped as class 3.3 under the ALUM and therefore qualifies as a PALU under the DDRP. Therefore, the only way to give priority to the cropping land use in this assessment as required by the DDRP is to prevent it being mined, because NACs own assessment document indicates that the post-mine land use quality will be largely limited to grazing.
4. The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. By deliberately converting high quality cropping land to grazing land at best, NAC is contravening the requirements of the DDRP and hence the purpose of the RPIA.
5. NAC are relying on the wrong 'Required Outcome' from the Regional Planning Interests Regulation to argue that the activity will not result in a material impact of the use of the property for a Priority Agricultural Land use. Statutory guideline 02/14 for carrying out resource activities in a PAA specifies that "*Required outcome 1 applies where the application is over one property. Required outcome 2 applies where the application is over more than one property*". It is clear that

this application stretches across multiple lots which constitute different properties. Therefore, Required Outcome 2 should apply.

6. However, it is clear that the application does not meet the prescribed solution for Required Outcome 2, because the NAC cannot demonstrate that the activity will not result in widespread or irreversible impacts on the future use of the area. In fact, their own application indicates that the future use of the area will be limited to grazing at best. The impact of the activity is all likely to have an impact over a large area where groundwater drawdown is predicted to occur, which is a second consideration under Required Outcome 2. In addition, the proliferation of weeds and feral animals on the site due to an absence of agricultural management is likely to lead to the spread of those weeds and animals onto adjoining PALUs.

*Dr David Shearman AM PhD FRACP for Doctors for the Environment Australia*

## References

1. <https://www.dea.org.au/wp-content/uploads/2019/07/Appendix-1---Project-Changes-to-the-New-Acland-Coal-Mine-Stage-3-Submission-07-19.pdf>
2. <https://www.dea.org.au/wp-content/uploads/2013/02/New-Acland-Stage-3-Submission-02-13.pdf>
3. [https://www.dea.org.au/wp-content/uploads/Acland\\_Stage\\_3\\_EIS\\_Submission\\_02-14.pdf](https://www.dea.org.au/wp-content/uploads/Acland_Stage_3_EIS_Submission_02-14.pdf)
4. <https://www.dea.org.au/wp-content/uploads/2019/05/New-Acland-Coal-NAC-application-for-an-Associated-Water-Licence-AWL-for-the-Acland-Stage-3-coal-mine-expansion-Submission-05-19.pdf>
5. <https://www.dea.org.au/wp-content/uploads/2019/07/New-Acland-Coal-NAC-application-for-an-Associated-Water-Licence-AWL-for-the-Acland-Stage-3-coal-mine-expansion-Submission-05-19.pdf>
6. <https://www.dea.org.au/wp-content/uploads/2019/07/Project-Changes-to-the-New-Acland-Coal-Mine-Stage-3-Submission-07-19.pdf>
7. <https://www.business.qld.gov.au/industries/mining-energy-water/resources/environment-water/coal-seam-gas/surat-cma/uwir>
8. <https://www.dea.org.au/wp-content/uploads/2019/07/Underground-Water-Impact-Report-for-the-Surat-Cumulative-Management-Area-07-19.pdf>
9. [https://report.ipcc.ch/sr15/pdf/sr15\\_chapter2.pdf](https://report.ipcc.ch/sr15/pdf/sr15_chapter2.pdf)

10. <https://johnmenadue.com/david-shearman-climate-change-diplomacy-one-big-step-for-humanity/>
11. <https://thenewdaily.com.au/life/science/environment/2020/01/09/denial-climate-change-scott-morrison/>
12. <https://www.dea.org.au/wp-content/uploads/2018/04/United-Nations-Sustainable-Development-Goals-SDG-Submission-03-18.pdf>
13. <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf>
14. <https://ipbes.net/news/Media-Release-Global-Assessment>
15. [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Faunalextingtion/Interim\\_report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Faunalextingtion/Interim_report)
16. <http://www.fao.org/3/CA3129EN/CA3129EN.pdf>
17. <https://www.ipcc.ch/srccl/>