

Submission regarding New Acland Coal's (NAC) application for an Associated Water Licence (AWL) for the Acland Stage 3 coal mine expansion.

May 2019



67 Payneham Road
College Park SA 5069
P 0422 974 857
E admin@dea.org.au
W 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 Stanley AC

Prof Stephen Boyden AM
Prof Peter Doherty AC
Prof Stephen Leeder AO
Prof Lidia Morawska
Prof Hugh Possingham
Dr Rosemary 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

Doctors for the Environment Australia (DEA) Incorporated 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.

As an organisation of medical doctors, our mission is to prevent disease; in this quest, health and the environment are indivisible. And sustainable development as detailed in the Sustainable Development Goals of which clean water is one, are essential for human health, wellbeing and survival.

Accordingly, I, Professor David Shearman AM PhD FRACP FRCPE Honorary Advisor, writing on behalf of Doctors for the Environment Australia Incorporated submit that an Associated Water Licence should not be granted to NAC for the following reasons:

1. There is insufficient evidence to indicate that it is safe to take water from future human, environmental and agriculture needs.
2. The overriding consideration is water for human use and health, a fundamental right of every human. This is threatened by climate projections showing water scarcity and by pollution of water sources by the mine.
3. A Health Impact Assessment has never been conducted for this proposal despite community reports of adverse health impacts when the Stage 3 proposal was first made.
4. There is no convincing evidence that the proposal to extend the mine is economically sound.
5. The unaddressed health issues call into question the record and suitability of the proponent to proceed. Indeed, it shows disregard for its own standing by proceeding with the application for a License after the findings in the Land Court Judgment.

We contend that all these factors are in the public interest and must be taken into account in granting a Licence. We now explain each of them in some detail:-

1. There is insufficient evidence to indicate that it is safe to take water from future human, environmental and agriculture needs.

This is best introduced in the words used in the Land Court judgment.²

"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."

There is difficulty interpreting the Judge's word in any other way than that water should not be taken (i.e. No License).

In the view of DEA, the only way this might be qualified is by seeking a new study by the IESC.

In the second paragraph above the Judge shows a keen understanding of sustainability, an issue absent from the statements of the proponent and indeed the Government.

In the Judgment he says

"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."

The principal need is for sustainability of prime agricultural land in the vicinity of the mine in the face of climate change which is threatening the safety of food production.³ The Land Court Judge defined this land as being amongst the best 1.5% of agricultural land in Queensland.

2. The overriding consideration is water for human use and health, a fundamental right of every human. This is threatened by climate projections showing water scarcity and by pollution of water sources by the mine.

The prime issue for any resource development in Queensland is the diminishing precipitation and rising temperatures in many regions, both caused by climate change- for review see the Climate Council report⁴.

The mine itself carries some responsibility for these climate changes in Queensland because of its role in increasing greenhouse emissions in Australia and through its exports. In turn, this extends to some responsibility for the health impacts in Australia.⁵

The World Health Organization (WHO) Constitution⁶ developed and agreed in 1946, and signed by Australia Feb 2nd 1948 states:

*Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, **economic** or social condition.*

DEA has emphasised 'economic' because health comes before any economic consideration.

Pollution of drinking water by underground coal mines is well recognised in New South Wales⁷ but there are also problems for open mining

particularly with run off after extreme weather events as occurred in Queensland recently.

3. A Health Impact Assessment has never been conducted for this proposal despite community reports of adverse health impacts when the Stage 3 proposal was first made.

In a 465-page judgment at the Land Court the following statement relevant to health issues were made;

"In short, there is a significant mining operation, by a large publicly listed Australian owned mining company, which has been operating for over 15 years and proposes to continue operations for more than a decade into the future by way of a further expansion. [24]

To use a card playing analogy, it would seem to be a 'lay down misere' that the Stage 3 expansion should proceed. This position is only strengthened when one takes into account that the Stage 3 project has both the approval of the State Coordinator-General, as well as that of the Commonwealth Minister for the Environment. [25]

To read the submissions of the objectors in this case, one could be forgiven for thinking that I was dealing with an entirely different case to the circumstances set out above. [28]

The objectors' submissions paint a picture of a mine out of place in the Acland rural agricultural setting. They speak of generation after generation of farmers undertaking agricultural, dairying and grazing activities on lush land with plentiful supplies of rain and groundwater. They talk of the town of Acland with pride, revelling in its winning of Tidy Town's awards, including being the first state-wide winner of the award in 1989, and reflect on the area's strong ties with war veterans, recognised through the war memorial located in Acland. [29] [4]

They speak with sad voices at the loss of the vast majority of the town of Acland through the actions of NAC by purchasing, then removing almost all of Acland's homes and buildings, and complain that the Stage 1 and Stage 2 operations of New Acland have made life a misery for those who live in close proximity to the mine because of what they say to be excesses in dust, noise, vibrations, lighting spill etcetera emanating from the mine. They fear for the future of their groundwater bore supplies. [30]

The objectors complain that their complaints about the mine have been virtually ignored by the mine and government regulators. They say, collectively, that enough is enough, and that Stage 3 should not proceed. [31] ⁸

In relation to Air pollution the Judge said:

I have no doubt that [residents] have been greatly inconvenienced and impacted by dust produced by the mine and given their evidence, it is quite possible EA limits with respect to dust and particulate matter have been exceeded. [587]

Evidence from nearby residents ...indicate that dust has been an ongoing issue for them since NAC began its open cut coal mining operations some 15 years ago. In fact there has been over 100 complaints recorded on NAC's complaint's register regarding dust and another 30 or so dust related complaints to EHP. [580]

And in relation to noise:

The objectors.....have provided the literal 'truck load' of evidence and material detailing what they say to be unacceptable levels of noise generated by NAC's operation of Stages 1 and 2" [721].

My independent, considered view on what I have before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party. [721]

This demonstrates what I can only call the folly of the regime under the current Environmental Authority.

This concluding comment about the Environmental Authority merits further comment .

DEA had detailed these health concerns in submissions in 2013⁹ and 2014¹⁰ on the Environmental Impact Statement and a study on air quality was provided¹¹. Little was done to remediate in subsequent years.

Also, in 2012 DEA wrote to Federal Minister Burke about our health concerns¹². A copy was sent to the appropriate Queensland Minister. The reply indicated that the issue was the responsibility of the Queensland government apart from the EPBC Act.¹²

4. There is no convincing evidence that the proposal to extend the mine is economically sound

If the mine has no value when assessed by full cost accounting methods, then why are water resources and human health being placed at risk?

In 2003 a submission was made to the Queensland government by Doctors for the Environment Australia and Economists at Large. On Page 9 of the submission the case was put for full cost benefit analysis of the proposal¹³ and the need for this has never been refuted.

Coal is only economic to coal users overseas because it is cheap. It is cheap because externalities are not included in the price. The huge environmental and health costs are not included. As one of the world's largest exporters of coal, Australia is a significant contributor to the 4.2 million worldwide deaths per annum from particulate air pollution. The real price is being paid in deaths, disability and intergenerational inequality.

The Paris Agreement tasks all countries to take measures to meet the minimum target of 2°C. In 2015 it was calculated that a third of oil reserves, half of gas reserves and over 80 per cent of current coal reserves should remain unused from 2010 to 2050.¹⁴ Despite this, exploration, opening of new mines, burning and export of coal continue unabated in Australia.

On the basis of the need to curtail climate change and its international health effects, DEA indicates export of coal should be limited to present contracts and no new mines developed.

5. The unaddressed health issues call into question the record and suitability of the proponent to proceed. Indeed, it shows disregard for its own standing by proceeding with application for a License after the findings in the Land Court Judgment

In the DEA submission made in 2013¹³

We responded to this issue:- *Describe the proponent's experience, including:... environmental record, including a list of any breach of relevant environmental laws during the previous ten years, with the following statements*

This list should be comprehensive including all breaches reported to the Queensland Government by members of the public. The listing should be verified and if need be expanded by local residents and community groups for inclusion in the EIS.

We make this point because for a number of years Doctors for the Environment Australia has helped community groups with their concerns over the health impacts of developments. We make the point that the evidence presented to us by communities near to the New Hope mine is more compelling than any we have seen.¹⁵ The TOR needs to identify how the company intends to address previous concerns and set a road map for proper and meaningful cooperation.

In this context it has been expressed to us that The New Acland mine has a history of unreported breaches and substandard monitoring practises.

In the view of DEA, it is an indictment of the Environmental Authority (in the words of the Judgment).

Also in the Judgment

If I were to reduce this matter to its simplest terms, one may wonder how it can be that the NAC revised Stage 3 project has been subject to so much controversy, let alone almost 100 hearing days before this Court, almost 2,000 exhibits containing many tens of thousands of pages of material, and well in excess of 2,000 pages of submissions. [19]

In the view of DEA (and by inference, the Judge) because of the many negative impacts for the community, for Australia and for the World, no further approvals should be given for this proposal.

And in a submission¹⁶ to the Queensland Government on "Improving Resource Approval Efficiency and on the assessment of the Acland mine in particular,

We recommend that the Queensland government undertake reform of its resource development assessment processes by independent experts in public health, economics, the environment and governance systems.

In the interim, the extensive powers of the Coordinator-General to over-rule Departments and the Land Court be removed and be replaced by a transparent consensus process based on Treasury, Health, Environment and Mining Departments.

References

- ¹ <https://www.dnrme.qld.gov.au/land-water/initiatives/public-notice-acland-coal>
- ² <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf>
- ³ <https://www.foodsafetynews.com/2019/04/who-says-climate-change-could-have-considerable-food-safety-impact/>
- ⁴ <https://www.climatecouncil.org.au/wp-content/uploads/2018/11/Climate-Council-Water-Security-Report.pdf>
- ⁵ https://www.dea.org.au/wp-content/uploads/2017/02/DEA_Climate_Change_Health_Fact_Sheet_final.pdf
- ⁶ <https://www.who.int/about/who-we-are/constitution>
- ⁷ https://www.lockthegate.org.au/coalmines_sydney_s_drinking_water_catchment
- ⁸ <https://reneweconomy.com.au/revelations-new-acland-coal-mine-case-82775/>
- ⁹ <https://www.dea.org.au/wp-content/uploads/2013/02/New-Acland-Stage-3-Submission-02-13.pdf>
- ¹⁰ https://www.dea.org.au/wp-content/uploads/Acland_Stage_3_EIS_Submission_02-14.pdf
- ¹¹ https://www.dea.org.au/wp-content/uploads/2012/01/Acland_EIS_assessment_Ch_9-2012.pdf
- ¹² <https://www.dea.org.au/dea-requests-action-from-minister-burke-over-queenslands-acland-coal-mine-healthy-planet-healthy-people-dea/>
- ¹³ <https://www.dea.org.au/wp-content/uploads/2013/02/New-Acland-Stage-3-Submission-02-13.pdf>
- ¹⁴ https://www.nature.com/articles/nature14016?utm_source=example.com&utm_medium=link&utm_campaign=article
- ¹⁵ <https://www.dea.org.au/wp-content/uploads/2012/01/Letter-to-DEA-from-Oakley-Coal-Action-Alliance-2012.pdf>
- ¹⁶ <https://www.dea.org.au/wp-content/uploads/2018/10/Queensland-Improving-resource-approval-efficiency-consultation-submission-10-18.pdf>



Professor David Shearman AM PhD FRACP FRCPE
67 Payneham Road
College Park SA 5069