

Notice

Environmental Protection Act 1994

Decision to accept an Enforceable Undertaking

This notice is issued by the administering authority pursuant to sections 507 of the Environmental Protection Act 1994 to advise of a decision made on an enforceable undertaking.

New Acland Coal Pty Ltd (ABN 081 022 380)
Level 16, 175 Eagle Street
BRISBANE Qld 4000

Our reference: EPML00335713 / MAN-E-100271643

23 June 2022

Take notice: that under the provisions of the *Environmental Protection Act 1994*, this decision notice advises of the administering authority's decision to accept the application for an Enforceable Undertaking made by New Acland Coal Pty Ltd (New Acland Coal) on 16 June 2022. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

This decision notice relates to New Acland Coal's mining activities at the New Acland Coal Mine situated on mining leases (ML) ML 50170 and ML 50216. The application for the Enforceable Undertaking specifically relates to disturbance caused by mining activities conducted by New Acland Coal in the area identified as West Pit and in part of South Pit, both situated on ML 50216.

A. Application details

On 16 June 2022, the department received an application for an Enforceable Undertaking from New Acland Coal. The application includes a Statutory Declaration signed by an authorised representative of New Acland Coal and was made in the approved form.

The objectives, as stated in the application for the Enforceable Undertaking are, to paraphrase:

1. ensure mining activities are carried out in accordance with the EA;
2. minimise the risks to the receiving environment and the community from mining activities; and
3. deliver benefits to the environment and local community.

B. Material considered by the department in making the decision

In making the decision, the department had before it:

- a. *Environmental Protection Act 1994*;
- b. Application Form - Enforceable Undertaking dated 16 June 2022;
- c. Signed Statutory Declaration received on 16 June 2022;
- d. The Enforceable Undertaking, as attached to the application form;
- e. Draft Form 31 - Covenant;
- f. Draft Form 18A - Landowner Consent to Survey Plan;
- g. Draft consent letter to be provided on behalf of Acland Pastoral Company;
- h. correspondence between the department and New Acland Coal relating to disturbance from mining activities on ML50216.
- i. The department's guideline for Enforceable Undertakings under the *Environmental Protection Act 1994* (ESR/2016/2272).
- j. Department of Environment and Science Enforcement Guidelines (ESR/2021/5549).

C. Application of legislation to the decision

Section 507 of the *Environmental Protection Act 1994* provides that:

- a. the administering authority may accept a written undertaking (Enforceable Undertaking) made by a person in relation to a contravention or alleged contravention by the person of the *Environmental Protection Act 1994*, other than an indictable offence; and
- b. the administering authority must give the person written notice of the administering authority's decision to accept or reject the Enforceable Undertaking, and the reasons for the decision.

D. Decision

The administering authority has decided to accept New Acland Coal's application for an Enforceable Undertaking. The approved Enforceable Undertaking is attached to this decision notice.

E. Reasons for the decision

1. The alleged contravention is not an indictable offence.
2. New Acland Coal agrees, for the purposes of section 507 of the *Environmental Protection Act 1994*, to implement steps to prevent the alleged contravention from reoccurring.
3. New Acland Coal has declared that it has no convictions or findings of guilt under the *Environmental Protection Act 1994* or other corresponding law in Queensland, or elsewhere in any Australian or international jurisdiction.
4. The application for the Enforceable Undertaking appropriately addresses the alleged contravention by:
 - a. noting the cessation of mining activities, other than for rehabilitation on ML 50216;

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- b. requiring New Acland Coal to achieve an agreed post mining land use for the activities on part of ML 50216 that is safe, stable, non-polluting and self-sustaining;
 - c. undertaking to fund the remediation of the disturbance (estimated to cost \$2,000,000); and
 - d. reviewing New Acland Coal's permission to disturb protocols and investing in staff training.
5. The Enforceable Undertaking enhances the protection of the environment by:
- a. protecting the area known as Bottle Tree Hill, in perpetuity, by a Preservation Covenant aimed at directly preserving a native animal or plant pursuant to the *Land Title Act 1994* (Qld); and
 - b. providing connection between existing known koala populations and habitat within the Conservation Zone and the remediated area proposed on ML 50216, which equates to a combined commitment of approximately 140 hectares of land being provided to improve local environmental outcomes.

F. Additional information

Obligations under the *Environmental Protection Act 1994*

In addition to the requirements of the enforceable undertaking and the conditions imposed, you must also meet your obligations under the *Environmental Protection Act 1994*, and the regulations made under the *Environmental Protection Act 1994*. For example:

- you must comply with the following provisions of the Act:
 - general environmental duty (section 319); and
 - duty to notify of environmental harm (sections 320 - 320G);
- you must also ensure that you do not commit offences in relation to the *Environmental Protection Act 1994*, including but not limited to, the following:
 - causing serious or material environmental harm (sections 437 - 439);
 - causing environmental nuisance (section 440);
 - depositing prescribed water contaminants in waters and related matters (section 440ZG); and
 - placing contaminant where environmental harm or nuisance may be caused (section 443).

Should you have any queries in relation to this notice, please contact Anthony Baker, Director, of the Department, on telephone number 0407 425 951.



Signature

23 June 2022

Date

Anthony Baker
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:
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