

From: [Kate Grudzinskas](#)

To: [Environment](#)

Cc: [Sean Ryan](#)

Subject: Oakey Coal Action Alliance Inc re New Ashland Coal Pty Ltd found action for breach of confidence, sch3(10)(1)(a) Investigation of c

Date: Friday, 4 May 2018 6:18:36 PM

Attachments:

(8)(1) Information disclosure of which would found action for breach of confidence, sch3(10)(1)(a) Investigation of contravention of the law

Dear Minister Enoch,

Please find **attached** correspondence sent on behalf of our client Oakey Coal Action Alliance Inc.

If there is anything you would like to discuss, please do not hesitate to contact us.

Kind regards,

Kate Grudzinskas

Solicitor

cid:image001.png@01D1130D.8BD5EB10



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Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

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18 JUL 2018

Mr Andrew Kwan
Senior Solicitor
Environmental Defenders Office (Qld) Inc
Unit 8
205 Montague Road
WEST END QLD 4101

Dear Mr Kwan

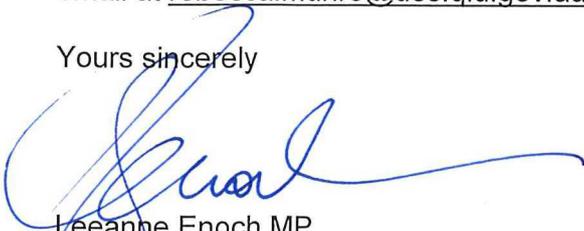
sch3(8)(1) Information disclosure of which would found action for breach of confidence, sch3(10)(1)(a) Investigation of contravention of the law

I am advised that the department is currently investigating the matters you have raised, along with a number of community reports about activities by New Acland. As you would understand, some of these matters are extremely complex and require a significant commitment of departmental resources and time to investigate, and examination to the fullest extent in order to determine if there has been non-compliance with environmental authority conditions or the EP Act. I can advise that on 28 June 2018, the department did issue enforcement action to New Acland in relation to one identified non-compliance with the EP Act.

As the other matters remain under active investigation, I am unable to provide any further information at this time. If non-compliances are identified, the department will take appropriate enforcement action in accordance with the principles set out in the department's Enforcement Guidelines, which are available online at www.ehp.qld.gov.au/management/planning-guidelines/enforcement.html.

If you require any further information, please contact Ms Rebecca Munro, Manager - Compliance, Environmental Services and Regulation of the department on telephone (07) 4987 9320 or by email at rebecca.munro@des.qld.gov.au.

Yours sincerely



Leeanne Enoch MP
**Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts**

Published on DES Disclosure Log
RTI Act 2009

To Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

Prepared for Toowoomba – 9 November 2018

NEW ACLAND COAL MINE

RESPONSE

- On 31 May 2017, the Land Court recommended that New Acland Coal Pty Ltd's application for mining leases for the Stage Three Expansion Project be rejected and that the Department of Environment and Science (DES) refuse New Acland Coal's application to amend its environmental authority.
- On 15 June 2017, New Acland Coal applied to the Supreme Court seeking a judicial review of the Land Court's recommendation of 31 May 2017.
- On 14 February 2018, DES refused New Acland Coal's environmental authority application.
- On 2 May 2018, the Supreme Court handed down its decision and found that sufficient grounds for review of the Land Court's recommendations had been established, and the recommendations should be set aside and referred back to the Land Court for further consideration.
- On 28 May 2018, the Supreme Court also made orders to set aside DES's decision of 14 February 2018 to refuse the environmental authority amendment application.
- Oakey Coal Action Alliance, an objector in the Land Court, filed an appeal to the Queensland Court of Appeal of the Supreme Court judicial review decision.
- On 5 September 2018, the Court of Appeal listed the appeal a two-day hearing on 27 and 28 February 2019.
- On 2 October 2018 to 4 October 2018, the Land Court re-hearing took place before President Kingham.
- On 7 November 2018, the President published her orders recommending that DES approve the environmental authority amendment application if a number of requirements are fulfilled.
- The requirements include directing New Acland Coal to seek an amendment from the Coordinator-General for stated conditions of the environmental authority relating to noise limits.
- If the requirements are not fulfilled by 31 May 2019, the orders recommend that DES refuse the amendment application.
- The existing environmental authority for the current operations at the New Acland Coal Mine continues to be effective; however, DES is currently considering allegations of unauthorised activities at the site.

BACKGROUND

- New Acland Coal Mine, an open-cut, thermal coal operation located near the town of Acland, is located approximately 14 kilometres north-west of Oakey and 35 kilometres north-west of Toowoomba and has been operational since 2002.

New Acland Stage Three Expansion Project

- The Stage Three Expansion Project was assessed through an Environmental Impact Statement under the *State Development and Public Works Organisation Act 1971* and approved by the Queensland Coordinator-General on 19 December 2014.
- The former Department of Environment and Heritage Protection approved the amendment application and issued a draft Environmental Authority on 28 August 2015, before it was subsequently referred to the Land Court of Queensland where the matter was heard over a total of 99 days.
- The Commonwealth Minister for the Environment and Energy approved the Stage 3 project under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* on 18 January 2017.

CONFIDENTIAL INFORMATION FOR THE MINISTER:

sch3(8)(1) Information disclosure of which would found action for breach of confidence, sch3(10)(1)(a) Investigation of contravention of the law

Noise, Dust and Vibration Community Reports:

- A number of community reports relating to noise, dust and blasting have been submitted to DES by residents in the vicinity of the mine. Since August 2018, DES has received six reports.
- DES is currently undertaking compliance processes in response to these concerns.
- On 11 October 2018, a pre-enforcement letter was issued to NAC regarding alleged exceedances of night time noise limits at a residential property. A response is due from NAC on 23 November 2018.

Historical Compliance Actions:

- On 9 February 2018, a penalty infringement notice (PIN) in the amount of \$12,615 was issued to NAC in relation to section 430(3) of the EP Act; breach of environmental authority condition C22 in respect of groundwater monitoring bores. On 8 March 2018, NAC paid the PIN.
- On 28 June 2018, a PIN in the amount of \$3,153 was issued to NAC for non-compliance with section 290 of the EP Act, for failing to comply with the Plan of Operations (1 August 2017 to 31 July 2018) whilst undertaking exploration activities.

- On 23 August 2018, NAC paid the PIN.

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