

LAND COURT OF QUEENSLAND

CITATION: *Re BHP Billiton Minerals Pty Ltd & Ors* [2009] QLC 0055

PARTIES: **In the matter of Application for Additional Surface Area to Mining Lease No 1923 by BHP Billiton Minerals Pty Ltd & Ors**

FILE NO: AML00065/2009

PROCEEDING: Application for Additional Surface Area

DELIVERED ON: 16 April 2009

DELIVERED AT: Brisbane

MEMBER: Mr BR O'Connor, Judicial Registrar

ORDERS: **1. Hearing dispensed with.**
2. I recommend to the Honourable the Minister for Mines and Energy that the application for additional surface area be granted to BHP Billiton Minerals Pty Ltd (41.50%), BHP Queensland Coal Pty Ltd (8.50%), Mitsubishi Development Pty Ltd (3.49%), QCT Investment Pty Ltd (12.00%), QCT Mining Pty Ltd (15.78%) and QCT Resources Pty Ltd (18.73%)

CATCHWORDS: MINING – ADDITIONAL SURFACE AREA OF MINING LEASE – RECOMMENDATION

Mineral Resources Act 1989 ss 245, 269(4), 270(1)

APPEARANCES: Not applicable – Heard on the Papers

[1] **O'CONNOR JR:** This is an application lodged by BHP Billiton Minerals Pty Ltd & Ors for an additional surface area to a mining lease over land as described in the application for the purpose of underground long wall development of coal and gaseous hydrocarbons for a term to expire on 31 March 2027, concurrent with ML 1923. The application was lodged at the office of the Mining Registrar at Emerald on 17 September 2008. No objection was lodged before the closing date for objections which was 27 February 2009.

Request to dispense with a hearing - Section 270

- [2] I may dispense with a hearing if satisfied as to matters specified in s. 270(1). For reasons that follow at paragraph [4], I am satisfied that the provisions of part 7 of the Act have been complied with in respect of the application. The material supplied by the applicant and the Mining Registrar addresses each of the criteria that I must consider in making my recommendation on this application. I am satisfied that there is sufficient information before me to properly consider this matter. The applicant has requested that the matter be dealt with on the papers by a member sitting alone. Accordingly, I order that a hearing of this application be dispensed with.

Section 269(4) criteria

- [3] In taking account of and considering the criteria specified in s. 269(4), I have relied upon the Additional Information and Statutory Declaration sworn by the applicant. I have also relied upon the other material lodged by the applicant with the Department of Mines and Energy and provided by the Mining Registrar to this Court and the Mining Registrar's Report in relation to this application. These reasons refer to the salient points, but not to all the relevant evidence, that I have taken into account in making my recommendation.

Section 269(4)(a) – Have the provisions of the Act been complied with?

- [4] A Certificate of Application was issued by the Registrar on 7 January 2009 which can only be done if the Registrar is satisfied that the applicant is eligible to apply for the additional surface area and has complied with the requirements of the Act for an application under s. 245 with respect to marking out, notification, service and posting of documents.

Section 269(4)(b) – Is the land applied for mineralised or are the other purposes for which the lease is sought appropriate?

- [5] The application seeks the grant of an additional surface area to a mining lease for the principal purpose of underground long wall development of coal and gaseous hydrocarbons.

Section 269(4)(c) – If the land applied for is mineralised, will there be an acceptable level of development and utilisation of the mineral resources within the area applied for?

[6] The applicant is mining the current mining lease 1923. There is no evidence to suggest that there will not be an acceptable level of development and utilisation of the mineral resource in the area.

Section 269(4)(d) – Is the land and the surface area of that land in respect of which the mining lease is sought of an appropriate size and shape?

[7] The boundaries of the additional surface area lease have been determined. There is no evidence to indicate the size and shape is not appropriate.

Section 269(4)(e) Is the term sought appropriate?

[8] The applicant seeks a term to expire on 31 March 2027, concurrent with mining lease no. 1923. There is no evidence to suggest that this term is inappropriate. This additional surface area forms part of an ongoing mining project. The applicant has the option of surrender if mining and rehabilitation is completed before the term expires.

Section 269(4)(f) – Has the Applicant the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease?

[9] The applicant has sufficient assets, including the mining equipment required, to undertake the proposed operation. I am satisfied the applicant has or has access to the necessary financial and technical resources.

Section 269(4)(g) – Has the past performance of the Applicant been satisfactory?

[10] There is no evidence to suggest that the past performance of the applicant has not been satisfactory.

Section 269(4)(h) – Will any disadvantage result to the holders of existing exploration permits or mineral development licences or existing Applicants for exploration permits or mineral development licences?

[11] There are no other holders or applicants for exploration tenures who would be affected by the grant.

Section 269(4)(I) – Do the operations to be carried on under the authority of the mining lease conform to sound land use management?

[12] The current land use is camping and water reserve.

Section 269(4) (j) – Will there be any adverse environmental impacts, and if so, the extent thereof?

[13] The draft environmental authority was issued. It requires the applicant to comply with the standard environmental conditions contained in the Environmental Authority (Mining Lease) Non Code Compliant Level 1 Mining Project.

Section 269(4)(k) – Will the public right and interest be prejudiced?

[14] Agreement has been made with local authority to rectify any effect on public infrastructure.

Section 269(4)(l) – Has any good reason been shown for a refusal to grant the mining lease?

[15] There was no evidence before me that indicated any grounds which would justify a refusal of the application.

Section 269(4)(m) – Is the proposed mining operation an appropriate land use taking into consideration the current and prospective uses of the land?

[16] On the basis of the evidence considered in relation to criteria (i), (j), (k) and (l), I consider the proposed activity is an appropriate land use.

Recommendation

[17] Taking into account all the evidence before me and, in particular, that evidence referred to above, I recommend to the Honourable the Minister for Mines and Energy that the application for additional surface area be granted.

**BR O’CONNOR
JUDICIAL REGISTRAR**