

LAND COURT OF QUEENSLAND

CITATION: *Re BHP Coal Pty Ltd & Ors* [2009] QLC 0089

PARTIES: In the matter of Application for Additional Surface Area Number 6 for Mining Lease 1762 by BHP Coal Pty Ltd, Umal Consolidated Pty Ltd, BHP Queensland Coal Investments Pty Ltd, Mitsubishi Development Pty Ltd, QCT Investment Pty Ltd, QCT Mining Pty Ltd and QCT Management Pty Ltd

FILE NOS: MRA231-09

PROCEEDING: Application for additional surface area

DELIVERED ON: 23 June 2009

DELIVERED AT: Brisbane

MEMBER: MR PA Smith, Member

ORDERS:

- Hearing dispensed with.**
- I recommend to the Honourable the Minister for Natural Resources, Mines and Energy and Minister for Trade that the additional surface area number 6 be included in Mining Lease No. 1762, for the purposes sought by the applicants.**

CATCHWORDS: MINING – MINING LEASES – ADDITIONAL SURFACE AREA – RECOMMENDATION

Mineral Resources Act 1989, ss 269(4), 270(1), 275.

APPEARANCES: Not applicable – Heard on the papers

Background

[1] This is an application lodged by BHP Coal Pty Ltd, Umal Consolidated Pty Ltd, BHP Queensland Coal Investments Pty Ltd, Mitsubishi Development Pty Ltd, QCT Investment Pty Ltd, QCT Mining Pty Ltd and QCT Management Pty Ltd (the applicants) under s.275 of the *Mineral Resources Act 1989* ("the Act") for additional surface area for Mining Lease 1762. The application area is as described in the application (on the application form).

Request to dispense with a hearing – Section 270

[2] I may dispense with a hearing if satisfied as to the matters specified in s.270(1). There were no objections to this application. I am satisfied that the preconditions to exercising my discretion to dispense with the hearing have been fulfilled. The material supplied by the applicants 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. 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 on behalf of the applicants on 20 May 2009. I have also relied upon the other material lodged by the applicants with the Mining Registrar and provided by the Mining Registrar to this Court. 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 Mining Registrar on 20 April 2009 which can only be done if the Registrar is satisfied that the applicants are eligible to apply for the additional surface area under s.275 of the Act and have complied with the requirements of the Act with respect to the application.

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 inclusion of the additional surface area for infrastructure purposes associated with the mining of coal in association with its current operation on Mining Lease 1762.

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 land to be included in the lease is to be used for coal mining infrastructure and associated purposes to support mining operations. I am satisfied that the purposes stated in the application reflect an acceptable level of development.

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 have been determined by the area that is required for the stated purposes. The applicants have sought additional surface area of about 187.2 ha. There is no evidence to indicate the size and shape is not appropriate.

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

[8] The term is to be concurrent with the term of ML 1762 which will expire on 31 July 2011. There is no evidence to suggest that the term is inappropriate.

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 applicants have sufficient assets through company sources to undertake the proposed operation. I am satisfied that the applicants have or have 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 applicants has not been satisfactory. The applicants state there have been no show cause or conviction imposed in respect of mining operations.

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] The applicants are the current holders of Mining Lease 1762. I am satisfied that no other person is disadvantaged.

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

[12] In my view it is sound land use management to include the additional surface area re ML 1762 and thereby rationalise the applicants' tenure.

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

[13] A draft environmental authority has issued. The draft authority was publicly advertised and no objections were lodged in relation to it. I consider the draft environmental authority appropriate.

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

[14] There was no evidence before me that indicated that the public right and interest would be prejudiced. I take into account that there was no objection to this application on public interest or any other grounds.

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) 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 Natural Resources, Mines and Energy and Minister for Trade that the additional surface area number 6 sought by the applicants be included in mining lease 1762 for the purposes sought by the applicants.

**PA SMITH
MEMBER OF THE LAND COURT**