

# LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Re BHP Coal Pty Ltd & Ors* [2007] QLRT 128

PARTIES: **In the Matter of Application for Mining Lease No. 70372 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 Resources Pty Ltd**

FILE NO/S: AML164/2007

PROCEEDING: Application for mining lease

DELIVERED ON: 14 September 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

PRESIDING MEMBER: Smith DP

ORDER/S: **1. Hearing dispensed with. (at [2])**  
**2. Recommendation made the Mining Lease be granted subject to a condition that operation of the Peak Downs-Hay Point Railway is not impeded. (at [17]).**

CATCHWORDS: MINING – MINING LEASE –RECOMMENDATION  
*Mineral Resources Act 1989, ss. 245, 269, 270*

COUNSEL: N/A

SOLICITORS: N/A

[1] On 5 December 2006 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 Resources Pty Ltd (“the Applicants”) lodged Mining Lease Application No. 70372 with the Mining Registrar, Emerald District. The Application was lodged pursuant to s. 245 of the *Mineral Resources Act 1989* (“the Act”) for coal mining infrastructure – haul road/transport access/water management purposes. No objections were duly lodged to the application.

*Request to dispense with a hearing – Section 270*

- [2] The Applicants have requested that the Application be dealt with without an oral hearing. Taking in to account s. 270 of the Act, I am satisfied that there is sufficient information before me. 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) of the Act, I have relied on the Applicants' Additional Information and Statutory Declaration. I have also relied upon the other material lodged by the Applicants with the Mining Registrar and the Mining Registrar's Report in relation to this Application. These reasons refer to the salient points, but not all the relevant evidence, that I have taken into account.

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

- [4] On 19 June 2007, the Mining Registrar issued a Certificate of Application. The Mining Registrar can only issue the Certificate if satisfied that the Applicants are eligible to make this application and have complied with the requirements of the Act with respect to the Application. I note that the Application is over an exclusive tenure. In my opinion, there is sufficient evidence of compliance with the provisions of the Act in respect to this Application.

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

- [5] I am satisfied from the Applicants' evidence that the purposes for which the lease is sought are appropriate.

*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 area is required for transport and water management purposes.

*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 material before me appears to indicate an application of an appropriate size and shape in light of the proposed mining operation.

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

- [8] The term sought for the mining lease is 25 years, which I consider appropriate.

*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 extensive the financial and technical capabilities to carry on the mining operations.

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

[10] The Applicants' evidence is that no enforcement action has been taken against them. The Mining Registrar's Report is consistent with what the Applicants say.

*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 is nothing in the material to indicate any disadvantage to any other person.

*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] There is no evidence before me to suggest that the proposed operations do not conform with sound land use management.

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

[13] A draft environmental authority was publicly advertised and received no objection. There is no evidence to suggest that the environmental impacts will not be adequately dealt with by compliance with the conditions of the authority.

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

[14] The material before me does not reveal any area of concern for the public right and interest provided that the operation of the Peak Downs-Hay Point Railway is not impeded. I note from the applicants' material that there is no intention of causing any impedance whatsoever.

*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 good reason why this Application should be refused.

*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] The application forms an integral part of an existing, substantial mining operation. The application is without objection. I am satisfied that the proposed mining operation is an appropriate land use.

*Recommendation*

[17] Taking into account all the evidence before me and, in particular, that evidence referred to above, and subject to a condition that operation of the Peak Downs-Hay Point Railway is not impeded, I recommend to the Honourable the Minister for Mines and Energy that Mining Lease 70372 be granted over the entire application area for the purpose and term sought by the Applicant.