SUPREME COURT OF QUEENSLAND

CITATION:	*Lock the Gate Alliance Ltd v Chief Executive under the Environmental Protection Act 1994* [2018] QSC 22
PARTIES:	**LOCK THE GATE ALLIANCE LTD** (Applicant) **v** **CHIEF EXECUTIVE UNDER THE ENVIRONMENTAL PROTECTION ACT 1994** (Respondent)
FILE NO/S:	BS No 11720 of 2017
DIVISION:	Trial Division
PROCEEDING:	Application
DELIVERED ON:	22 February 2018
DELIVERED AT:	Brisbane
HEARING DATE:	1 February 2018
JUDGE:	Bowskill J
ORDER:	**The application is dismissed.**
CATCHWORDS:	ADMINISTRATIVE LAW – JUDICIAL REVIEW – REVIEWABLE DECISIONS AND CONDUCT – REFUSAL OF REQUESTS FOR REASONS – where the applicant environmental organisation seeks a statement of reasons for a decision made under s 295 of the *Environmental Protection Act* 1994 determining the amount and form of financial assurance to be provided by the holder of a mining lease in respect of the Blair Athol coal mine, as a condition of, and as security for the performance of its obligations under, an environmental authority – whether the applicant is a person whose interests are adversely affected by the decision, such that it is entitled to request a statement of reasons for the decision *Judicial Review Act* 1991 (Qld), ss 4, 7, 20, 31, 32, 38 *Environmental Protection Act* 1994 (Qld), ss 287, 288, 289, 292, 295 *Argos Pty Ltd v Corbell* (2014) 254 CLR 394 *Australian Conservation Foundation v The Commonwealth* (1980) 146 CLR 493 *Lock the Gate Alliance Ltd v The Minister for Natural Resources and Mines* [2018] QSC 21 *Right to Life Association (NSW) Inc v Secretary, Department of Human Services and Health* (1995) 56 FCR 50

COUNSEL:	J Hewson for the applicant M Hickey for the respondent
SOLICITORS:	Environment Defenders Office for the applicant Crown Law for the respondent

Introduction

[1] Lock the Gate Alliance Ltd applies under s 38 of the *Judicial Review Act* 1991 (Qld) (**JR Act**) for an order that the respondent provide it with a statement of reasons in relation to a decision made under s 295 of the *Environmental Protection Act* 1994 (Qld) (**EPA**), concerning the amount and form of financial assurance required under a condition of the environmental authority for the Blair Athol mine.

[2] Under s 32(1) of the JR Act, if a person makes a decision to which the Act applies (ss 4 and 31) a person who is entitled to make an application to the court under s 20, in relation to the decision, may request the person to provide a written statement in relation to the decision. Under s 20(1) a "person who is aggrieved" may apply for a statutory order of review in relation to the decision. A "person who is aggrieved" is a person whose interests are adversely affected by the decision (s 7(1)(a)). Section 38(2) confers a discretion on the court to order the decision-maker to give the statement of reasons, if the court considers the requester was entitled to make the request.

[3] The respondent accepts the decision is one to which the JR Act applies, but opposes the application on the basis that Lock the Gate is not a "person who is aggrieved" by the decision, because its interests are not adversely affected by the decision.

Factual and legislative context

[4] Orion Mining Pty Ltd recently became the holder of mining lease 1804, under which it operates the Blair Athol mine.[1] It is also the holder of an environmental authority (EPML00876713) under the EPA in relation to that mine, which is an essential prerequisite to carrying out mining activity.[2]

[5] Section 287 of the EPA provides that an environmental authority holder must not carry out, or allow the carrying out of, any (mining) activity under the relevant lease unless, among other things, a plan of operations for all relevant activities, which complies with s 288, has been given to the administering authority (the chief executive). Section 289 provides for the amendment or replacement of a plan of operations. That occurred in this case, with the final replacement plan being provided on 23 June 2017.[3] As contemplated

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1 See *Lock the Gate Alliance Ltd v The Minister for National Resources and Mines* [2018] QSC 21, which concerns a similar application, for provision of a statement of reasons in respect of a decision of that Minister made in February 2017 to give indicative approval for the proposed transfer of ML 1804 to Orion Mining Pty Ltd. Approval for the actual transfer was given in May 2017.

2 Naylor at [4]. See also s 426 of the *Environmental Protection Act* 1994.

3 Naylor at [5], and GCN-2

by s 288(2), the plan included a rehabilitation program, stating a proposed amount of financial assurance of just over $74.5 million.[4]

[6] Under s 292, the administering authority may impose a condition on the environmental authority, requiring the holder to give the administering authority financial assurance, as security for compliance with the environmental authority, before any mining activity can be carried out (s 292(1)).

[7] Under s 295, the administering authority is to decide the amount and form of financial assurance required under a condition of an environmental authority. In making the decision, the administering authority must have regard to:

(a) any relevant regulatory requirements; and

(b) any criteria stated in a guideline made by the chief executive and prescribed under a regulation (s 295(3)).[5]

[8] The administering authority cannot require financial assurance of an amount more than the amount that, in the authority's opinion, represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity (s 295(4)).

[9] Ms Gillian Naylor is the delegate of the respondent with responsibility for deciding environmental authority applications, including financial assurance decisions.[6] On 28 June 2017 she made a decision, under s 295 of the Act, about the amount and form of financial assurance required to be provided by Orion under the environmental authority. She decided that the amount of financial assurance to be paid for the period 20 June 2017 to 21 June 2018 is $74,579,309.53, and that it was to be paid in cash.[7]

[10] This is the decision in respect of which Lock the Gate applies for a statement of reasons.

Is Lock the Gate a person who is aggrieved by the decision?

[11] The question is whether Lock the Gate is a person (or entity) "whose interests are adversely affected by the decision" (ss 20(1) and 7 of the JR Act).

[12] In *Lock the Gate Alliance Ltd v The Minister for Natural Resources and Mines* [2018] QSC 21 I considered this issue, in the context of an earlier decision in the process of Orion becoming the holder of mining lease 1804, namely the decision of the Minister for Natural Resources and Mines giving indicative approval for the proposed transfer of the mining lease to Orion. My reasons in that matter enable me to express my conclusions

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4 Naylor, GCN-2, at p 78 of the exhibit. Cf the figures which appear in the executive summary, at p 20 of the exhibit, referring to a "current liability calculated for the mining lease" of approximately $79.7 million, reduced to $73.04 million as a result of engineering re-design.

5 Naylor at [7] and GCN-3 (copy of the guideline).

6 Naylor at [2] and [3].

7 Naylor, GCN-4 (notice of the decision) at p 144 of the exhibits.

in this matter more briefly. I adopt, without repeating, paragraphs [20]-[24] and [42]-[79] of that decision.

[13] In determining the question whether a person's interests are affected by a decision, it is necessary to consider the legal effect and (practical) operation of the decision, and then to make a judgment as to whether the legal or practical operation of the decision has been to result in an adverse effect on identified interests of the person.[8]

[14] A person claiming to be aggrieved by a decision needs to show that the decision will have an effect on their interests which is different from (beyond) its effect on the public at large; that their interests are genuinely affected in a practical way by the decision.[9] In order to do this, they need to show a special interest in the subject matter of the decision. As Gibbs J said in *Australian Conservation Foundation v The Commonwealth* (1980) 146 CLR 493 at 530:

> "… an interest does not mean a mere intellectual or emotional concern. A person is not interested within the meaning of the rule, unless he is likely to gain some advantage, other than the satisfaction of righting a wrong, upholding a principle or winning a contest, if his action succeeds or to suffer some disadvantage, other than a sense of grievance or a debt for costs, if his action fails. A belief, however strongly felt, that the law generally, or a particular law, should be observed, or that conduct of a particular kind should be prevented, does not suffice to give its possessor locus standi."

[15] In this case, the legal and practical effect of the decision is that it determined the amount and form of financial assurance (just over $74.5 million in cash) that Orion was required to provide to the administering authority, as a condition of the environmental authority, before it could commence to carry out its mining operations. The funds are held by the administering authority, and can be claimed or realised by it, in the event that the administering authority incurs costs or expenses in taking action to prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of mining activity, or to secure compliance with the environmental authority (ss 298, 299).

What are the identified interests of Lock the Gate?

[16] In its amended application, Lock the Gate contends it is aggrieved by the decision because it:

> "1. was at all material times and is an Australian company limited by guarantee <u>whose objects include the protection of the natural environment from the impacts of mining</u>; and

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8 *Argos Pty Ltd v Corbell* (2014) 254 CLR 394 at [43] per French CJ and Keane J and at [76] per Gageler J.

9 *Argos Pty Ltd v Corbell* at [48] per French CJ and Keane J, at [61] per Hayne and Bell JJ and at [86] per Gageler J.

> 2. has a special interest in protection of the Queensland environment with respect to mining impacts and rehabilitation relating to the Blair Athol Mine, that is greater than the interest of the community at large or a section thereof, which has been adversely affected by the decision."[10]

[17] In response to my request for a succinct definition of Lock the Gate's interests, I was directed by counsel for the applicant to the following:

> "[Lock the Gate's] interests, consistent with the objects of its Constitution, concern the protection and conservation of Australia's environment, including education, promotion and acting as advocate for members of the Australian public."[11]

[18] In terms of the factual material,[12] Lock the Gate became registered as a public company limited by guarantee in March 2012. The objects of Lock the Gate are set out in [30] of *Lock the Gate Alliance Ltd v Minister for Natural Resources and Mines*.

[19] In support of its application Lock the Gate relies upon affidavits of Mr Humphries, who is described as the Coordinator of Lock the Gate's "Mine Rehabilitation Reform Campaign". He has been engaged since February 2016 "as a consultant dedicated to supporting the reform of Queensland's mine rehabilitation regulatory regime".[13]

[20] Mr Humphries describes Lock the Gate as "a national organisation made up of approximately 103,000 supporters and more than 250 local groups who are concerned about unsafe coal and gas mining", located in all parts of Australia. Across Queensland, it is said to have "approximately 20,500 supporters". In the region surrounding the Blair Athol mine, "including the townships of Clermont, Emerald, Moranbah, Dysart and surrounds", Lock the Gate is said to have "at least 30 supporters".[14] Mr Humphries does not say in what capacity these people are "supporters" (that is, whether they are paid up members of the company, or supporters in some other capacity) but in any event there is no reliance placed on the interest of any of these supporters in their individual capacity.

[21] Mr Humphries says that, in February 2016, in the course of internet research, he became aware that a proposed sale of the Blair Athol mine by a joint venture, managed by Rio Tinto, to Linc Energy for $1 had fallen through. He says "LTG became concerned that any discounted sale of the Blair Athol Mine by Rio to a junior miner may result in rehabilitation obligations not being carried out. LTG was therefore concerned that the Queensland taxpayer would be at risk of having to pay for any outstanding rehabilitation required" (at [18]).

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10 Underlining added.
11 Lock the Gate's reply submissions at [13]; see also T 1-10 to 1-11.
12 Cf *Lock the Gate Alliance Ltd v Minister for Natural Resources and Mines* [2018] QSC 21 at [28]-[38], in relation to the evidence relied upon in that case.
13 Humphries (9 November 2017) at [47].
14 Humphries at [16].

[22] Mr Humphries says that, in light of this concern, Lock the Gate has undertaken a number of activities "specifically regarding the Blair Athol Mine", namely:

(a) Mr Humphries produced a report, in May 2016, on the mine, "setting out the case for immediate and full rehabilitation" (at [20] and exhibit RNH-04);

(b) Lock the Gate was involved in organising a public meeting in Clermont in June 2016 "to engage and provide information to the local community about the risks associated with the sale of the Blair Athol Mine, and to discuss whether compelling Rio Tinto to complete the rehabilitation was a better long-term option for the community" (at [21]);

(c) Mr Humphries met with the Director for Coal Mining Operations and the Coal Assessment Manager, at the Department of Natural Resources and Mines (DNRM), in June 2016 "to discuss LTG's concerns about the potential sale of the Blair Athol Mine" (at [23]);

(d) after becoming aware in July 2016, from an ASX announcement by TerraCom Ltd, that TerraCom's junior subsidiary Orion Mining Pty Ltd was planning to lodge an application for transfer of the mining lease, and Mr Humphries doing some online research in relation to TerraCom, Mr Humphries arranged to meet with the Environment Minister "to discuss LTG's concerns with the Mining Lease Transfer" (at [24]-[26]);

(e) also in July 2016, Mr Humphries conducted "a review of the Blair Athol financial assurance calculation" and prepared a report (which concluded that the "current level of financial assurance held by the Queensland Government for the Blair Athol Mine was inadequate to cover the full cost of rehabilitation") which was submitted to the Environment Minister, and Department of Environment and Heritage Protection (DEHP), for consideration (at [27]);

(f) also in July 2016, Mr Humphries wrote to the chief executive of Rio Tinto expressing Lock the Gate's concerns about the proposed sale of the mine to TerraCom (at [28]); and participated in an ABC radio segment about the proposed sale of the mine (with the Queensland Treasurer, and chief executive of the Queensland Resources Council who were also guests on the segment) (at [29]);

(g) Mr Humphries met with the Deputy Directors General of the DEHP and DNRM in September 2016 "regarding a potential transfer of the mining lease for the Blair Athol Mine and proposed reforms to the Queensland regulatory regime governing mine rehabilitation" (at [30]);

(h) on 13 February 2017 Mr Humphries wrote to the Environment Minister, the Minister for Natural Resources and Mines and the Treasurer about Lock the Gate's concerns with the potential transfer of the mine to Orion (at [31] and p 188 of the

exhibits); to which the Environment Minister responded on 15 March 2017 (p 191 of the exhibits);

(i) on 3 March 2017 Mr Humphries wrote to the respondent about Lock the Gate's concerns with the proposed sale of the mine to Orion and requested a meeting (at [32]); the meeting took place on 14 March 2017, at which Mr Humphries provided the respondent with a financial report he had obtained from TerraCom's website (at [33]), as well as an updated version of his report reviewing the Blair Athol financial assurance calculation (at [34]); Mr Humphries followed this meeting up with further email correspondence to the respondent and others (at [35]);

(j) on 30 June 2017 Mr Humphries wrote a further letter to the respondent detailing Lock the Gate's concerns with the amount of financial assurance Orion proposed for its proposed operations (at [36]);

(k) on 14 July 2017 the respondent wrote to Lock the Gate, advising of the decision regarding the amount of financial assurance to be provided (at [37], p 257 of the exhibits).

[23] Mr Humphries says that mine rehabilitation is one of Lock the Gate's "key interest topics and significant campaign areas" ([41]). He says that as a result of Lock the Gate's "view that improved mine rehabilitation can reduce the financial risk posed to Queensland taxpayers and also improve environmental outcomes that benefit local communities and the State more broadly" ([45]), it has "taken a number of relevant actions aimed at dramatically improving relevant regulation" ([46]), for example:

(a) since February 2016, engaging Mr Humphries as a consultant dedicated to supporting the reform of Queensland's mine rehabilitation regulatory regime ([47]);

(b) making a submission in March and April 2016 on the Queensland Environmental Protection (Chain of Responsibility) Amendment Bill 2016 ([49]);

(c) producing a report in July 2016 entitled "Mine Rehabilitation and Closure Cost – a Hidden Business Risk", which was presented to investors in Sydney and Melbourne, and also to the QTC (Queensland Treasury Corporation) as part of its current review of the State's financial assurance regime ([50]);

(d) producing a report in September 2016 on the deficiencies of the Queensland Government's Mining Financial Assurance Calculator, which it submitted to DEHP and QTC ([51]);

(e) engaging in the review by Queensland Treasury Corporation of the financial assurance framework (at [52] and [54]); and

(f) making a submission to a Federal Senate Committee's current inquiry into rehabilitation of mining and resources projects as it relates to Commonwealth responsibilities (at [55] and [56]);

[24] Lock the Gate also relies on publications in which it says it has been recognised by the Queensland government. The first is a discussion paper, entitled "Better Mine Rehabilitation for Queensland", prepared for the Queensland government interdepartmental committee on financial assurance for the resource sector. This document includes the statement that "the community expects that a mine site will be rehabilitated", following which there is a footnote referring to a document accessible on Lock the Gate's website entitled "Greens' mine rehabilitation policy strongly aligned with public opinion".[15] The second is a report prepared by the Queensland Treasury Corporation, entitled "Review of Queensland's Financial Assurance Framework", which includes at table 1 a list of "stakeholders engaged". Lock the Gate is included as one of six "environmental groups".[16]

[25] Lock the Gate submits that the support and backing of those it represents, particularly in Queensland and near the Blair Athol mine (referring to the evidence of the number of supporters it has) "demonstrates that the Applicant is a significant organisation committed to its objectives of environmental protection in the broad public interest".[17] It further submits that:

> "72. This history of conduct demonstrates that the Applicant possesses an interest in the financial assurance set for the Blair Athol Mine, being the subject of the Decision, which is greater than an ordinary member of the public, that is, a special interest and not merely an intellectual or emotional concern.
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> 73. Its conduct also evinces the Applicant's interest in protecting the environment from resource development more broadly, in accordance with its objects under its Constitution.
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> 74. The Applicant's activities reveal that it has a genuine concern regarding the adequacy for the financial assurance required as security for potential rehabilitation costs for the Blair Athol Mine under the [environmental authority].
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> 75. The Applicant's interests have been adversely affected by the Decision as, based on the Applicant's calculations, the Decision effectively allows Orion to conduct mining activities at the Blair Athol Mine, as proposed in its plan of operations, without providing adequate financial

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[15] Humphries, exhibit RNH-19 (at p 337 of the exhibits).

[16] Humphries, exhibit RNH-20 (at p 376 of the exhibits). The other environmental groups referred to are the World Wildlife Fund, the Environmental Defenders' Office, the Mackay Conservation Group, the Queensland Conservation Council and the Wildlife Preservation Society of Queensland.

[17] Applicant's submissions at [57].

> assurance to cover the cost of rehabilitation. Therefore, especially having regard to the questionable economic position of Orion's parent company, there is a significant risk that the cost of rehabilitation of the Blair Athol Mine will fall to the public, or alternatively, the mine site may never be rehabilitated, which would result in significant environmental harm."

[26] The respondent submits that Lock the Gate's interest is, at its highest, the interest of the general public of Queensland; which interest is not adversely affected by the decision in any event, because of the hypothetical and speculative nature of the concern raised by Lock the Gate.[18]

Is Lock the Gate's identified interest adversely affected by the decision?

[27] The relevant principles and authorities are discussed in *Lock the Gate Alliance Inc v Minister for Natural Resources and Mines* [2018] QSC 21 at [21]-[24] and [42]-[71].

[28] Lock the Gate has not, on the evidence before the court, shown that it has a special interest in the subject-matter of the decision determining the amount and form of financial assurance to be provided by Orion as a condition of its environmental approval, as that has been explained and applied in the authorities. Lock the Gate has not shown that it has a complaint or grievance which it will suffer as a consequence of the decision beyond that of any ordinary member of the public. The interests that Lock the Gate says are potentially affected by this decision are the public interest, in ensuring that adequate security is provided for the obligation of a mining lease holder to rehabilitate the relevant land after mining activities cease, to avoid that burden falling on the public purse, and the concomitant public interest in preventing environmental harm, if such rehabilitation is not carried out.

[29] The way in which Lock the Gate itself identifies its interests supports this conclusion – that its "interests, consistent with the objects of its Constitution, concern the protection and conservation of Australia's environment, including education, promotion and acting as advocate for members of the Australian public".[19]

[30] The objects of Lock the Gate do not support a conclusion that it has such an interest. As Stephen J said in *Australian Conservation Foundation v The Commonwealth* (at 539):

> "An individual does not suffer such damage as gives rise to standing to sue merely because he voices a particular concern and regards the actions of another as injurious to the object of that concern. That it is a body corporate rather than an individual which seeks to do so cannot of itself alter that position; the fact that that body corporate has as its main object the voicing, and encouragement in the community, of just such a concern no doubt ensures

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[18] Respondent's submissions at [4], [15], [24] and [25].
[19] See paragraph [17] above.

> that what it does to give effect to such an object will not be ultra vires; it will not otherwise improve its position."

[31] Nor do the activities that it has undertaken, since becoming aware of the possibility of a transfer of the mining lease over Blair Athol mine. The fact that Lock the Gate has corresponded and met with the decision-maker, and others, about its concerns regarding the proposed transfer of the mining lease to Orion, and the amount of the financial assurance to be provided,[20] does not demonstrate the existence of the requisite interest, nor the genuine affection of it. The willingness of the relevant department to engage with a body such as Lock the Gate may be seen to be consistent with the obligation, under s 6 of the EPA, to administer that Act, "as far as practicable, in consultation with, and having regard to the views and interests of, industry, Aborigines and Torres Strait Islanders under Aboriginal tradition and Island custom, interested groups and persons and the community generally". But as Gibbs J said in *Australian Conservation Foundation v The Commonwealth* (at 531):

> "The fact that the Foundation sent the written comments, as [in that case] permitted by the administrative procedures, is logically irrelevant to the question whether it has a special interest giving it standing. That fact would only have some significance in relation to this question if the administrative procedures revealed an intention that a person who sent written comments thereby acquired further rights … that is not the case."

[32] This is demonstrated also by the decision in *Right to Life Association (NSW) Inc v Secretary, Department of Human Services and Health* (1995) 56 FCR 50, in which the Right to Life Association (an incorporated body, having the objects described by Lockhart J at 67) sought to review a decision to permit certain medical institutions to import and conduct clinical trials of a drug purporting to produce abortion. The Association had been proactive, prior to the decision being made, in writing to the decision-maker; and in fact the "decision" sought to be reviewed was a decision made by the Secretary of the department, in response to a request from the Association that the Secretary exercise his authority to direct that the clinical trials cease.[21]

[33] Nor does the fact that Lock the Gate has expended money on the issue, by engaging a consultant (Mr Humphries), support it having standing.[22]

[34] Lock the Gate may be accepted to have a genuine concern about mine rehabilitation. It has clearly taken proactive steps to become involved in the review of the financial

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[20] See paragraphs [22](h) to (k) above; which are additional activities, not relied upon in the indicative approval case (cf *Lock the Gate Alliance Ltd v Minister for Natural Resources and Mines* at [33](c)).

[21] See at 57 and 60-63 per Lockhart J, at 80 per Beaumont J and at 88 per Gummow J; see also *United States Tobacco Co v Minister for Consumer Affairs* (1988) 20 FCR 520 at 530; and *Access for All Alliance (Hervey Bay) Inc v Hervey Bay City Council* (2007) 162 FCR 313 at [63].

[22] As submitted at [69(a)] and [77(b)] of Lock the Gate's primary submissions; cf *Central Queensland Speleological Society Incorporated, v Central Queensland Cement Pty Ltd (No 1)* [1989] 2 Qd R 512 at 531 per Derrington J.

assurance framework, as one of a number of "stakeholders" including but not limited to other environmental groups. But that does not translate into a special interest in a decision determining the amount of financial assurance to be provided by a mining lease holder for a particular mine, for the purpose of the rules of standing in judicial review proceedings.

[35] There is not in this case evidence of Lock the Gate being acknowledged as the peak environmental organisation in a particular area or region; nor of the kind of governmental recognition referred to in some of the cases; nor of a special interest in the preservation of a particular environment.[23]

[36] Paragraphs [75]-[77] of *Lock the Gate Alliance Ltd v Minister for Natural Resources and Mines* apply with equal force in this case:

> "[75] On the evidence, Lock the Gate has not shown that it is specially affected by the decision [*determining the amount and form of financial assurance to be provided by Orion*], in comparison with the public at large. On the contrary, the interest identified by Lock the Gate is the public interest – both in terms of the risk that the public might have to pay the costs of rehabilitating the land, if the incoming transferee cannot, and the risk of environmental harm in the event that the site is not rehabilitated at all.
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> [76] Lock the Gate has not shown that its involvement in judicial review of the decision would confer on it a benefit or advantage, or relieve it of a detriment or disadvantage, to an extent greater than the ordinary member of the community. In this regard, the following observations of Lockhart J, in the *Right to Life* case (at 69) are apt:
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> > 'The grievance of the appellant does not travel beyond that which any person has as an ordinary member of the public. Here there is only an intellectual, philosophical and emotional concern. The appellant is not affected in any way to an extent greater than the public generally. There is no advantage likely to be gained by the appellant if successful in the proceeding nor disadvantage likely to be suffered if it fails. The most that it can achieve is the satisfaction of correcting a wrong decision if it should succeed and winning a contest which may improve its position in

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[23] Cf *Australian Conservation Foundation v The Commonwealth* at 530 per Gibbs J (acknowledging that a person might have a special interest in the preservation of a particular environment); *Australian Conservation Foundation v Minister for Resources* (1989) 19 ALD 70 at 73-74; *North Coast Environment Council Inc v Minister for Resources* (1994) 55 FCR 492 at 512-513; *North Queensland Conservation Council Inc v Executive Director, Qld Parks & Wildlife Service* [2000] QSC 172 at [31]-[33]; *Save the Ridge Inc v Australian Capital Territory* (2004) 133 LGERA 188 at [20]; *Tarkine National Coalition Inc v Minister Administering the Mineral Resources Development Act 1995* (2016) 214 LGERA 327 at [44] per Wood J.

> persuading the public and politicians of the correctness of its cause.'
>
> [77] Lock the Gate's broader concern, and activities, in relation to the issue of mine rehabilitation do not support a different conclusion. Nor does the evidence of what is described as recognition by the government. Acknowledging that there are differing views as to the significance of this, what is relied on in this case is, with respect, the barest recognition of the existence of the organisation, as opposed to the kind of recognition referred to in the cases discussed above, often accompanied by funding, of a body as the peak organisation representing a particular public interest in a particular subject matter or environment."[24]

[37] Likewise, paragraph [79] of that decision applies, in relation to the submission also made in this case that if Lock the Gate does not have standing, no one else will, meaning a decision which may be unlawful may go uncorrected. The question whether there is anyone else with standing is not a substitute for the application of the principles established by the High Court, and explained and applied in subsequent cases. On the application of those principles, Lock the Gate has not shown that it is a person aggrieved by the decision determining the amount of financial assurance to be provided. Whether or not there may be other person(s) who could establish they are aggrieved by the decision does not alter that conclusion.

[38] Finally, for the reasons as I have given in *Lock the Gate Alliance Ltd v The Minister for Natural Resources and Mines* [2018] QSC 21 at [80]-[84], I consider there is merit to the respondent's argument that even if the identified interests were such as could be said to be affected by the decision, the affection contended for is too indirect, remote and speculative to conclude that Lock the Gate is a person whose interests are affected by the decision. This is because, on its case, Lock the Gate is concerned to protect the public interest, both in terms of avoiding a burden on the public purse, and also environmental harm, in the event that the amount of financial assurance determined by the decision (of some $74.5 million) might not be enough to cover the rehabilitation costs. However, there is arguably less remoteness in relation to this decision, than the indicative approval decision (cf [80] of that decision), and in light of the conclusion I have otherwise reached, it is unnecessary to reach a concluded view on this point.

[39] It follows from my conclusion that Lock the Gate is not a person aggrieved by the relevant decision, that I find that Lock the Gate is not entitled to request a statement of reasons for the decision.

[40] The application is dismissed. I will hear the parties as to costs.

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[24] Footnotes omitted.