

CAROL BOND
MARY ANNE BARCLAY
DR CATH PATTENDEN

BLUE SKY Human Rights Impact Assessment: 2011¹

Keywords: *Australia, Coal, Human Rights Impact Assessment*

Prologue

After years of drought, *La Nina* visited Queensland, Australia with a surfeit of hot, monsoonal weather just ahead of the Christmas and New Year holiday in 2010. With the onslaught of what promised to be a long, humid summer that eventually saw two-thirds of the state flooded and declared a disaster zone, Queenslanders displayed shorter tempers than their customary cheerful disposition at that time of year. The inclement weather conditions were the *coup de grace* for communities already under pressure. Contributing to the stress on communities in the coal-producing Bowen Basin were: the expansion of multiple mines, growing union and industrial relations unrest, a significant increase in the number of non-residential mine workers across the region, plus multiple and conflicting agendas of state and local governments that were unable to cope with the scale of mining-related development during this boom period.

BLUE SKY owns and operates several coal mines in the Bowen Basin. In late 2010 and early 2011 BLUE SKY conducted their internally mandated triennial Human Rights Impact Assessment (HRIA) through an independent academic research centre. The Centre for Social Responsibility in Mining (CSR M) found that BLUE SKY performed well over a majority of the human rights assessment areas. Areas of particular strength included: a tolerance for and non-discrimination of union activity, strong community

¹ CSR M Research Analyst Carol Bond prepared this case in consultation with CSR M Senior Advisor for Social Enterprise Mary Anne Barclay and JK Tech Senior Researcher Dr Cath Pattenden based on material presented in: C. Pattenden, N. Gotzmann, C. Bond, M. Porter, J. Kim (2011). *Human Rights Impact Assessment for BLUE SKY* (CSR M at the University of Queensland: Australia). The case has been anonymised at the clients' request.

CSR M cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

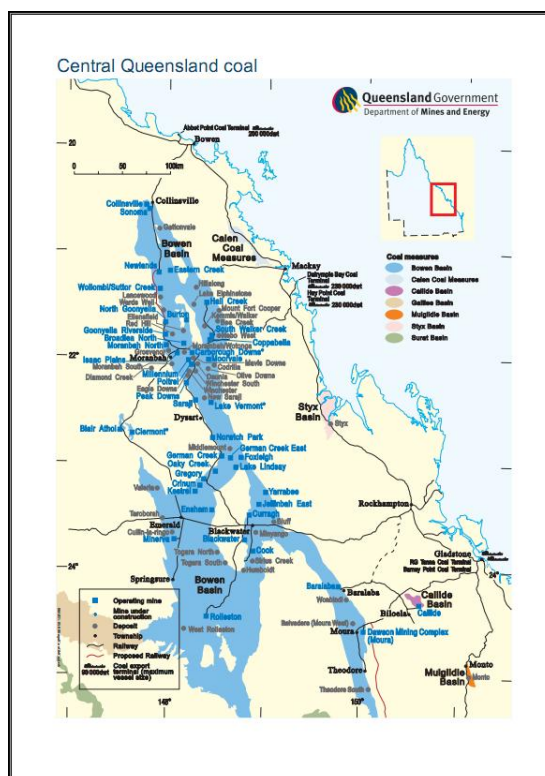
Copyright © 2013 CSR M at the University of Queensland. To order copies or request permission to reproduce materials, call or write to the CSR M, Brisbane, Australia or go to www.csr.m.uq.edu.au. No part of this publication may be reproduced, stored in a retrieval system, used in a spread-sheet, or transmitted in any form or by any means—electronic, mechanical, photocopying, recording, or otherwise—without the explicitly stated permission of The University of Queensland

consultation and engagement policies and practice, and a supportive and transparent community partnership. This case study looks at various aspects of BLUE SKY's HRIA. However it also considers the conflagration of stress on Bowen Basin communities that culminated in a very costly post-HRIA period for BLUE SKY. The case challenges students to consider what role processes such as a HRIA play in identifying stressors or issues facing communities and employees.

Context

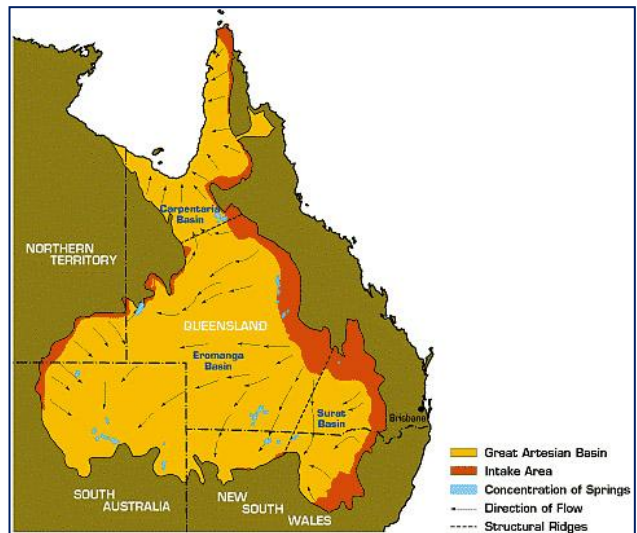
Geological Profile

Before presenting the stakeholders and engaging the HRIA itself, it is important to understand the larger geological and demographic context in which BLUE SKY's operations are located. Both feature prominently in how BLUE SKY runs its operations. The Bowen Basin is a 60,000 km² black coal reserve, located in the State of Queensland, the largest in Australia with geological linkages to other important coal fields further south including the Surat, Gunnedah and Sidney Basins in New South Wales. Within this region are 34 operational coal mines between Collinsville in the north and Theodore in the south which cumulatively produce 100 million tonnes of coal each year. In addition to coal, the Bowen Basin (see map below) has 67 Coal Seam Gas sites operated by 7 energy companies (Geological Survey of Queensland 2012).



The extractive activities in the region have significant socio-economic and environmental impacts. Coal mining, in particular, affects the pastoralists, who have grazed a variety of livestock in the rangelands for over 150 years and need access to the same land that is

prized for its rich coal seams. Adding to the pressure on who has privileged access to land, rapid growth of related Coal Seam Gas (CSG) activities has caused concern. Whether scientifically proven or not, communities across Queensland, and in portions of New South Wales, South Australia and the Northern Territory are concerned because of the perceived potential of CSG to impact the water stores of the Great Artesian Basin (GAB) (see map below). The GAB covers an area of over 1.7 million km² and its 5,000 water bores supply water vital for human, livestock, domestic, urban and industrial use, in areas where there is often no other source of water (Sherriff et al. 2010).



Demographic Profile

According to the Office of Economic and Statistical Research of the Queensland Treasury and Trade Commission (2012), the Bowen Basin's population of 105,370 people (July 2011) comprised 84,850 local residents and 20,520 non-resident workers. In total, 29,310 people work in mining with less than half of these residing locally. Figures for the study site local government areas are indicated in the table below.

Shire (2011)	Local Residents	Non-Resident Workers	Total
Isaac	20,520	13,590	34,110
Banana	15,590	1,380	16,970

Most non-resident workers “drive-in and drive-out” (DIDO) on rotational, shift-work patterns from the coastal city of Mackay located approximately 200 kilometres to the east. Current forecasts suggest the resident population of the Bowen Basin will increase by as much as 25 per cent in the next fifteen years, adding to the already significant infrastructure and quality of life pressures. Many of the issues affecting employment and housing across the region are both cumulative and complex in their nature, with multiple stressors and actors at play.

Stakeholders

The Corporation: BLUE SKY

BLUE SKY is a joint venture between an Australian company, Horizon, and a foreign multi-national mining company, Finian. BLUE SKY has a long history of mining in the Bowen Basin. BLUE SKY's corporate genealogy can be dated to the 1960s and the Iroquois Development Corporation. Iroquois is a founding operator of the Bowen Basin coal operations commencing at the Black Stump site in 1967. Iroquois became part of the Central Queensland Coal Association (CQCA) along with Finian in 1968. This was an important strategic alliance securing access to coal for the emerging steel industry in Finian's home country. On behalf of CQCA, Iroquois developed three subsequent mines. CQCA was purchased by Horizon in 1984. When Horizon and Finian formed the BLUE SKY partnership in 2001, they represented iconic coal operations in the Bowen Basin. BLUE SKY is jointly owned by Horizon and Finian but operates according to Horizon's standards and systems.

The BLUE SKY partnership is now one of the largest coking coal producers in the world. It is currently expanding the scope of its business to include the production of thermal coal. As of the date of the Human Rights Impact Assessment, BLUE SKY owned and operated nine open-cut coal mines and exploration sites located in the Shires of Isaac and Banana.

Communities of Interest

The CSR Human Rights Impact Assessment (HRIA) (2011) focused on communities within the Shires of Isaac and Banana. Interviews for the HRIA were conducted in three communities: Woorimba and Long Paddock in the Isaac Shire and Kurrala in the Banana Shire. However, BLUE SKY affects a range of communities throughout the Bowen Basin including: Emerald, Blackwater, McKay, Serena and the Hay Point port community.

Woorimba and Long Paddock are purpose-built mining towns located in the northern Bowen Basin. Woorimba (pop. 6,500) was designed and built as a mining town in the early 1970s. The original character of the settlement was aesthetically challenging, and the environment was exceptionally dusty and hot. With the development of schools, medical facilities, religious centres, sports facilities and a shopping centre, the town took on the character of an oasis. Woorimba has grown to become a major regional centre, however with nearly half of the town's working population employed in mining, the town's prosperity remains dependent on the coal industry. Long Paddock (pop. 3,200) was founded in 1973 and has primary and secondary schools, a community centre, a hospital, several social and sporting clubs and a library. Many residents accommodate

their families' needs for recreation and education by retreating to coastal holiday homes and sending their children away to boarding school as young as 11 years of age.

Kurrala is a small township (pop. 1,800) located at the southern end of the Bowen Basin. Settled in 1857, the town is named after a pastoral run and initially serviced the fledgling agricultural industry. Increased agricultural endeavours and the development of a rail line saw its population began to grow from 1936. The first churches were established in the mid-1950s, and shortly thereafter the Brown brothers discovered a substantial coal deposit that resulted in the development of three mines. Production of coal began in the 1960s and the town grew substantially at that point due to the increased industrial activity. This was a boom time that saw more infrastructure development. Nevertheless, the town managed to maintain its rural character despite the presence of mining. In 1975, 1986 and 1994 there were underground mine accidents that resulted in the loss of 36 miners and the closure of those mines after the last disaster in 1994. These losses were deeply felt throughout the community and there remains a reticence in the community to re-open the underground mines, even though the open pit mine is drawing to the end of its production cycle.

Government

The State Government of Queensland has a complex relationship with mining companies that operate in the region. At the time of this case, the incumbent State Government was led by Premier Anna Bligh from the Labor Party. Her government, like many around the world, was faced with balancing its first budget in the wake of the global financial crisis of 2008. The Bligh government's response to meet budget demands was to focus on privatising state owned assets, such as the rail system, rather than cutting staff and infrastructure, an unpopular policy with many of the rural communities. These rural communities, although not as populous as the bigger towns and cities in Queensland, make up much of the State electorates and are therefore a significant political bloc.

By the summer of 2010-2011, there was substantial discontent amongst rural communities – including those in the Isaac and Banana shires – who felt they were carrying the burden of infrastructure pressures arising from the escalation of mining activity but with few of the benefits flowing from mining royalties or rents. They were also concerned that the rail system, important in connecting agricultural and coal products to wider markets, was no longer owned by the state.

In response, local governments – the Shire Councils – were making every effort to meet the immediate needs of their communities. Some of the most pressing included: housing, social services, education, broadly available internet access, plus up-to-date shopping and recreational facilities. However, the discontent and lack of coordination

with state government made it difficult for those immediate needs to be met, which put pressure on all the families in the region, but especially the most vulnerable such as single parents, the elderly, and those who needed specialised medical care.

Mine Workers

Mine workers for BLUE SKY are either employees or contracted labour. Employees almost all belong to one of three mining unions. There are three unions in Queensland which are very strong and have a significant role to play in how mining develops. The CFMEU, in particular, is one of the more aggressive unions in making demands on companies. Plus, unlike other commodity sectors, coal has remained heavily unionised. Collective bargaining is the norm; hence the power of the unions remains entrenched. In this sense coal is somewhat unique in the landscape of Australian mining industrial relations. However, not all of the people who worked for and with BLUE SKY are direct employees. A significant number of these workers are contractors, some unionised and others non-union members, who have contracts of 3 months to 3 years with BLUE SKY. Although they do not enjoy the same benefits as employees, they are expected to conduct their activities in accordance with BLUE SKY's standards and policies.

Scope of HRIA for BLUE SKY

Under Horizon's 'Global Communities Standards', employees and contractors must be trained to facilitate compliance with Horizon's human rights commitments. Towards that end, each site is required to conduct a HRIA every three years and have it validated by an external, qualified specialist. In coordination with the findings of the HRIA, internal annual reviews are also to be conducted. In 2010 BLUE SKY commissioned CSRM to undertake a HRIA for all of their operations across the Bowen Basin. The Global Communities Standards stipulate that if a HRIA identifies a material risk or a gap in response, a Human Rights Management Plan (HRMP) must be developed, implemented and annually reviewed. Broadly, HRIA's are required to assess whether a mining operation has policies and procedures in place to address particular human rights concerns. This is especially important in cases where stakeholders have expressed concerns that specific human rights are not being respected or addressed. If either policies or procedures are not in place or are not being used effectively, a HRMP must be developed.

The HRIA conducted by the CSRM measured the human rights impacts of Horizon operations against the Universal Declaration of Human Rights (UDHR), the Global Compact (GC) and host country law to identify material human rights risks.

Consideration of the UDHR included reference to the two covenants that bring the UDHR into force, the International Covenant on Civil and Political Rights (ICCPR) and the

International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, the UDHR and the two covenants form the Bill of Rights, which under current international best practice form the basis of a corporate HRIA. Australian domestic laws governing human rights were not considered in detail in this particular HRIA as it would have required a gap analysis between Australia's international human rights obligations and domestic ratification and implementation of these rights. Because that evaluation was outside the scope of the HRIA, it was presumed that where Australia has ratified core international human rights conventions, they have been adequately incorporated into domestic laws and compliance with international human rights obligations is thus ensured through adherence to domestic laws. Where there were obvious potential gaps between international human rights standards and Australia's domestic laws, based on the premise that Australia has not ratified a particular international convention, CSRSM noted this as an area for attention by BLUE SKY, as compliance with Australia's domestic law may not guarantee due respect for international human rights norms.

Process

In order to comply with the Global Communities Standards regarding HRIAs, it was an essential part of the process that the CSRSM would review relevant BLUE SKY policies and procedures and conduct stakeholder interviews. The assessment methodology was developed jointly by CSRSM and local consulting firm and is based on the Human Rights Compliance Assessment quick check tool, developed by the [Danish Institute of Human Rights](#).

The following activities were undertaken:

- A **desktop-based review** of relevant documentation such as company policies and procedures; and
- A series of 16 **targeted interviews** with key stakeholders regarding BLUE SKY's performance with respect to Human Rights considerations. These interviews represented the views of BLUE SKY employees, BLUE SKY contract workers and community members with a variety of leadership roles.

On the basis of evidence provided, the HRIA results were benchmarked as "responsive", "gap in response", and "major gap presenting a material risk" in relation to how well BLUE SKY responds to human rights themes in its **policies and procedures** plus how these translate into **performance**.

Description of the HRIA

Horizon has its own internal documentation detailing their corporate commitment to various voluntary initiatives including: the UN Global Compact, the Voluntary Principles on Security and Human Rights, the Universal Declaration of Human Rights and the Millennium Development Goals. These commitments inform the HRIA assessment mechanism and it is against these instruments that Horizon measures its operations.

It might seem curious for companies operating in a developed country context to need to conduct a HRIA at all. Western nations such as Australia, Canada and the USA typically think of themselves as champions of human rights with robust legal systems, alternative dispute mechanisms, lack of government corruption (bribery), and a commitment to UN principles. However, a growing number of NGOs and scholars are reporting that marginalised, indigenous and other vulnerable peoples do not always enjoy the fullest expression of their human rights in comparison with people who have more power and resources within their own countries. Therefore, in an effort to reduce risk for corporations in particular, it is leading practice to take HRIA's as seriously in developed as in developing contexts.

On the basis of information made available to CSRSM by the company and the community interview participants, no material risks were identified in the HRIA. This was expected, but good news nevertheless. BLUE SKY was found to perform well over a majority of human rights assessment areas. Areas of particular strength included: a tolerance of and non-discrimination against union activity, strong community consultation and engagement practices, and a supportive/transparent community partnership. Notwithstanding the general high performance, CSRSM noted a number of human rights theme areas which BLUE SKY could consider improving through a process of evaluation and review. It is noteworthy that some of the concerns identified were not just BLUE SKY's issues. Many arose from cumulative and regional impacts rather than BLUE SKY specific impacts.

"Cumulative impacts result from the aggregation and interaction of impacts on a receptor and may be the product of past, present or future activities. Cumulative impacts can be both positive and negative and can vary in intensity as well as spatial or temporal extent. Cumulative impacts may interact such that they trigger or are associated with other impacts. They may aggregate linearly, exponentially or reach 'tipping points' after which major changes in environmental, social and economic systems may follow." (Franks et al. 2010)

CSRSM recognised that BLUE SKY was already engaging with the employees and communities in the study sites on many of these Human Rights issues. They are listed below but three are expanded on in the nominated appendices:

- Non-discrimination
- Unions
- Workplace health & safety (*Appendix A*)
- Conditions of employment and work (*Appendix B*)
- Child and Young workers

- Forced labour
- Housing (*Appendix C*)
- Education
- Health
- Service provision & use of local resources
- Community consultation & engagement
- Community Partnership
- Bribery & Corruption
- Security & law enforcement

For a number of reasons, not all of which were within BLUE SKY's control, CSRSM identified that more could be done in terms of responding to the following human rights related areas:

- Cultural Heritage
- Long-distance Commute Workers (DIDO & FIFO)
- Community complaints and grievance resolution
- Indigenous employment

In both groups of human rights issues - those that were being engaged well and those that had room for improvements - the pressure of cumulative and complex mining impacts continued to be felt by employees and community members, specifically in areas related to terms of employment and community-based human rights themes.

These themes are complex. Not only are there more issues with cross-cutting human rights impacts at play, there are also more stakeholders involved (e.g. state and local government, other mining companies, community members, NGOs, etc.). As well, there are differing perceptions of their roles and responsibilities. Community and Government stakeholders, particularly, recognised that BLUE SKY was not the sole contributor to a number of the regional issues at play and noted that their community responsiveness far exceeds that of many other mining companies in the region.

Nonetheless, during the interview period of the HRIA, CSRSM became aware that discontent was brewing in the community regarding quality of life perceived to be related to shift work patterns as well as their potential to affect safety conditions in the mines. CSRSM highlighted opportunities to improve BLUE SKY's understanding of these issues in terms of human rights impacts attributable to its operations, including the mitigation of potential adverse impacts and maximisation of opportunities for positive contribution to realising human rights of people living and working in the region. BLUE SKY affirmed its commitment to improving its already good human rights record and, according to Horizon policies, was planning to incorporate the information generated from the HRIA to strengthen its established community relations procedures.

Disaster Strikes

In early 2011, Queensland had sustained historic levels of rainfall for the month of December 2010 into January of 2011. The dams were full. Rivers were swollen and there was nowhere left for the water to go. Finally, the system hit over-saturation and the flood waters began to rise across the state on 12 January 2011. [Images of the flood](#) were broadcast around the world. By the end of that week, 65% of Queensland was declared a flood disaster area. Despite the fact that the 'gumboot warriors', citizen volunteers working alongside Emergency and Defence Force personnel, did an amazing job helping people in flood affected zones, the reality was that for many people they would never be able to return home. Their valuables and memorabilia were washed away and their houses and businesses would have to be either gutted or razed.

The mining industry was hit hard by the floods, too, as the open pit coal mines flooded and there was nowhere to discharge the water. Critical infrastructure was also damaged; with many of the State's rail lines used to haul coal to port were seriously damaged and needed repair.

The combination of widespread flood damage that would take months or years to repair, rural discontent with the Labor government, the pressures of insufficient infrastructure to support towns struggling under the burden of the mining boom, and mining workers own grievances with roster and safety concerns all came to a head and found their expression in widespread industrial action.

Could more be done?

Despite the fact that BLUE SKY voluntarily retained the services of an independent research centre to assess their human rights compliance against internal Global Communities Standards', within three months of receiving the HRIA report and recommendations, industrial action ensued. The three mining unions including CFMEU developed a Strategic Bargaining Unit (SBU), representing the 4,000 workers in BLUE SKY's seven Bowen Basin mines. They gave notice that industrial action would commence. The primary grievance was about the terms of their Enterprise Agreement (EA) which contained details regarding: conditions of employment (Appendix B) and perceived safety issues related to longer shifts, being rostered 7 days on and 7 days off, and the potential to be compelled to work whenever the company decides it needs them – even on rostered days off or holidays (Appendix A).

Although SBU did not frame its grievances against BLUE SKY in Human Rights terms , it is possible to see common threads of concern amongst the publicly available

documentation generated by the SBU and related unions about their side of the dispute and the findings of CSRM's HRIA. Of special mention is the effort of the wives and partners of mining union members who personally invited Horizon CEO Hank Jappenlatz to visit Woorimba, Long Paddock and Kurralla. The goal was for him to see, first hand, the effects of skyrocketing rents, predominantly FIFO and DIDO workforce rosters and social infrastructure being put under immense strain as a result of transient workers in Bowen Basin communities (Appendix D). Jappenlatz did not personally respond to their repeated requests although BLUE SKY committed a leadership team to working with them and other community members to continue work already underway on these vexing issues. BLUE SKY asset president Kylie MacGregor, commented on the enterprise agreement (EA), confirming that a key component of crafting a new EA was about building a larger more competitive business that is able to create more opportunity for BLUE SKY's employees, for their communities and for their other stakeholders. Increased investment in mining towns, resulting in attracting families to the communities was a core component of BLUE SKY's uncompromising stance on the issues.

Coda

According to newspaper reports, the industrial action reportedly cost more than the Queensland floods, which left most Bowen Basin mine sites flooded and unproductive, rail lines destroyed and communities washed out for months in 2011. Although the severe weather event was a contributing factor, the greater *force majeure* affecting both production and sales was the industrial action. Coal production for BLUE SKY's operations fell by 1.3 million tonnes compared to the previous year, costing Horizon \$2 billion (AUD) and the State of Queensland \$60 million (AUD). As of the writing of this case study, the industrial dispute between the one of the unions, CFMEU, and BLUE SKY, which has led to a series of stoppages and rolling strikes across BLUE SKY's Bowen Basin operations over 20 months, is yet to be resolved

TEACHING NOTE

Learning objectives

This case study challenges students who work with Human Rights issues in both developed and developing contexts to look at Human Rights Impact Assessments as a tool that can be used for more than one purpose. Not only do HRIA's have a role in measuring compliance against international standards and corporate best practices, but they can be used to surface issues that may not come to managerial attention in other ways.

Group exercise

Discuss the role that processes such as the HRIA play in identifying stressors or issues on communities and employees. Generate a list of possible uses for HRIAs in both developed and developing contexts. For example, can they help identify issues proactively so that when issues outside of the control of an industrial business emerge, they are better prepared to respond to them? How could you advocate, internally, to use the HRIA for more than one purpose?

Appendix A: Workplace Health & Safety

The right to the highest attainable standard of physical and mental health

([Article 12 ICESCR](#))

Right to an adequate standard of living including social services, housing and medical care ([Article 25 UDHR](#))

Right to non-discrimination (Article 2 UDHR; Article 2 ICESCR; Article 2 ICCPR)

Health, safety and wellbeing were not covered in depth in the HRIA, as it was assumed that the company standards and associated risks are adequately addressed through legislative compliance and Horizon's additional standards.

BLUE SKY has a series of policies and guidelines in place to ensure that all affected by BLUE SKY operations maintain enjoyment of the highest attainable standard of physical and mental health. These include the Guide to Fair Play, the Site Safety and Health Management Systems and BLUE SKY Standard Operating Procedures and Standards. In addition, there are regular workplace inspections to ensure all workplaces are of an acceptable condition. According to the Code of Conduct, in all cases Horizon will aim to meet or exceed applicable legal and other requirements. According to internal stakeholders, safety is proactively managed using a risk-based approach rather than a more limited compliance approach.

The company also systematically documents all safety incidents. For significant accidents and for recommendations for remedial action, an ICAM (Incident Cause Analysis Method) is conducted. A safety incident that has, or could have had, a serious consequence, results in an ICAM investigation by an HSE Advisor. An ICAM investigation may uncover a potential breach of performance or conduct by an employee, which can lead to a separate disciplinary investigation focusing on employee behaviour rather than the incident root-cause and may lead to disciplinary action such as termination of employment. OH&S complaints are documented and addressed by on-site Health and Safety committees, Union representatives and Supervisors.

BLUE SKY also has specific health and safety provisions in place to protect pregnant women, disabled employees and other vulnerable employees. These are covered through provisions under the Workplace Agreement and the Parental Leave Policy. BLUE SKY has an Emergency Management Plan at each site which is designed to prevent and address all health emergencies and industrial accidents which may harm employees and the surrounding community.

Overall, BLUE SKY's policies and practices with regards to OH&S were seen as

strong and well-organised by the internal stakeholders. However, while the level of commitment to safety was high from management, one stakeholder stated that, in his opinion, this commitment may not be transferring through 'on the ground' and that the level of reporting of personal injuries could be improved.

Safety is an organisational value and as stated in the Code of Code Horizon aspires to "Zero Harm to our people, the environment and the communities in which we operate"

APPENDIX B:

CONDITIONS OF EMPLOYMENT AND WORK

All employees have the right to protection from acts of physical, verbal, sexual or psychological harassment, abuse or threats in the workplace (Article 5 UDHR). Employees also have the right to receive a minimum living wage, and fair wages and equal remuneration (Article 23 UDHR, Article 7 ICESCR). Furthermore, employees should enjoy the right to rest and leisure, including reasonable limitation on working hours and periodic holidays with pay (Article 24 UDHR, Article 7 ICESCR). Employees also have the right to an adequate standard of living for the health and well-being for both themselves and their families (Article 25, UDHR). It is also expected that special assistance will be provided to maintain standard of living throughout the periods of motherhood and childhood (Article 25, UDHR).

To ensure that instances of harassment and unfair or abusive treatment are both prevented where possible and adequately dealt with, BLUE SKY has in place a Code of Conduct, the BLUE SKY Workplace Conduct Policy, BLUE SKY Charter Values, and the Horizon Leadership Model. If instances of misconduct do occur, BLUE SKY has in place a workplace grievance process designed to deal with these issues. This grievance process outlines four areas where grievances may be reported, which are designed to address all types of workplace misconduct or dispute.

Overall the internal stakeholders interviewed for the HRIA regarded BLUE SKY as a fair and considerate employer. Remuneration was reported to be timely, work conditions fair and BLUE SKY's processes and procedures to be transparent and unbiased. Given the subsequent industrial action, however, the assessment that BLUE SKY was not breaching human rights with remuneration practices did not pick up on the disagreement between BLUE SKY and the unions as to what were considered fair wages.

There were two issues that resonated amongst internal and external stakeholders. Concern was expressed about (1) long-distance commuting (LDC) such as fly-in/fly-out (FIFO) and drive-in/drive-out (DIDO); and (2) shift work where a typical work day was 12.5 hours in a 5 days on/4 days off pattern. Both of these issues featured prominently in the subsequent industrial action. In particular, it was noted that shift rotations can interfere significantly with sleep patterns for those required to complete night shifts. For shift workers who were also LDC, it was observed by some stakeholders that some commuting time is undertaken during the employee's 'off' time, rather than BLUE SKY time, in which case the employee's period of rest was

diminished. It was reported typical that workers would drive for four hours to go home after their shift was completed, despite the fact that BLUE SKY encourages employees to take a nap when their shift is completed instead of immediately trying to drive home.

It was also acknowledged that both LDC and shift work patterns can cause significant strain on personal relationships and increase worker stress. For those employees living locally, the shift work pattern also caused stress as their family lives and ability to participate in the community were significantly disrupted by the shift patterns.

Appendix C: Housing as a Human Right

The right to an adequate standard of living encompasses the right to adequate housing, linked to adequate social services, medical care, food and clothing (Article 25 UDHR, Article 11 ICESCR). The linkages between these various components of an adequate standard of living under international human rights law illustrates that the right to adequate housing is inextricably linked to other factors that make up an adequate standard of living. The right to housing includes a range of elements, such as legal security of tenure, affordability, habitability and accessibility for disadvantaged groups, and ‘should be seen as the right to live somewhere in security, peace and dignity’ (General comment 4, on Article 11 ICESCR). Other relevant rights include the right to non-discrimination and the right to work in just and favourable conditions (both specifically relating to housing quality and availability for residents and employees).

Despite BLUE SKY’s efforts to work closely with the Queensland State Government, local governments and relevant agencies to reduce the cumulative housing challenges facing the region, housing and accommodation continue to lack affordability and availability. The ‘BLUE SKY Communities Context and Implementation Plan’ echoes that there are serious problems with housing shortages in the Bowen Basin which have pushed the price of rentals to an unaffordable level for many people.

Town	Rental Range/wk (AUD)	Average/wk (AUD)
Kurrala	\$600 – 1600	\$1200
Woorimba	\$600 – 1600	\$1000

These pressures underpin many of the other social issues within the region. For example, housing expense and availability primarily affects residents who are not employed within the mining industry and are not in receipt of employer subsidised accommodation. However, this is a significant issue which impacts upon the quality and accessibility of services available to mining workers and their families within the region. The housing situation has direct negative impact upon the inflow of teachers, childcare workers, retail workers and medical professionals into the region. This housing situation has meant that many teachers and healthcare workers only come to BLUE SKY towns on a transitory basis, negatively impacting the regional quality of education and health services. Other services recognised as being particularly stretched across the Bowen Basin include: childcare, community support services, policing, shopping and recreational facilities, transport, and infrastructure.

References

- Franks, Daniel M, Brereton, David, and Moran, Chris J (2010), 'Managing the cumulative impacts of coal mining on regional communities and environments in Australia', *Impact Assessment and Project Appraisal*, 28 (4), 299–312.
- Geological Survey of Queensland (2012), 'Queensland's coal seam gas overview', (Queensland, Australia: Department of Employment, Economic Development and Innovation).
- Queensland Treasury and Trade (2012), 'Bowen and Galilee Basins Population Report, 2011', (Brisbane, Australia: Office of Economic and Statistical Research).
- Sherriff, Garry, Wilson, Benjamin, and Steed, Jason (2010), 'ESG and the Energy Sector: Water concerns - QLD Coal Seam Gas Developments', (Sydney, Australia: J.P. Morgan Securities Australia Ltd.).