



OCEANIC COAL AUSTRALIA PTY LIMITED
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EDGEWORTH NSW 2285

Notice Number DOC14/28915
File number FIL13/7070
Date 12 March 2014

VARIATION TO DIRECTION TO CARRY OUT REMEDIAL WORK

BACKGROUND

- A. The Office of Environment and Heritage ("OEH") has responsibility for the administration and enforcement of the *National Parks and Wildlife Act 1974* ("the Act") and its associated regulations.
- B. Pauline McKenzie, holds the position of Director Coastal Branch, National Parks and Wildlife Service within OEH and is a delegate of the Chief Executive of OEH for the purposes of section 91K of the Act.
- C. On 11 November 2013 OEH issued a Remediation Direction under section 91K of the Act to OCAL in respect of the remediation area identified in **Attachment 1**, known as Grout Site 2. The Remediation Direction required OCAL to submit a remediation plan by 13 December 2013 for approval by OEH.
- D. OCAL submitted a remediation plan entitled 'Grout Remediation Plan' WWC SD PLN 0108 Version 1 (**Attachment 2**) on the 10 March 2014 and project schedule entitled 'Operational Project Plan' (**Attachment 3**) on 6 March 2014.
- E. OEH now intends to vary the direction to implement the remediation works in accordance with the Grout Remediation Plan subject to the modifications indicated below.

VARIATION TO DIRECTION

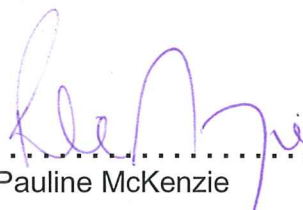
- F. I, Pauline McKenzie, Director Coastal Branch, National Parks and Wildlife Service, OEH, vary the direction by:
 - 1. Inserting the following paragraphs to the Background after paragraph M:
 - N. OEH issued a Remediation Direction under section 91K of the Act to OCAL on 11 November 2013 in respect of the remediation area identified in **Attachment 1**. The Remediation Direction required OCAL to submit a remediation plan to OEH for approval.

- O. OCAL submitted a 'Grout Remediation Plan' WWC SD PLN 0108 Version 1 on 10 March 2014 and project schedule entitled 'Operational Project Plan' on 6 March 2014. These are **Attachments 2**, and **3** to this Direction.
- P. OEH hereby approves the Grout Remediation Plan, subject to the modifications outlined in direction number 3 of this Direction.
2. Making consequential amendments to the lettering of paragraphs P and Q; and
 3. Removing all paragraphs under the heading "Remediation works" and inserting instead the following paragraphs 1 to 3:
 1. OCAL must perform project works in accordance with the approved Grout Remediation Plan, as modified in the following manner:
 - (i) OCAL is responsible for all decisions regarding selection and use of contractors. OCAL must be satisfied that any contractor engaged has the relevant expertise and experience required for the task;
 - (ii) Responsibility for compliance with this Remediation Direction rests with OCAL alone. That is, the obligation to carry out all of the works and measures referred to in the OCAL Remediation Plan is an obligation on OCAL, irrespective of whether it is expressed in the Remediation Plan to be a work or measure to be carried out by OCAL, Minova Australia Pty Ltd, or a contractor;
 - (iii) OCAL must ensure that a net environmental benefit is achieved by ensuring that:
 - a) the removal process causes as little damage as possible to the surrounding environment, and
 - b) the natural processes of the surrounding environment are restored;
 - c) native vegetation surrounding the grout leak and other affected areas (such as access track and heli-lift sites) is able to continue to regenerate naturally (following OCAL's post-remediation activities);
 - d) and that any remaining grout is no longer visually intrusive.
 2. For the avoidance of doubt, OCAL must implement the Grout Remediation Plan such that:
 - (i) All grout is removed from Grout Site 2 by **11 June 2014**;
 - (ii) A written report on the completion of the grout removal is provided to OEH by **21 August 2014**;
 - (iii) All remaining project works including post-removal ancillary activities and monitoring as specified in sections 3.3 and 5.1 of the Grout Remediation Plan are completed by **5 September 2014**.
 3. All documents or notices required to be provided to OEH by this Remediation Direction must be sent to: Deon van Rensburg, Manager, Lower Hunter Area, National Parks and Wildlife Service, Sandgate Rd, Shortland NSW 2307.

WARNING AND INFORMATION ABOUT THIS DIRECTION

- It is an offence against section 91Q of the Act to fail to comply with this Remediation Direction. The maximum penalty that a court may impose for this offence is:
 - for a corporation, \$220,000 plus \$22,000 for each day the offence continues and
 - for an individual, \$110,000 plus \$11,000 for each day the offence continues.

- If you fail to comply with this Remediation Direction OEH may authorise any other person to carry out the works and may then recover the cost from you (section 91O of the Act).
- This Remediation Direction is issued under section 91K of the Act.
- Under section 91K(3) of the Act this Remediation Direction may be varied or revoked by a further notice.
- Under section 91T(1) of the Act, if you are aggrieved by the decision to make this Remediation Direction you may appeal to the Land and Environment Court within 30 days of this direction being served on you. However, even if an appeal is lodged, you must comply with this Remediation Direction, unless the Court orders otherwise.
- Under section 188E of the Act, your obligation to comply with the requirements of this Remediation Direction continues until the direction is complied with, even if the due date for compliance is passed.
- OEH may conduct inspections to determine whether this Remediation Direction is being complied with.
- Words and expressions have the same meaning as words and expressions used in the Act, except where a word is specifically defined in this Remediation Direction.
- A Remediation Direction will not negate the potential for prosecution. A Remediation Direction is separate to any potential prosecution.



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Pauline McKenzie

Director Coastal Branch
(by Delegation)

Attachments:

1. Map of the Remediation Area
2. Grout Remediation Plan prepared by OCAL Coal Australia Pty Ltd (WWC SD PLN 0108 Version 1) Dated 10/3/2014
3. Operational Project Plan, Version 2 - Dated 6/3/14