



OCEANIC COAL AUSTRALIA PTY LIMITED  
PO BOX 4186  
EDGEWORTH NSW 2285

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File number         FIL13/7070  
Date                  22 November 2013

#### BY PERSON

### VARIATION TO A DIRECTION TO CARRY OUT REMEDIAL WORK

#### BACKGROUND

- A. The Office of Environment and Heritage (“**OEH**”) within the Department of Premier and Cabinet (“**DPC**”) 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 has delegated authority on behalf of the Director-General of the Department of Premier and Cabinet for the purposes of section 91K of the NPW Act.
- C. On 28 August Ms McKenzie issued a remedial direction (“**direction**”) to Oceanic under section 91K of the NPW Act.
- D. On 14 October 2013, Ms McKenzie issued a variation to that direction. The direction as varied required, amongst other things:
  - (a) The implementation of a trial phase in the initial stages of the remediation works
  - (b) The completion of the trial phase and all of its associated works by the 22 November 2013
  - (c) The provision of a report on the trial phase to OEH by 27 November 2013
- E. Oceanic wrote to the OEH on the 19 November 2013 requesting a variation to the trial completion date.
- F. Due to bad weather and unforeseen delays to aviation operations, it is now intended to revise the direction to extend the trial completion date by two weeks, to the 6 December 2013.

#### VARIATION TO DIRECTION

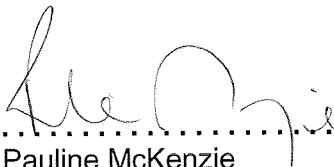
- G. I, Pauline McKenzie, Director Coastal Branch, National Parks and Wildlife Service, OEH, vary the direction by:

1. Inserting the following paragraphs R and S in the Background section of the direction:

- R. The Remediation Direction issued on the 14 October 2013 (**Attachment 3**) set out the completion date for the trial phase of remediation works as the 22 November 2013. On the 18 November 2013 Oceanic wrote to the OEH to request an extension to the date as bad weather and unforeseen delays to aviation operations had caused substantial delays their intended project schedule. Oceanic proposes that the completion date be extended by two weeks to the 6 December 2013.
- S. The OEH hereby approves Oceanics request to vary the remediation direction to extend the trial completion date. The due date for the report of the trial phase is also extended by 2 weeks.
2. Removing the date "22 November 2013" in paragraph 3 of the direction and inserting instead the date "6 December 2013".
3. Removing the date "26 November 2013" in paragraph 5 of the direction and inserting instead the date "10 December 2013".

### WARNING AND INFORMATION ABOUT THIS DIRECTION

- It is an offence against section 91Q of the Act to fail to comply with this 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 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 variation is issued under section 91K(3) of the Act.
- Under section 91T(1) of the Act, if you are aggrieved by the decision to make this 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 Direction, unless the Court orders otherwise.
- Under section 188E of the Act, your obligation to comply with the requirements of this 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 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 Direction.
- For the purposes of this Direction, "national parks legislation" means the Act and the regulations under the Act.
- 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)**