



OCEANIC COAL AUSTRALIA PTY LIMITED
PO BOX 4186
EDGEWORTH NSW 2285

Notice Number DOC13/33914
File number FIL13/7070
Date 28 August 2013

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.
- C. Director, Coastal Branch, National Parks and Wildlife Service holds delegated authority on behalf of the Director-General of the Department of Premier and Cabinet for the purposes of section 91K of the *National Parks and Wildlife Act 1974* (NSW).
- D. Sugarloaf State Conservation Area (“the reserve”) is land reserved under this Act.
- E. Oceanic Coal Australia Pty Limited (“Oceanic”) being the operator of West Wallsend Colliery holds approval to extract coal from beneath Sugarloaf State Conservation Area (SCA) in accordance with Project Approval 09_0203, Mining Lease CCL 718 and Environment Protection Licence (EPL1360). The Project Approval requires the project to be carried out generally in accordance with the project's Environmental Assessment (West Wallsend Colliery Continued Operations Project - Volumes 1 to 4, July 2010) and preparation and implementation of Extraction Plans. The Mining Lease requires preparation and implementation of Subsidence Management Plans.
- F. Oceanic have a consent issued by OEH under the NPW Regulation to undertake subsidence management works, including the remediation of surface cracking in the reserve (“the consent”). The consent was signed by Oceanic Coal on 25th July 2012.
- G. Surface cracks in remote and steep areas of the reserve are remediated by filling the cracks with an aerated concrete product known as grout. The grouting methodology employed by Oceanic is detailed in the Subsidence Management Protocol between Oceanic and “Director Coastal, National Parks and Wildlife” (“the protocol”).

- H. Remediation of surface cracking adjacent to Longwall 41 using grout commenced in December 2012.
- I. On 4 June 2013 Oceanic notified authorities including OEH of a leak of the approved grouting product (Air-O-Cem) down slope of Longwall 41 into an ephemeral drainage channel within the Cockle Creek catchment and the reserve ("remediation area").
- J. On 21 June 2013 Oceanic provided OEH with a report titled "Detailed Incident Report – West Wallsend Colliery LW41 Grouting Incident" ("the report"). In that report Oceanic states that "the grout affected area extends approximately 250m down slope of the work area. The average width of the affected area is approximately 1.5m and the average depth of the grout is estimated to be around 200mm. It is estimated based on visual inspections that approximately 75 cubic meters of grout has travelled into the drainage channel".
- K. OEH inspected the site on 14 June 2013 and 17 July 2013.
- L. The leak of the grouting product into the remediation area has resulted in damage to the vegetation, rock, soil, sand and stone within the ephemeral drainage channel.
- M. Oceanic has breached condition 4.8 of the consent by causing contamination or pollution of the reserve and has committed an offence under section 156A((1)(b) of the Act by causing or permitting damage to vegetation, rock, soil, sand, stone or similar substance within the reserve.

OPINION

- N. I, Pauline McKenzie, Director Coastal Branch, National Parks and Wildlife Service, OEH am of the opinion that:
 - a) Damage has been caused to the reserve as a result of the commission of an offence under the Act.

DIRECTION TO CARRY OUT REMEDIAL WORKS

- O. I, Pauline McKenzie, Director Coastal Branch, National Parks and Wildlife Service, OEH, in order to:

- a) Control, abate or mitigate the damage to the reserve
- b) Maintain remediate or restore the reserve

require that Oceanic perform the following remediation works on the land within the time specified for each work.

Remediation works

1. Oceanic must prepare, in consultation with OEH, a remediation plan that is to be submitted to Deon van Rensburg, Manager, Lower Hunter Area, National Parks and Wildlife Service, OEH by 1 October 2013 for approval. The remediation plan must include a detailed explanation of the method for removing grout from the remediation area mapped in Attachment 1 to this notice, the proposed timeframes for removing the grout and the measures taken to minimise any impacts on the environment in removing the grout.
2. Oceanic must remove all grout from the remediation area in accordance with the approved remediation plan including the timeframe specified in that plan in consultation with OEH.
3. Oceanic must only use methods for the removal of the grout that causes as little damage to the drainage channel and surrounding area as practical.

4. Oceanic must notify OEH when all the grouting material has been removed from the remediation area.
5. Oceanic must prepare and submit a report to OEH detailing the remedial works completed within 14 days of the completion of works. The report must state the total grout removed in tonnes and cubic metres as well as any additional information required as part of the remediation plan or requested by OEH.
6. All reports required to be provided to OEH by this Notice 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 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 DECCW may authorise any other person to carry out the works and may then recover the cost from you (section 91O of the Act).
- This Direction is issued under section 91K of the Act.
- Under section 91K(3) of the Act this 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 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.



Pauline McKenzie
Director Coastal Branch
(by Delegation)

Attachments:

1. Map of the Remediation Area



Remediation Area Sugarloaf SCA

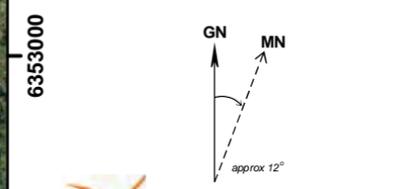
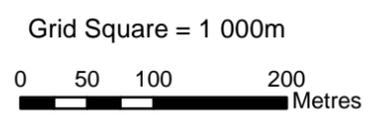
Remediation Notice:
DOC13/33914

Copyright NSW Office of Environment & Heritage (OEH). This map is not guaranteed to be free from error or omission. OEH and its employees disclaim liability for any act done one the information in the map and any consequences of such acts or omissions.



LEGEND

- Remediation Area
- Watercourse
- - - - Roads
- NPWS Estate



GDA PROJECTION
GDA94 MGA Zone 56

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