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MP05_0117 MOD 14 and MP08_0135 MOD 3

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Dear Paul

Moolarben Coal Project – Optimisation Modification Project

Thank you for your email dated 6 November 2017 requesting advice from the Office of Environment and Heritage (OEH) regarding the proposed optimisation modification project for the Moolarben Coal Project.

Please note that the Biobanking Calculator for this modification was submitted to OEH on the 28 November 2017, rather than upfront during the exhibition period as per the requirement of the FBA. As a result, the OEH is still reviewing the calculator results for the proposal and will provide additional comments shortly.

OEH notes that the Biodiversity Assessment Report (BAR) states that the modification footprint has been assessed as a linear development. The modification is for extensions to the disturbance limits of the approved Open Cut 2 and Open Cut 3 pits and therefore the modification cannot be regarded as a linear development. In this instance, OEH have determined that the difference in the approach used based on the scope of the proposed modification would generate a trivial difference in outcome; however, OEH advise that any future modifications that are not linear in nature must be assessed using the site based development option.

OEH has reviewed the Environmental Assessment (EA) and BAR and notes that the modification involves the relinquishment of previously approved areas of disturbance. OEH notes it is proposed to reduce the overall credit liability of the modification by subtracting the area of relinquished areas from the new disturbance areas. OEH regards this approach as not being consistent with the FBA. OEH accepts that Moolarben has approval to develop the relinquishment area and an offset was established as part of the approval for that area. The impact and offsets areas at that time were area based, not credit based.

While it appears that the credit requirement of both the development areas and relinquished areas have been calculated, it has not been demonstrated that all the development credits (type and quantum) are available within the existing offset obligation for the relinquished areas. OEH is open to the proponent identifying if the offset obligation exists on areas previously identified as offsets, and if so OEH would consider them as partly satisfying the total Optimisation Modification credit obligation.

OEH is concerned that the proponents proposed approach may set a precedence noting that the previously approved areas were not assessed under the FBA and did not have a credit liability attached to them. OEH recommends that all development areas proposed as part of this modification be offset in full in accordance with the NSW Major Projects Offset Policy and FBA.

OEH notes that the proposed offset property Gilgal would satisfy all credits required by this modification except for 404 ecosystem credits and 13 credit species for the Koala. It is OEH's

preference that this residual credit liability be retired through a land-based offset or by either purchasing existing credits on the *Biodiversity Credits Register* and/or making payments into the Biodiversity Conservation Trust Fund once established.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'P. Christie', with a stylized, cursive script.

PETER CHRISTIE
Director North West
Regional Operations Division

6 December 2017

Contact officer: DAVID GEERING
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