

MANGOOLA OPEN CUT

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8th November 2016

The Secretary
Department of Planning and Environment
GPO Box 39 SYDNEY NSW 2001

Attention: Oliver Holm
Executive Director - Resource Assessments and Compliance

Dear Mr Holm,

Mangoola Coal Project, Section 75W Modification Application

Mangoola Coal Operations Pty Limited (**MCO**) is the owner and operator of the Mangoola Coal Project.

Project Approval (PA 06_0014) for the Mangoola Coal Project was granted by the Minister for Planning (**Minister**) under Part 3A of the *Environmental Planning and Assessment Act 1979* (**EPA Act**) on 7 June 2007 (**Project Approval**). The Project Approval has since been modified seven times, with the most recent modification determined on 22 August 2016 (**Modification 7**).

The Mangoola Coal Project is approved as a 'transitional Part 3A project' under clause 2 of Schedule 6A of the EP&A Act and therefore section 75W of the EPA Act continues to apply to modifications to the Project Approval, notwithstanding its repeal.

The following condition was inserted in the Project Approval at the time of determination of Modification 7:

- 2A. *The proponent must carry out the project in accordance with the conditions of this approval and the Project Layout Plan.*

Note: The Project Layout Plan is included in Appendix 2.

Following determination of Modification 7 it has been identified by MCO that the Project Layout Plan contained in Appendix 2 of the Project Approval does not accurately reflect the current general layout of the Mangoola Coal Project.

Consequently MCO requests the Minister or delegate to modify the Project Approval to correct the current minor misdescription of the project by substituting the current Project Layout Plan included in Appendix 2 of the Project Approval, with the Project Layout Plan contained at **Annexure A** to this letter. The enclosed Project Layout Plan is a representation of the general layout of the Mangoola Coal Project as currently approved pursuant to the Project Approval, as modified. The layout of the Mangoola Coal Project as shown in the enclosed plan is consistent with the Project Approval, and generally in accordance with the Environmental Assessments (**EAs**) prepared to date in respect of the project. Consequently no additional environmental assessment is required in respect of this application.

Following Modification 7, condition 2 of the Project Approval requires the proponent to carry out the project 'in accordance with' the conditions of approval and the Project Layout Plan. Previously, and prior to the determination of Modification 7, condition 2 of the Project Approval required the proponent to carry out the project 'generally in accordance with' the EA (including the various plans within the EA showing the general layout of the project).

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To facilitate the practical operation of the Mangoola Coal Project, the proponent seeks an administrative modification to the terms of the Project Approval so that the proponent is required to carry out the project '*generally in accordance with*' the Project Layout Plan. A requirement to carry out a project generally in accordance with an environmental assessment and any specified project layout plan/s is a common condition inserted into project approvals for major projects, including open cut coal mines.

Further, the use of the phrase '*generally in accordance with*' in Condition 2 in the context of an EA reinforces that the EA and any specified Project Layout Plans were never intended to create standalone obligations. The EA and any Project Layout Plans should be construed together so as to 'fit in' with the conditions of approval.

Finally, given the complexity and scale of mining operations, and the long term of the approval (usually 21 years) it is extremely difficult at the project application stage (including any subsequent applications for modification) for proponents to know with certainty the precise location of all aspects of a mining operation. For example, geological constraints, environmental factors and economic factors often change throughout the life of a Project. As a result, the final design of mining operations may deviate slightly from the conceptual plans submitted with a development application. However the nature and scale of potential impacts resulting from an approved mine is controlled by the consent conditions, management plans and Environmental Protection Licence to ensure consistency with the impacts predicted in the EIS, and approved in the consent.

Requested Modification

The Modification is administrative in nature only and will not change the approved components of the Mangoola Coal Project or in any way alter the environmental impacts of the project. The mine will continue to be operated in accordance with the approved management plans required under the Project Approval.

As discussed above, MCO requests the Minister or delegate modify the Project Approval to:

- 1 Correct the current minor misdescription of the project shown by the plan in Appendix 2 of the Project Approval, by substituting the current Project Layout Plan in Appendix 2 of the Project Layout Plan with the **enclosed** Project Layout Plan; and
- 2 Substitute the current conditions 2 and 2A of the Project Approval with the following:
 2. *The proponent must carry out the project generally in accordance with the:*
 - (a) EA;
 - (b) EA (MOD 1);
 - (c) EA (MOD 2);
 - (d) EA (MOD 3);
 - (e) EA (MOD 4);
 - (f) EA (MOD 5);
 - (g) EA (MOD 6);
 - (h) EA (MOD 7); and
 - (i) the Project Layout Plan.

Note: The Project Layout Plan is included in Appendix 2.

2A. The proponent must carry out the project in accordance with the conditions of this approval.

MCO requests the Minister assess the proposed Modification under section 75W of the EPA Act. A completed application to modify a project approval (including a political donations disclosure statement) is provided in **Annexure B**, and a Political Donations Declaration is included in **Annexure C**

If you have any questions regarding this matter, please don't hesitate to contact me.

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Yours sincerely,



Nathan Lane
Environment and Community Manager
Mangoola Coal – A Glencore managed company
Tel: +61 2 6549 5503
Mob: +61 400 794 425
Fax: +61 2 6549 5655
E: nathan.lane@glencore.com.au
www.glencore.com

Annexure A
Project Layout Plan

Annexure B
Application form and political donations disclosure statement