



Office of
Environment
& Heritage

Your reference
Our reference:
Contact:

MP 06_0020 MOD 2
DOC16/509463
Andrew Fisher
Ph. 6022 0623

Ms Bianca Thornton
Student Planner - Industry Assessments
Department of Planning & Environment
PO Box 39
SYDNEY NSW 2001

Dear Ms Thornton,

RE: Notification - Coleambally Dairy and Ethanol Plant (MP 06_0020) – Modification 2

I refer to your email dated 5 October 2016 to the Office of Environment and Heritage (OEH) seeking our comment on the proposed modification by Eagle Energy Pty Ltd to the Four Arrows Ethanol and Dairy Project in Coleambally. This response is in regard to statutory matters relating to application of the *National Parks and Wildlife Act 1974* (NPW Act) and the *Threatened Species Conservation Act 1995* (TSC Act). OEH has no comment to make on the extension of the project approval for a further three years or on the repositioning of the ethanol plant within the project footprint as shown in the revised site plan.

A number of additional species have been listed under the TSC Act since this project was approved in 2007. It may be prudent for the proponent to ensure these are not impacted by the proposed modification, though given the disturbed nature of the site we consider this unlikely.

The NPW Act was amended in 2010 introducing a 'strict liability' offence relating to the harm of Aboriginal objects. Although the original assessment has considered Aboriginal cultural heritage, given the time since approval it may be prudent to update the assessment in accordance with the Due Diligence Code of Practice (www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf) to minimise the potential for Aboriginal objects to be harmed during construction.

OEH recommends updating the unexpected finds protocol in the event that previously unrecorded Aboriginal sites or objects are encountered as follows:

If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:

- 1. Not further harm the object*
- 2. Immediately cease all work at the particular location*
- 3. Secure the area so as to avoid further harm to the Aboriginal object*
- 4. Notify OEH as soon as practical on 131555, providing any details of the Aboriginal object and its location*
- 5. Not recommence any work at the particular location unless authorised in writing by OEH.*

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and OEH contacted.

Should you wish to discuss these matters further, please contact Andrew Fisher on 6022 0623 or by email at andrew.fisher@environment.nsw.gov.au.

Yours sincerely

P.E. 18/10/16

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