



5 July 2012

Mr David Guy  
EPA – Gippsland  
PO Box 1332  
TRARALGON VIC 3844

Dear David

**Loy Yang Power Leaching Ponds – Landfill Financial Assurance Requirements**

The issue of landfill financial assurance at Loy Yang remains unresolved despite many years of discussion. The purpose of this letter is to present a position with a view to resolving this outstanding issue.

Licence / Financial Assurance Conditions

LYP acknowledge that in accordance with our EPA Waste Discharge Licence Requirement Condition G6, we are required to maintain a financial assurance calculated in accordance with the EPA method.

The key purpose for FA as stated in the regulations is:

*Financial assurances are intended to provide a guarantee that the costs of remediation, site closure and post-closure liabilities are not borne by the community in the event of the occupiers of the premises abandoning the site, becoming insolvent or incurring clean up costs beyond their financial capacity.*

There is also definition of the areas of risk/liability the FA is to address:

*Financial assurance is a package made up of three components which address different aspects of the sites operation, closure and post-closure liabilities, as follows:*

- o . Remedial action;
- o . Site rehabilitation; and
- o . Site aftercare

Based on EPA guidance LYP also understands that alternatives to the standard method, based on risk, may be considered for determining financial assurance liability.

Loy Yang Power - Risk

LYP believe that the Mining Licence conditions of ML 5189 states that The DPI rehabilitation bond already provides the Government with financial assurance over the mining lease (which includes the leached ash storage areas).

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The Mining Licence, granted in 1987 outlines the conditions which cover the \$15m rehabilitation bond. LYP note the Bond does not cover areas outside the Mining Licence and as such the Ash Ponds may be considered for financial assurance.

The likelihood of needing to draw on any financial assurance provisions due to rehabilitation, remedial or aftercare issues is low. The Government requires that Loy Yang electricity generators must meet obligations to supply electricity, which we believe negates the risk of unplanned closure.

The risk to the environment from the Ash Ponds in the form of groundwater contamination is also low. LYP continues to fulfil ash and water management commitments and believe the provisions to manage each of the financial assurance components are sufficient.

LYP note that EPA aftercare requirements may now differ from that required by DPI or that detailed in our Rehabilitation Master Plan. LYP wish to understand these requirements and revise the plan for aftercare requirements. In any case LYP will continue to monitor and report on groundwater for the purpose of understanding and planning for any future impacts due to ash disposal.

#### Financial Assurance Proposal

Based on the limited risk to the environment the ash disposal activities pose and the assurance provided by continuing operations, rehabilitation planning and a \$15m Bond with The DPI; we believe it is not necessary to provide further assurance for remedial action or site rehabilitation for the "in licence" ash storage areas.

We accept that the Ash Ponds are excluded by the mining licence and that across the whole site aftercare provisions need to be in place to ensure continued monitoring and reporting. It is these areas LYP wishes to constructively work with the EPA to deliver suitable arrangements based on the risk profile presented.

To progress this matter further we request your assistance to consider our position with respect to Remedial and Rehabilitation financial assurance provisions and also to assist quantify an aftercare liability and a form of a suitable financial assurance instrument.

Yours Sincerely



Jack Wilson  
EXECUTIVE GENERAL MANAGER – MINING

cc:

Paul Barrand, Infrastructure, Civil and Environmental Manager – Loy Yang Mine  
Justin Vanderzalm, Sustainability and Environment Manager – Loy Yang Power