

19 December 2018

Commissioners
Independent Planning Commission
3/201 Elizabeth Street
SYDNEY NSW 2000

Attention: Mr Gordon Kirkby

Dear Gordon,

**Bylong Coal Project
Clarification over Meeting Transcript in Relation to
Mine Plan Sought (SSD 14_6367)**

1. INTRODUCTION

We refer to the meeting held with attendees of the KEPCO project team on 29 October 2018 at the Independent Planning Commission (IPC) offices in Sydney in relation to the Bylong Coal Project (the Project).

During the meeting, the Chairperson of the IPC panel (Mr Kirkby) sought clarification over whether KEPCO were seeking approval for the original mine plan or the revised mine plan. Whilst the KEPCO Project team was comfortable with the response provided at the time, the response is not entirely clear within the meeting transcript.

This letter therefore seeks to further clarify this matter with the IPC.

2. CLARIFICATION OF MINE PLAN SUBJECT OF SSD 14_6367

KEPCO's application (SSD 14_6367) is for consent to a development involving the **original mine plan**. Some background and context to this is provided below.

In correspondence dated 28 May 2018, the Department of Planning and Environment (DPE) requested further information from KEPCO in relation to the potential implications of stepping the open cut mine off the Tarwyn Park property. The correspondence stated that it intends to include the requested revisions "*in any recommended conditions of consent*".

KEPCO subsequently provided the information requested by DPE in a Supplementary Information Report. The Supplementary Information Report noted on numerous occasions that KEPCO was still seeking consent for the Mine Plan in the EIS (EIS Mine Plan). Nevertheless, KEPCO accepts that it is a matter for DPE what conditions it chooses to recommend.

Section 4.38(1)(a) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that the consent authority (i.e. the IPC for this application) may grant development consent '*with such modifications of the proposed development or on such conditions as the consent authority may determine*'.

Condition 2(c) of Schedule 2 of the Recommended Development Consent conditions for the Project (as provided within Appendix H of DPE's Final Assessment Report) provides:

"The applicant must carry out the development:

...

(c) for the open cut stage, generally in accordance with the Revised Mine Plan."

Whilst KEPCO's application is in fact for the original mine plan (as presented within the EIS and supporting documentation), it is open to the IPC, in exercise of its broad power under Section 4.38(1)(a) of the EP&A Act, to grant consent subject to the condition recommended by DPE in respect of the Revised Mine Plan.

3. CONCLUSION

We trust that the above assists the Commissioners in evaluating the development application.

Please do not hesitate to contact us should you like to discuss any queries that you may have in relation to this letter or any matter relating to the Bylong Coal Project.

Yours faithfully

HANSEN BAILEY



Nathan Cooper
Principal



James Bailey
Director