

2nd August 2019

Gordon Kirkby – Panel Chair
Stephen O'Connor – Panel Member
Wendy Lewin – Panel Member

Independent Planning Commission NSW (**IPCN**)

Email: ipcn@ipcn.nsw.gov.au

Dear **IPCN** Panel Members,

D532-18 – Bylong Coal Project Determination – Gateway Certificate

I would have thought the onus is on the proponent (i.e. **KEPCO**) to ensure that it complied with *all* the requirements necessary for the process of planning approvals for the proposed Bylong Coal Project. If there was any doubt as to the validity concerning the Gateway Certificate for the project, then the matter should have been clarified and resolved by the proponent before the alleged expiry date on 15 April 2019 (that the **IPCN** has formed a preliminary view on this matter¹).

KEPCO's letter states:

This issue certainly should have been raised with **KEPCO** sooner and not three months after the date on which the Commission asserts the Gateway Certificate 'expired'. Please urgently advise when this issue first came to the attention of the Commission and precisely when the Commission formed the Preliminary View.²

Shouldn't **KEPCO** have known and clarified any uncertainties, dealt with and resolved the issue *before* the **IPCN** highlighted it? Did **KEPCO** know (or suspect) there was a potential validity problem with the proposal's Gateway Certificate prior to the **IPCN's** letter to **KEPCO** on July 18, and perhaps had hoped the **IPCN** wouldn't notice? Ignorance of the requirements should not be an excuse.

KEPCO's letter also states (highlighted text my emphasis):

The view presented in the joint opinion is consistent with **KEPCO's** understanding of the intent of the gateway certificate process which was described by the NSW Government as:

- (a) an independent, scientific and upfront assessment of the potential impacts of a mining (or CSG production) proposal on the agricultural values of the land upon which it is proposed; and
- (b) required to be undertaken at a very early stage 'before a development application is lodged' to ensure that the environmental assessment documentation to support the development application is prepared to address any recommendations within the relevant gateway certificate.³

¹ Letter from **IPCN** to William Vatovec, CEO, **KEPCO** Bylong Australia Pty Ltd (**KEPCO**), dated 18 July 2019

² Letter via email from William Vatovec, CEO, **KEPCO** to **IPCN**, dated 23 July 2019, part of point 2

³ *Ibid.* 2, point 8

KEPCO's letter refers to the "intent of the gateway certificate process" and provides links to a selection of "NSW Government guidance documents and websites".⁴ One of the documents referenced in the referred letter (as part of footnote 1) is the *Fact Sheet - Strategic Regional Land Use Policy Guideline for Gateway Applicants*, dated September 2013. Under the heading **Supporting Document**, it includes:

The document should briefly explain why the site was chosen for the proposal and briefly discuss **any alternatives considered**.

The supporting documentation must address the construction and the operational phase of the development (including, if relevant, demolition and decommissioning/rehabilitation). It should present relevant technical investigations undertaken for each component of the project, along with the findings, conclusions and recommendations of those investigations. The detailed technical studies should be included.⁵

The Gateway Certificate for the Bylong Coal Project was issued on 15 April 2014.⁶ More than five years have now elapsed since that date and circumstances have progressed and new knowledge and understanding has become available since then. Recent indicators, either not available or less well understood five years ago, suggest that new thermal coal projects are now at high risk of becoming "stranded assets" in years to come, including (but not limited to):

1. Planned coal power capacity in pre-construction status has declined from 1,090 GW in 2015 to 339 GW in 2018, with the biggest drops in China and India. Japan has cancelled over 7 GW of proposed coal capacity since 2017, while **South Korea has stopped issuing permits for new coal plants**.⁷
2. While total coal power capacity continues to increase, net annual additions to the global coal power fleet (i.e. new capacity minus retired capacity) continue to decline. **Net new global power was 19 GW in 2018 – the slowest rate of growth on record, and the fourth straight year of decline**.⁸ If trends continue, the global coal power fleet capacity will begin to shrink, perhaps as early as 2020, with the consequence that **global thermal coal demand is likely to then decline with it**.
3. The Australian Government's Office of the Chief Economist published on July 1 their *Resources and Energy Quarterly June 2019*, that included these statements (from page 50), indicating a **declining global thermal coal market** (highlighted text my emphasis):

Compared to the forecast in the March 2019 *Resources and Energy Quarterly*, Australia's forecast thermal coal export earnings have been revised down by \$2.9 billion in 2019–20 and by \$3.1 billion in 2020–21. The revision reflects a **lower forecast benchmark thermal coal price, which declined at a faster-than expected pace in the June quarter of 2019, due to weak Asian demand amid a well-supplied market**.⁹

⁴ *Ibid.* 2, point 9

⁵ <http://www.mppg.nsw.gov.au/docs/Guideline%20for%20Gateway%20Applicants.pdf>

⁶ *Ibid.* 2, part of point 10

⁷ <https://endcoal.org/global-coal-plant-tracker/reports/boom-and-bust-2019/>, page 5

⁸ *Ibid.* 7, page 7

⁹ <https://www.industry.gov.au/data-and-publications/resources-and-energy-quarterly-june-2019>

4. The *Resources and Energy Quarterly June 2019* also states that Australia's thermal coal export earnings by destination in 2018 (from page 43) were:

- Japan: 39%;
- China: 24%;
- **South Korea: 15%;**
- Taiwan: 11%;
- India: 2%; and
- Rest of the World: 9%.

5. A TV broadcast on July 8, on the ABC's *The Business* programme, included an interview between host Elysse Morgan and the former head of the Australian Coal Association, Ian Dunlop,¹⁰ co-author of a policy paper¹¹ which details how accelerating climate change impacts pose large negative consequences to major population centres, with economic upheaval, mass migration, even potentially wars over depleting resources. The interview included this exchange (time intervals as per the referred video source, highlighted text my emphasis):

10:14 Elysse Morgan: *What's the impetus for... for a government, or a... a corporate board to... to make this giant leap, to make some significant changes?*

10:24 Ian Dunlop: *Well, it's quite simple: I mean, if they don't, they won't have a market, and they won't have a business model, and they won't have an economy. I mean, this is... this is what climate change means. I mean, within the next twenty to thirty years, you're going to see massive changes around the world, where the conventional economic model is no longer sustainable because of the impacts of climate, primarily.*

Now, I mean, if they... they're now starting to realise that that is the threat, and if... if you are a director of a... a major corporation, you have a fiduciary responsibility to actually look at those risks honestly. Now that's what our corporate boards have not been doing. They have... they have assumed that in some way this is a sort of... risk similar to the ones you see in conventional financial markets, or operational activities, and climate can be addressed the same way – well, it can't. I mean, it's an existential threat, and if you have an existential threat you need a completely different sort of risk management. It really says, look, um... you know, we're here today, we have to get there tomorrow, how do we do it? It's not a question of: what's politically realistic. It's a question of what has to be done to reduce emissions as rapidly as we possibly can, um... to meet those climate objectives. Now that's... that now is the primary resp... um... objective we have to see in this country.

And the trouble is that what we've done is leave it so late, that we now can't do it, as I said earlier in the sort of graduated sense. You actually have to move to an emergency framework. That means you've got to reduce the emissions from the big fossil fuel producers, as an absolute priority. There is no other way, to avoid the risk of triggering irreversible climate change.

...we've seen massive changes, but if you look at the scale of the problem, those emissions from the Shells, and the Exons, and the BPs, and BHP, and so on, have got to come down. There is no other choice at this point.

¹⁰ <https://www.abc.net.au/news/programs/the-business/2019-07-08/extended-interview-with-ian-dunlop/11290026>

¹¹ Policy Paper: *Existential climate-related security risk: A scenario approach*, written by David Spratt and Ian Dunlop, with Foreword by Admiral Chris Barrie AC RAN (Retired), published by Breakthrough – National Centre for Climate Restoration, May 2019, <https://www.breakthroughonline.org.au/papers>

6. The report: *Japanese Thermal Coal Consumption Approaching Long Term Decline: Australia's Biggest Export Destination to Transition Away from Coal*, by Simon Nicholas and Tim Buckley, published by the Institute for Energy Economics and Financial Analysis (IEEFA) on July 10, highlights that Japan's pipeline of new coal-fired power plants collapsed 64% in the last four years, and concludes in the Executive Summary (highlighted text my emphasis):

With demand for imported thermal coal in NSW's big four export destinations to continue to decline, the market is set for long-term oversupply, lower prices and lower royalties.

Continuing to approve new thermal coal mines in Australia will add more production into an oversupplied market. A cessation of new thermal coal mine approvals represents a rational economic step in the face of a declining market.¹²

7. On July 23, BHP's chief executive Andrew Mackenzie delivered a speech at an event organised by the *Financial Times* in London, saying that BHP would undertake a US\$400 million commitment to reduce Scope 1, 2 and 3 carbon emissions. Mackenzie's speech included (highlighted text my emphasis):

Society's combustion of fossil fuels and industrial processes like steelmaking and agriculture have released greenhouse gases at rates much faster than at any other time in the geological past.

Previous events when CO₂ was added to the atmosphere more slowly and sometimes in similar amounts show us what may happen if we do not act.

These events coincided with mass extinctions and major rises in sea level. And they also suggest that future heating will more likely be towards the upper end of forecasts.

The evidence is abundant: global warming is indisputable.

The planet will survive. Many species may not.

This is a confronting conclusion but as a veteran geologist once said: "you can't argue with a rock."

As we have seen from activism and debates from schools to parliaments all around the world, we see this period as an escalation towards a crisis.¹³

KEPCO has reportedly committed \$750 million to the proposal since acquiring the exploration license in 2010.¹⁴ The accumulating indicators referred above (and many others) would suggest **KEPCO** has likely made a bad 'bet'. With more recent data, I would suggest the gateway certificate process would likely be greatly challenged to approve the proposal today, given "the potential impacts of a mining (or CSG production) proposal on the agricultural values of the land upon which it is proposed".

Yours Sincerely,

Geoff Miell

Mobile:

¹² http://ieefa.org/wp-content/uploads/2019/07/Japan_Coal_July-2019.pdf

¹³ <https://www.bhp.com/media-and-insights/reports-and-presentations/2019/07/evolving-our-approach-to-climate-change>

¹⁴ <https://www.newcastleherald.com.au/story/6297341/korean-company-fears-back-to-square-one-for-bylong-mine-proposal/>