

5 July 2019

Gordon Kirkby  
Chair of Bylong Coal Project IPC Panel  
Independent Planning Commission  
Level 3, 201 Elizabeth Street  
Sydney, NSW 2100

By email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)

Dear Mr Kirkby

**Bylong Coal Project SSD 14\_6367 ("Project") – KEPCO's Response to the GML Heritage Advice**

1. As you are aware, we act for the Bylong Valley Protection Alliance. We refer to KEPCO's Response to the GML Heritage Advice, which was uploaded to the IPC website on Friday, 28 June 2019 (**KEPCO's Response**).
2. In our client's view, KEPCO's Response contains new material that has not previously been available for public review, and which cannot properly be characterised as a response to the GML Heritage Advice (as detailed below). Accordingly, whilst our client is cognisant of the Panel's statement of 28 June 2019 that it will not accept further comment in respect to the Project, our client considers it appropriate to draw this material to the Panel's attention.
3. Our client respectfully submits that the Panel should disregard this new material in its assessment of the Project, or alternatively, as a matter of procedural fairness, take into account our client's comments on this new material, which are set out below, and afford an opportunity for general public comment on this material.

**Rehabilitation**

4. Appendices C and D of KEPCO's Response provide new information in respect to Rehabilitation, which in our client's view, goes significantly beyond what could appropriately be considered a response to the GML Heritage Advice. In our client's respectful view, the Panel should not consider this new information about Rehabilitation without first affording the public an opportunity to respond.
5. Further, we are instructed to note that while KEPCO's Response (at page 30) contends that Appendix D of KEPCO's Response confirms that biophysical strategic agricultural land (**BSAL**) has been rehabilitated in the past, Appendix D clearly states that, '*No rehabilitation has targeted the 12 BSAL criteria*' (Appendix D, Slide 11). Further, Appendix D indicates that only a small number of rehabilitation trials have been undertaken, and these trials apply to an area that is well below the minimum area that is considered BSAL, i.e. 20 hectares (Appendix D, Slides 13-15). Accordingly, in our client's view, it appears that KEPCO's Response may have misinterpreted the new material contained in Appendix D.

## Natural Sequence Farming (NSF)

6. KEPCO's Response raises questions about the agricultural and heritage importance of NSF (see Appendix A, page 6). In our client's view, this shows that KEPCO has changed its attitude in respect to the importance of maintaining NSF practice on Tarwyn Park. For example, in its response to the former PAC review, KEPCO stated that *'Pastures on Tarwyn Park will continue to be managed under NSF principals...'* (KEPCO's Response to PAC Review, Appendix H, December 2017, Draft Farm Management Plan, page 31, before the Panel).
7. Our client is therefore concerned that earlier representations made by KEPCO, in respect to the continuation of the practice of NSF on Tarwyn Park, will not be maintained.
8. In our client's view, KEPCO has also misrepresented the conclusions of the Heritage Council of NSW (**Heritage Council**) in relation to Tarwyn Park and Iron Tank. At page 15 of KEPCO's Response, it is claimed that the Heritage Council *'has advised it [Tarwyn Park and Iron Tank] does not meet the criteria'* for State heritage listing.
9. In this regard, we are instructed to draw the Panel's attention to the Heritage Council's advice dated 23 February 2018 at page 2 (before the Panel), which was based on advice from Hector Abrahams Architects (**HAA**) (2018a, 2018b). The Heritage Council concluded that:

*'...the Council notes HAA's finding of potential State heritage significance... The HAA report and the Council's own understanding of the practice [NSF], suggests that its take up, study and promotion at a national level gives rise to a potential State significance attribution'.*
10. Accordingly, the Heritage Council's advice and the HAA advice would appear to be directly contrary to the claim made in KEPCO's Response (page 15). As such, if further advice has been provided to KEPCO or other parties by the Heritage Council, our client considers that the public should be afforded the opportunity to comment on that advice.

On behalf of our client, we thank you for your consideration of these matters. If you have any queries, please contact us on (02) 9262 6989 or at [Nadja.Zimmermann@edonsw.org.au](mailto:Nadja.Zimmermann@edonsw.org.au).

Yours sincerely

**EDO NSW**



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