

Submission in response to public exhibition of Port Waratah Coal Service's proposal to develop new coal loading facilities on Kooragang Island, Newcastle (application number 10\_0215).

From: John Sutton

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To Whom it May Concern:

Please accept this submission in response to the public exhibition of Port Waratah Coal Service's Preferred Project Report (PPR) in relation to its proposal to develop new coal loading facilities on Kooragang Island, Newcastle (Application Number 10\_0215).

Please record my submission as an objection to the proposal contained within the Preferred Project Report, and register my wish to address any Planning Assessment Commission hearing to be held in relation to the proposal.

I am aware of many other submissions from local community groups and individuals objecting to the original T4 development, and to the subsequent PPR. These submissions raise a wide range of concerns about this development, including, but not limited to:

- damaging global climate change impacts from the burning of the coal that would be exported through this development
- detrimental health and amenity impacts on local residents from transportation, storage and loading operations associated with the development, primarily as a result of coal dust pollution (including fine particulate pollution) and noise
- detrimental health and social impacts on people and communities living and working around the current and future mines that will generate the coal facilitated by this development, and along the transport corridors that will carry that additional coal
- damaging impacts on the Kooragang wetlands and Hunter River ecosystems, and associated fauna, including a significant number of threatened and endangered species
- potential exacerbation of existing contamination of the site, including groundwater pollution
- the lack of credible data and analysis supporting the ostensible economic benefits argued for the development, including purported employment benefits and flow-on economic effects
- potential detrimental impacts on the fishing industry, arising from damage to the estuarine ecosystem from harbour deepening associated with the development
- the extent to which the development intensifies the current dead-end economic trajectory dependent on the exploitation of non-renewable resources, and impedes the necessary transition to a low-carbon economy and clean, renewable energy sources.

I believe that these issues are well canvassed in other submissions objecting to the development, and I share the concerns raised in those submissions, and the views and arguments they present regarding the *inherent* lack of merit of the proposal itself, the failure of the original EA and subsequent PPR report to sufficiently consider many of these impacts, and the inadequacy of many of the measures proposed in the original EA and subsequent PPR to prevent or mitigate the significant damaging environmental, social and economic impacts of the proposed development. The development proposal should certainly be rejected on all these grounds.

I would also like to register my concern regarding the inadequacy of the proponent's Response to Submissions (RTS) in relation to my submission on the original proposal (referred to as submission C386 under the labelling protocol adopted in the RTS [Table A.1 "Submissions summary", Appendix A, Summary of Submissions, pp.A97-98]). My original submission raised a range of concerns, but focussed primarily on the proponent's claimed "legal obligation" to proceed with T4, which they presented as the central justification for their original development proposal. This so-called "legal obligation" arose from clause 6(a)(i)A in the Capacity Framework Arrangements between PWCS, NCIG and Newcastle Port Corporation and registered with the Australian Competition and Consumer Commission (ACCC). That clause refers to an "obligation to expand" in the case of a "capacity shortfall", defined as when "aggregate PWCS contracted allocations" exceed "aggregate PWCS available capacity". The key concerns I expressed in my original submission in relation to this aspect of the T4 development proposal were that, despite the apparent central importance of this "legal obligation" claim, the original EA provided no specific references to the relevant provisions of the CFA document, no explanation of the nature of the "legal obligation" reflected in those provisions, and no detail of the contracted allocations from which the ostensible capacity shortfall was calculated. Since the determination of a capacity shortfall was an essential precondition for triggering the "legal obligation" that constituted the proponent's central justification for the original T4 development proposal, and since the proponent had not provided any data substantiating a capacity shortfall in the original EA or in any other publicly accessible location, my submission argued that the proposal could not be properly inspected unless and until this information was provided.

This concern is referenced as Item ref: C386.12; Category: Justification in the Submissions summary table in the RTS [Table A.1 "Submissions summary", Appendix A, Summary of Submissions, p.A.98]. The Submission summary table lists this item as "addressed" in S14.1.8 "Capacity framework arrangements" and 14.2 "Project justification" in the RTS (see pp.269 and 270).

I have examined those two sections in detail, and they do not address my concerns. The response provides none of the details of the relevant contracted allocations that could substantiate the claim of the capacity shortfall that activated the T4 trigger under the CFA. Instead, the reply provides a cursory reference to the online address of the CFA (with which I am already very familiar), and repeated assertions to the effect that "PWCS will only build the project in response to demand". Instead of referring to its own current contracted allocations (the specific requirement for the T4 trigger mechanism under the CFA), the response refers to figures from unreferenced 2013 ARTC strategy reports:

The 2013 strategy reports indicate contractual nominations for coal export demand as 213 Mt in 2015. The strategy reports contracted and prospective coal export volumes increasing

beyond this time, for example to 230 Mtpa in 2017, 254 Mtpa in 2017 [sic - 2018?], 271 Mtpa in 2019 and stabilising at 284 Mtpa in 2020. Given that the port's approved coal export capacity is 211 Mtpa, it is considered that this information would confirm that additional capacity is required in the future. [RTS, p.270]

It should be noted that the proponent disclosed in May this year that the T4 development had been de-triggered, because there was no longer a capacity shortfall as defined in the CFA. The figures provided above include "prospective" volumes (defined as volumes from new and existing mines that producers have plans to develop in the medium term, but have not proceeded to a stage where the producers would want to commit to take-or-pay contracts (ARTC 2013, p.4)). Prospective volumes are not part of the capacity shortfall calculation in the CFA, which are based entirely on contractual volumes. PWCS has refused to publicly release their contractual volumes (as I requested in my original submission).

Even the figures cited above by the proponent are difficult to substantiate from any documentary source. As Table 1 (below) indicates, they do not appear to correlate with figures provided in the 2013-2022 ARTC Hunter Valley Corridor Capacity Strategy [June 2013, <http://www.artc.com.au/library/2013%20HV%20Strategy%20-%20Final.pdf>].

**TABLE 1: Comparison of PWCS and ARTC volume figures**

	2013	2014	2015	2016	2017	2018	2019	2020
<b>PWCS figure (RTS, p.270)</b>			213*		230*^		271*^	
<b>ARTC 2013 (contractual)</b>	158*	188*	197*	197*	197*	204*	206*	
<b>ARTC 2013 (prospective)</b>		10^		13^	17^	41^	58^	71^
<b>ARTC 2013</b>		198*^		210*^	214*^	245*^	264*^	

\* contractual nominations; ^ prospective volumes; \*^ contractual nominations plus prospective volumes

Figures are not given for all years, hence the empty cells.

Note: the prospective figures used by the ARTC (and provided by the Rail Capacity Group) are based on a "relatively early ramp up to a T4 capacity of 70mtpa" (see ARTC, 2013, p.5).

[Source: ARTC, 2013-2022 Hunter Valley Corridor Capacity Strategy, June 2013, <http://www.artc.com.au/library/2013%20HV%20Strategy%20-%20Final.pdf>].

The volume figures provided by the proponent are consistently and significantly higher than those provided by the 2013 ARTC strategy, even including the "prospective" volumes.

In fact, the 2013 ARTC strategy report appears to confirm that current terminal capacity at Newcastle Port will be sufficient to meet current contractual volumes into the foreseeable future, and that there is no capacity shortfall, as defined in the CFA (see "Producer Forecasts v Estimated Port Capacity" graph). The "legal obligation" justification that was the centrepiece of the original T4 application has now evaporated, and the current "justification" for T4 relies entirely on "prospective" volumes.

This would be a very poor basis on which to approve a project that may never be developed, but the approval of which will have a chilling effect on other development opportunities that could play a significant future role in diversifying the local economy.

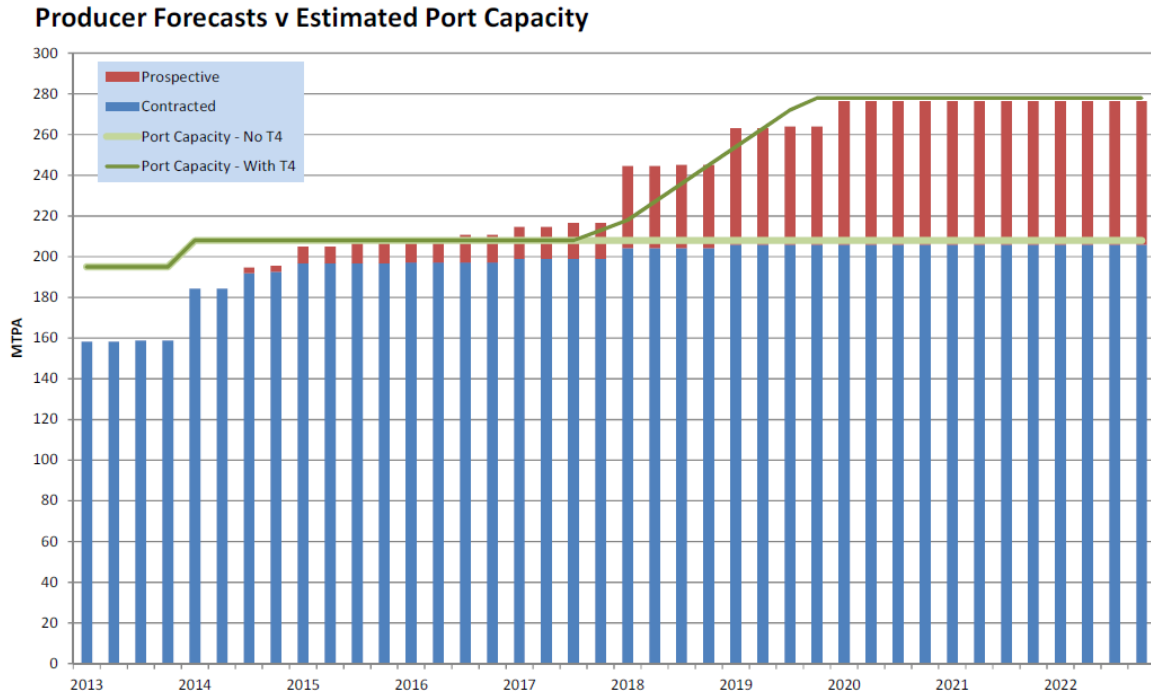


Figure 4 - Forecast volume at Newcastle Port compared to estimated port capacity (mtpa)

Source: ARTC, 2013-2022 Hunter Valley Corridor Capacity Strategy, June 2013,  
<http://www.artc.com.au/library/2013%20HV%20Strategy%20-%20Final.pdf>, p.8.

The transformation from an original development proposal that claimed a "legal obligation" to proceed to one that now depends on reference to "prospective" future volumes for its justification is highly significant both as a reflection of the volatile boom/bust nature of the coal industry, and as an indicator of the protean approach of the proponents, in attempting to justify a development for which there is no credible need.

I urge the Commissioners to reject this development proposal.

Regards

John Sutton

*Disclosure statement: I have no interest of a pecuniary nature in this development. This submission is being made on the basis of public interest issues associated with the development application process and the impact of the proposed development itself.*