

SUBMISSION ON THE PROPOSED KEPCO COAL MINE AT BYLONG NSW

BACKGROUND

1. The submission is made by Jane Garling, David Loneragan, Peter Loneragan and Robert Loneragan ("the family"), who are the owners of the properties known as Lee Creek and Carawatha, which are situated on the Lee Creek Road to the south of the proposed coal mine.
2. The family currently conduct a commercial beef operation on the properties which are operated as a single farming and grazing unit ("the farm"). As well as breeding and fattening cattle, the farm activities include some cropping and hay-making which is used for the cattle operations. The farm has been owned and operated by members of the family, and their late father, either alone or in partnership, for nearly 50 years.
3. The farm operates with a full time resident manager, and such other casual local workers as may be required. In addition, members of the family assist in various ways with the farm operations from time to time.
4. The farm is also the base for regular family social and recreational activities in which three generations of the family participate.

LOCATION and TOPOGRAPHY

5. The farm which is comprised of about 3000 acres, is the southernmost farming property in the Lee Creek valley. To the north of the farm is the property named Arabanoo. The next property from Arabanoo, to its north is Harley Hill, which immediately joins the southern boundary of the proposed coal mine. Harley Hill is owned by Kepco.

6. Lee Creek, which rises in the Wollemi National Park to the south of the farm, travels through the farm to the north. It has intermittent above ground flow, but provides, and has always in the past dependably provided, an adequate water resource which is accessible through metered bores for all domestic and stock use on the farm. Lee Creek is the only water supply for the farm. Although there are some small dams, these are entirely dependent upon natural rain fall. The quantity of water available to cattle from the dams is variable and inconsistent. Consequently, the water drawn from Lee Creek is the only reliable supply for the operation of the farm, watering the cattle and for domestic use.
7. The farm includes a number of irrigated river flats which are used for crop and hay production. Current water licences permit the use of the water drawn from the bores for this irrigation.
8. A public road, Lee Creek Road, traverses the farm from south to north. From the south, it enters from the Bylong Valley Way, travels in an easterly direction through the property, Yarran View, which is owned by Kepco, until it reaches the farm's southern boundary. After the southern boundary between Yarran View and the farm, the road drops steeply from the plateau of the Bylong Valley, down into the Lee Creek valley to the level of Lee Creek. It then largely follows Lee Creek as it heads north towards Bylong (and the proposed mine site). At a point, further to the north, the name of the public road changes to the Upper Bylong Road, although the road itself does not change.
9. On the farm the road which is clay-based is unsealed. The steep drop down of the road into the Lee Creek valley is not safely usable by large vehicles in times of rain. It is not safely usable by ordinary vehicles in times of significant rain. At such times, it does not provide any access to the Bylong Valley Way. Further to the north, the road crosses Lee Creek. At that point, it consists of a sharp drop down to the creek bed, in which some concrete has been placed, and then a sharp rise to the other side. In times of heavy rainfall, when Lee Creek rises, it is not always possible to travel through this crossing. The

crossing can be closed for days at a time, depending on the weather. The road is maintained sporadically by the Mid-Western Regional Council.

10. The Upper Bylong Road which continues through the properties to the north travels directly into Bylong. From about the intersection of the Upper Bylong Road with the Budden Gap Road, the road is essentially level all the way into Bylong. At about the Upper Bylong school, the road changes from being unsealed to being tar-sealed. The length of tar seal is, according to the EIS, 7.7km. Thus it provides ready and level access with a length of tar-seal, which is over 50% of the length of the road to the farm's northern gate from Bylong village, which totals about 13.8km.
11. The Upper Bylong Road is the only safe and reliable access to and from the farm from Bylong, and to and from places further to the north. This includes the principal markets for the cattle sales made by the farm. Because it is largely sealed, and essentially level, it is the only safe access to the farm from any direction, which is not affected by rain. It is the only safe escape from the farm to the north in times of personal emergency, or in times of natural disaster, such as bushfires. It is the only access to the north for the purposes of the farm's commercial activities, including the shipping of cattle to feedlots and markets, the obtaining of essential bulk supplies such as fuel, gas and grain, and readily accessing Bylong for small items, and, as well, Sandy Hollow and Denman, which are towns regularly used to obtain agricultural supplies and equipment.
12. The other feature of the farm which is relevant to note, is that the Lee Creek valley is a long, relatively narrow valley. To the East are the vertical sandstone cliffs which are part of the Wollemi National Park. To the west, is a ridgeline, largely wooded which although not as high as the cliffs to the east, is nevertheless a sufficient barrier to ensure the isolation of the Lee Creek valley. To the south of the farm, at the boundary with Yarran View, the land is also much higher than the valley. The precise height differences are readily available on topographical maps. The result of these features is that the farm, and the valley in which it is situated, is isolated from the main Bylong Valley

until the Lee Creek valley broadens out at the northern part of it and becomes the Bylong Valley, in the location of the proposed mine site.

SOME FEATURES OF THE PROPOSED MINE

13. The proposed mine, as described in detail in the Environmental Impact Statement (“EIS”), has a number of features which adversely impact directly on the farm, its capital value, and its safe, efficient and effective operation.

14. These features are:

- The closure of the Upper Bylong Road because the mining operations require its complete destruction, with the consequential total loss of the present northern access for the farm (“the northern access destruction issue”);
- The size and layout of the open-cut operations, and the use of large heaps for the overburden removed from the mines, will, at least until the final completion of remediation works, a period of 25 years from approval, and most likely permanently, destroy the present high value vistas, and landscape views available from a significant proportion of the north-western quadrant of the farm, including, but not limited to the existing views and vistas from internal roads and tracks on the farm (“the high value vistas destruction issue”);
- The construction of, and the continuous operation of, the mine for 24 hours per day, seven days per week, for each week of the year for a period of 25 years, including daily blasting operations for the open-cut phase, coal loading operations, and the increase in rail traffic, will notwithstanding any measures which can be taken, impact by way of noise, traffic and equipment fumes and dust on the farm, including on the cattle during the twice yearly breeding periods (“the peaceful valley destruction issue”); and,
- The requirement of the mine operations for a high volume of ground water for its operations (the water usage issue”).

15. The EIS identifies, but does not deal in any satisfactory way, with the northern access destruction issue. It does not acknowledge, and hence does not deal with, the high value vistas destruction issue as it impacts the farm. It does not specifically identify, or confront the peaceful valley destruction issue. It does identify and so deals with the water usage issue at some length in a way which raises matters of real concern.
16. This objection to the proposed mine, and these submissions address each of these issues.

NORTHERN ACCESS DESTRUCTION ISSUE

17. The EIS identifies this issue by confining the issue to being a simple question of a road closure being addressed by the upgrading of one or two possible alternate roads. It deals with the road closure at page 51 of the Executive Summary in the following terms:

“The southern reaches of Upper Bylong Road will be decommissioned to facilitate mining operations within the eastern open cut mining area. The potential upgrade of either Lee Creek Road or Budden Gap Road is being considered to provide alternate access to private landholders. In the event that negotiated agreements are reached with relevant landholders for the resultant loss in optionality for land access and Mid-Western Regional Council is in agreement that neither of the two road upgrades is required, then neither of these upgrades will be progressed.”

18. In the Main Report of the EIS, the question of the “road decommissioning” is dealt with at pp 322-323, paras 7.18.3 and 7.18.4. It carries little more detail than that set out above, and repeats these words. In addition to the summary, this paragraph identifies the impact of the “road decommissioning” merely by reference to a longer travel time of 30 minutes to Bylong, which it is suggested would be less in the event that either of the alternative roads are upgraded. No detail of the studies, if any, upon which these estimates are based are provided.
19. The EIS accepts that no detailed engineering design has as yet been undertaken, and that in the absence of such detailed engineering design, it is

unable to identify which of the two proposed alternatives would be appropriate. It follows that there is simply no available, let alone demonstrated, basis for the assertions made in the EIS about either the extended travel times, nor that the roads will be suitable for heavy vehicle access. In the EIS, Kepco does not propose that any part of the alternative upgraded roads will be tar sealed. Discussion with the Kepco managing director has made it clear that Kepco does not propose to include any tar sealing in the upgrading of the alternative access roads.

20. The EIS does not identify the fact that the topography of the alternative roads is significantly different from the existing Upper Bylong Road. What is being proposed are routes which involve the ascent and descent of major hill features, and in both cases, but particularly the Budden Gap Road option, the existence of tight bends and curves in the road, or road reserve as the case may be.
21. The EIS does not identify nor does it deal with the reality of the implications of a largely level, largely straight and largely tar-sealed road being replaced by either of the suggested options. To confine the impact to only one of time delay in access to Bylong, is to completely overlook the adverse impact which the destruction of the northern access upon the farm. It is self-evident that upgrading the Lee Creek Road to the south of the farm to obtain access to the Bylong Valley Way, does not address the loss of a northern access route to and from the farm. It is also obvious that even with an upgrade, the proposed unsealed Budden Gap Road which travels to the west from the Upper Bylong Road at the boundary of the mine location over a significant ridge line, through gated areas of private property and within a tightly constrained and twisting road reserve, cannot be an equal in terms of emergency safe egress from the farm in the event of bushfire, or other emergency. Nor can either alternative be an equal in terms of the capacity of large vehicles, particularly those carrying stock, fuel, gas and feed, to traverse them safely, and in all weather conditions.

22. The adverse effect on the farm's operations, and upon the daily lives of the permanent staff and family who live on the farm are simply ignored in the EIS. No proposal is made which acknowledges the adverse impacts to which reference has been made, and seeks to ameliorate, or mitigate them. At best, a confusing and rather meaningless phrase is used which suggests that “... *compensation for the resultant loss in optionality for land access* ...” is an appropriate mitigation proposal.
23. The reason why this phrase is not at all meaningful is that Kepco assumes that what it regards as essential for the mine to be built, and which it needs to happen, namely, the closure of the Upper Bylong Road has, at best, only a travel delay effect, and no other impact. Such an assumption, ignores the fact that the road which is proposed to be destroyed is a public road which has been in existence for over 100 years, and which was in existence when the farm was first acquired by the family. Ordinarily, the closure of such a public road is beyond rational expectation. After all, it has served the only school in the community, a church, and a number of significant grazing, and farming properties for over a century.
24. The attraction of any one rural property over another when a purchase or investment is being considered always includes as principal features, the nature of access to and from a property, the fact that access can be obtained easily and in all weather, particularly for the heavy transport and emergency vehicles, and the number of access routes. The latter is of obvious importance in a rural setting. The notion of having access and egress in only one direction and on the same road is a significant disadvantage for the efficient operations of, and the safety and security of, a rural property. As well, these are all matters which contribute to the capital value of the land as a farming property.
25. In addition, there is a further adverse impact which the EIS does not mention. That is that one consequence of destroying the Upper Bylong Road, and incorporating it into the eastern open-cut mining area, is the destruction of the only power supply for the farm, which presently comes from a power sub-station located at Bylong, generally following the Upper Bylong Road

alignment, so as to service the properties to the south of the proposed mine boundaries. There is no existing alternative route for power supply to the farm, which is the last property on the Lee Creek branch of the power line. No detail is given of any proposal to replace the power line, nor the location from which the farm will be serviced. No proposal is contained in the EIS which identifies, or deals with this adverse impact on the farm.

26. In summary, the Kepco mine proposal results in the destruction of the northern access to the farm. The EIS fails to identify the real adverse impacts which such access destruction will have on the safe and efficient operations on the farm. The farm's current power supply line will be removed. Neither of the suggested alternate upgraded roads are in any sense an equivalent to the largely level, and largely tar-sealed access route to the north provided by the Upper Bylong Road. The proposed mitigation strategy is based upon assumptions and predictions as to time delay effect which have no demonstrated basis, and which self-evidently in the absence of engineering plans, could not be supported. The proposition that compensation for time delay would be sufficient to address the destruction of the northern access route fails to understand, or have regard to, the role which public road access has in the considerations, including financial, upon which initial purchase decisions and ongoing investment decisions are made in rural a community.

27. This submission objects to the approval of the Kepco mine proposal because it involves the destruction of the northern access necessary for the safe and efficient operation of the farm which constitutes a permanent adverse impact on this long held valuable local business.

THE HIGH VALUE VISTAS DESTRUCTION ISSUE

28. The EIS accepts that there will be moderate visual impact, sometimes assessed as moderate to low visual impact upon the residences to the south of the proposed mine. But seemingly, the EIS restricts this conclusion only to

properties owned by Kepco, and not to the other residences to the south of the proposed mine, including those on the farm.

29. At para 7.17.3 on page 309 of the Main Report of the EIS, the following is written:

A number of rural residences are located within the South View Sector however the majority of these have been purchased by KEPCO. Localised screening by intervening topography and woodland vegetation will eliminate views of the South Western OEA and Eastern Open Cut from the private residences located further to the south ensuring moderate to low visual impacts. During the initial years of the Project, the southern section of Upper Bylong Road and other local roads will experience moderate visual impacts. For all local roads, such impacts will be experienced up to PY 5 due to the effect of views of the active OEAs that will be visible from the roadways. Visual effects and impacts will be reduced to low following PY 5 due to the development of Project rehabilitation. All rural lands will experience moderate to low visual impacts. The progressive rehabilitation of OEAs will reduce such impacts to very low as the mine progresses.

30. It is worthy of note that the methodology adopted for both the assessment and the display of adverse visual impact in the EIS, divides the views into 4 quadrants, and limits artificially, and without explanation, the extent of those quadrants, at least to the south, to the project boundary of the proposed mine area. These details are readily observable from Figure 67 on page 296 of the Main Report. Furthermore, the EIS methodology does not include any point within the southern quadrant, or else outside that area but further to the south, from which any assessment has been made of the adverse visual impact.

31. The other matter to note is that, according to the Main Report, even after rehabilitation is concluded the north-west OEA will be finished to height equivalent to RL 395m, the south-west OEA will be finished to RL 390m, and each of the east and west OEA's will be finished to RL 360m: see Figure 23 and pp 45-46 of the Main Report, see also para 7.15.4 at p 277 of the Main Report. The conceptual drawings, and the descriptions of the intended purposes to be achieved with final rehabilitation suggest a slope of around but not exceeding 10%. The natural topography of the land in these areas is RL 260m - 280m, with the majority of the slope being of less than 1%: see Figure 24 at page 47 of the Main Report.

32. A comparison between the existing landform which permits the high value vistas and landscape views, and the proposed finished landform which destroys them, reveals a great disparity. An increase of height of the disturbed land by between 100m and 135m is on any basis, a very significant increase which dwarfs the current landscape scale. A car which before mine approval travelled along the Upper Bylong Road, from which the occupants could gaze across the natural landscape to the east to the mountain ranges, will only produce a view, after conclusion of rehabilitation of a hill of 100m, at least in height, within a short distance from where the road once was. Whilst views will differ at varying distances, the significant contrast will nevertheless remain.
33. The sections chosen as demonstrative of the finished landform and which are found in Figure 24 of the Main Report, do not in fact demonstrate the real height changes, and the distances over which those changes take effect, as would sections which travel east-west, through the south west OEA and the Eastern OEA, or similar paths which cross Lee Creek where the low point of the topography is to be found.
34. Finally, the EIS pays no attention to, and thus ignores, the significant adverse effect which the destruction of the high value vistas and landscape views has on the north western quadrant of the farm. From significant parts of that farm quadrant, the high value vistas of the northern end of the Bylong Valley, the mountains on the eastern boundary of the Valley, and the Wollemi National Park, further to the east, form part of the intrinsic value of the land and a valuable attraction to working in that area, and enjoying the farm, including these vistas and landscapes, as a place of natural beauty.
35. The land in the north western quadrant of the farm includes a number of separate lots upon which a dwelling can be built under existing planning controls: see *The Mid- Western Regional Local Environmental Plan 2012*. Such an option for future development is destroyed. The high value vistas are replaced by a working mine, and permanently changed landform.

36. It is also land which is constantly used for the operations of the farm. Whilst the EIS asserts that the adverse impact is moderate to low, ending in low upon completion for rural land, that proposition does not take into account, the potential for dwellings to be constructed. Nor does it take into account the working of the farm, nor the enjoyment and pleasure of using for any purpose, a part of the farm where these high value vistas and landscape views may be experienced.
37. In summary, the Kepco mine proposal results in the destruction of the high value vistas and landscape views available to the farm, and experienced by those who use it. The EIS does not include any visual representation of the adverse impact on vistas and views from any property or place in the southern quadrant of its visual impact analysis. That omission is unexplained. The EIS artificially limits the extent of visual impact to the south to the project boundary limit, and simply ignores the fact that the visual impact will extend to the properties south of the project boundary, and in the Lee Creek Valley. The EIS understates the extent of the actual visual impact, particularly having regard to the significant increase in height of the projected finished landform when compared to the existing topography. The EIS understates the adverse visual impact generally, and fails to consider that in a holistic sense, the project simply destroys the available high value vistas and landscape views to the north and northeast of the properties in the Lee Creek Valley, and in particular, the north west quadrant of the farm. The proposed final landform in no way mitigates the destruction of these vistas, rather it represents the permanent destruction of them.
38. This submission objects to the approval of the Kepco mine proposal because it involves the permanent destruction of the identified high value vistas and landscape views available to, and valuable for, the farm.

THE PEACEFUL VALLEY DESTRUCTION ISSUE

39. The mine proposed by Kepco is to be developed and used for at least 25 years. It may continue for a longer period if a further application is made. Kepco does not rule out making such further application.
40. As various parts of the EIS make clear, the topography of the Bylong Valley generally comprises steep rugged ranges, ridge lines, cliffs and largely flat agricultural land. These ridges and escarpments encircle the Project Boundary and extend into the north-east and east. They also extend south of the project boundary into the Lee Creek valley. The EIS says that:
- “All these landscape elements, create a rural landscape that has retained high visual integrity.”
41. The Bylong Valley has a long history of agricultural land use, including grazing, cropping (dryland and irrigation) and horse breeding. The majority of the Project Boundary contains cleared agricultural land with native vegetation prevalent within the remaining area, which is mainly the Bylong State Forest and other portions of Crown Land. There are no approved coal mines within 20 km of the Project. In the geography of the broad area, this is a considerable distance and geographically entirely separate from the Bylong Valley and the proposed mine. It is in all respects presently a peaceful valley.
42. To the south, the Bylong Valley is one with and merges into the Lee Creek valley which has all of these elements, although in a somewhat narrower valley form. The valleys are continuous with each other, one at the north end (Bylong), the other at the south end (Lee Creek).
43. There is no industry carried on in the valley. The only machinery which is operated regularly is that associated with the various farming enterprises. Traffic through the Lee Creek Valley, and the Bylong Valley in the area proposed to be mined, consists of motor cars, agricultural equipment and the trucks and bulk haulage which service, in a variety of ways, the farming

enterprises. Rail traffic on the railway line which is to be used for the purpose of the mine exists at a low level.

44. It is simply a quiet, peaceful valley where farms, and animal breeding operations have existed undisturbed for over a century. Such a place with that atmosphere has become the home to many locals, and the place to which many people come to visit for the purpose of enjoying the atmosphere of peace and tranquility.
45. It is acknowledged that, by reference to various standards, the adverse impacts of the noise and dust created by the proposed mine have been modelled, and that the maximum extent of those adverse impacts have been plotted on diagrams. No doubt those models, including the input parameters and assumptions, will be checked as part of the EIS assessment process by appropriately qualified experts.
46. However, even accepting that precision of the kind displayed by a line drawn on a map is achievable in reality, a proposition which must be doubted, the EIS does not come to grips with the reality of life in the Lee Creek/Bylong Valley and the adverse impacts which will be wrought by the proposed mine.
47. At the moment, from any of the three houses situated on the farm, when looking north, there is no source of significant light. At night, this has the effect of providing extraordinary viewing conditions for the night sky.
48. At the moment, from any of the three houses situated on the farm, when looking north, the noise of the train travelling continuously in one direction at an even speed along the railway line can be distinctly heard. It is not at a level which causes disruption to conversations, or like effects. However, in the peace of the valley, it can be heard and it disrupts that peace.
49. At the moment, from any of the three houses situated on the farm, there is no source of dust creation, other than occasional minor and short term

earthworks associated with agricultural operations, which are in practice in this area, few and far between.

50. But there are no other sources of noise or light to interrupt the peace of the valley. It is that peace which gives rise to the farm as a place of great amenity for those who live in, or stay in the houses. That amenity is something which has been prized and enjoyed by the family, and employees for many decades.
51. The peaceful valley with such amenity will be entirely destroyed by the proposed mine and its operations. The EIS does not recognize, nor discuss this. Seemingly, Kepco must simply accept that this is so, and can offer nothing by way of mitigation of this impact. If need be, it can only argue that the economic benefit ought trump these adverse effects. However, such an argument is no longer, without more, the dominant or even determinative factor for the assessment of the EIS nor is it sufficient justification for a decision to approve the proposed mine.
52. The proposed mine will have up to ten trains a day. They will not be travelling only in one direction nor continuously at a steady speed. They will loop around. They will be loaded by an automated hopper system which is operated individually for each carriage. It is unlikely that the loading operation will take less than 30 minutes per train, if one assumes that there will be 50 coal carriages on each train. It is not suggested that these trains will only operate during daylight hours, or in ordinary waking hours. No doubt they will operate as required throughout each 24-hour period.
53. An automated conveyor belt system will operate to transport the coal to the loader for delivery onto the trains.
54. The EIS proposes that there will be 54 pieces of heavy equipment being operated at the open-cut mine during continuous operations. No doubt there will be different, and a larger number of pieces of large equipment during the construction phase.

55. The nature of the construction works, and the open-cut mining operations which involves earth moving, and then coal extraction and processing, being carried out will, even if the mitigation measures are all taken and are successful, nevertheless produce dust and noise. The blast of explosives will be a regular and highly intrusive occurrence.
56. The whole operation, intended to take place 24 hours a day, will produce a very high degree of radiant artificial light. The mining operations could not take place safely in darkness without being conducted under good light conditions. The miners accommodation facility will operate to support the 24 hour shifts which will occur. That will also contribute significantly to a high degree of radiant artificial light.
57. The construction of, and the continuous operation of, the mine for 24 hours per day, seven days per week, for each week of the year for a period of 25 years, including daily blasting operations for the open-cut phase, coal loading operations, and the increase in rail traffic, will notwithstanding any measures which can be taken, adversely impact by way of noise, traffic and equipment fumes and dust on the farm, from which impacts there can be no escape for those who live on, work on and use the farm for its amenity and enjoyment. After all, the proposed mine will occupy and close off the entire northern end of the valley.
58. It is upon that basis that this submission objects to the approval of the proposed mine.

THE WATER USAGE ISSUE

59. The EIS at some length explores the issue of water usage, and the impact which such usage is modelled to have on the water provided by Lee Creek. It is not within the technical capacity, or resources of the family to engage in any sensible discussion on an expertly informed basis.

60. The purpose of this submission is to emphasize that the water which the farm draws from Lee Creek is its sole dependable source of good quality water for the farm operations and for domestic water use. The farm has limited on farm storage capacity - essentially tanks which permit the reticulation of water for supply of cattle troughs. Any interruption to this dependable and reliable water source would be catastrophic for the farm operations. Without dependable water of good quality, the operations would have to be shut down, and cattle sales would be forced, in the interests of cattle health.

61. If there is any risk identified to this water supply, then the mining proposal ought not to be approved.

SUMMARY

62. For the reasons identified, this submission opposes the grant of any approval for the proposed mine.

DATED: 6 November 2015

