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20 November 2015

Department of Planning and Environment  
c/o www.planning.nsw.gov.au  
Att; Stephen O'Donoghue

Dear Sir

### **Submission - SSD 14\_6367 Bylong Coal Project EIS**

Reference is made to the exhibition of the above proposal. Council submitted a draft submission to the project on Friday 6 November 2015. A report on the proposal was considered by Council in the Ordinary Meeting on 18 November 2015 and now provide a final submission. Council supports, in principle the project without the temporary workers accommodation facility. The issues of concern to Council regarding the project include; questioning the need for the workers accommodation facility; social and economic benefit of the project to the community if the TWA proceeds; traffic and transport; subsidence impacts of Bylong Valley Way; the impact on agricultural land; surface and groundwater impacts; biodiversity and impacts on European Heritage.

### **Temporary Workers Accommodation**

During the course of the past 12 months Council have met with the proponent on a number of occasions to receive an update in terms of the Bylong Coal Project (BCP) to the extent that the Council had a reasonable understanding of the scope, scale and scheduling of the proposed project. This, coupled with Council's initial response to the SEARs dated 20 February 2014 and the SEARs themselves, have served as a useful background in approaching the review of the final EIS documents. Through these sessions there has been one consistent message from Council to the proponent and that is there is no support for a Temporary Workers Accommodation facility (TWA) (it is noted that the EIS refers to a Workers Accommodation Facility, however, to maintain consistency with Council's planning instruments this use will be herein referred to as a TWA) and the basis that the commute to Mudgee and Rylstone from the project site is less than an hour. Further, the proponent has been aware of Council's intention to complete a full seal upgrade of Wollar – Bylong Road even prior to the announcement of the successful grant funding received under the royalties for regional program and yet the EIS document still makes reference to the road being unsealed and the commute to Mudgee being an hour and 25 minutes. It is disappointing that despite the numerous meetings the EIS does not, in either the traffic impact assessment, economic or social impact assessment provide an option or scenario where there is no TWA.

The project is not remote as stated on p 70 of the Main Report. Rylstone is only 52km and Mudgee is 72km via road from Bylong. Council has commenced work on the \$14M upgrade of the Wollar – Bylong Road. The EIS contends that a TWA is required for the following reasons:

- The size of the short term construction workforce has the potential to impact on the housing market
- As a risk management strategy to ensure accommodation is available for the project; and
- Manage the risk of the Wollar Road upgrade not being completed.

Council refutes these contentions outright.

### **Size of the Construction Workforce**

Council questions size of the construction workforce and how these numbers have been determined. The region has managed to accommodate a mining construction workforce for a proposal larger than the BCP coupled with concurrent expansion at two other mines. The estimated construction workforce for Moorlaben was 220 and while this may have

fluctuated, the construction phase was similar to that proposed in the BCP. The claim that there will be a peak of 800 employees is inflated and unsubstantiated in the EIS. Further, it is this inflated figure on which the justification for the TWA hinges. Council questions the need for a TWA for a brief period to accommodate a peak workforce that will exist for less than six months when 18.6% or 1,911 dwellings across the LGA are unoccupied (SIA p 117). In addition the region has evolved in recent years to accommodate fluctuations in the mining workforce and tourism. The *Social Impact Assessment* (SIA) makes reference to 274 hotel/motel accommodation beds in Mudgee (p 129), however, the available short term accommodation across all accommodation types (excluding residential dwellings) is closer to 1,855.

In the assessment of the impact of the project on housing, the SIA fails to consider a no TWA option and the analysis that has been undertaken does not quantify the “significant increase in demand” but does acknowledge that it would be only short term (p 136). *The Mudgee and Gulgong Urban Release Strategy (URS)*, adopted by Council and endorsed by DP&E in 2014 clearly articulates the ability of the housing market to accommodate the growth anticipated by mining in the LGA and included in its assessment estimated population generated by the BCP. There is no risk that the workforce anticipated in the first 6 years of the project cannot be accommodated in the community.

There is no evidence to suggest that the TWA is required in terms of housing availability in the short or longer term. Further, the social costs of TWA accommodation on those residing in them are now well documented to the extent that this should be a last resort option. The EIS does not address the social and psychological impacts on residents and families in a TWA environment and this needs to be addressed before any decision can be made as to the suitability of and need for this form of accommodation at this location.

#### **Commitment to Wollar Road**

In relation to Wollar Road and as stated below, Council has received \$14M funding from the State Government for the upgrade of this road. The funding was granted on the back of a business case that included the need for the work as a direct result of the BCP should it go ahead. It is also a strategic alternative route between Mudgee and the Hunter Valley. Work has already commenced on the project under the terms of the funding agreement and is due for completion in 2017. The upgrade will put the BCP which is already only 40 minutes from Rylstone, within a one hour commute of Mudgee. Therefore any reference to the road being unsealed should be removed as it is misleading.

The costs that the company have committed to the construction of the TWA should be diverted into investment in the local housing industry and on-going maintenance of the local road network between the BCP and Rylstone and the BCP and Mudgee.

Finally, consideration of the TWA as part of the BCP approval is of a concern in terms of the ease in which the life of a TWA should it be approved can be modified by the state government once the initial approval is in place. Council is concerned that should the TWA aspect of the proposal be approved in any form it will remain in place for the duration of the project and any economic benefit that the region would otherwise experience will be lost.

#### **Economic Impacts**

To a large extent the economic benefit for the region as a result of this project proceeding is around the employment and business opportunities generated. The potential direct and indirect impacts of the project (ie. the multiplier effect) are significant and would contribute to the overall strength of the local economy and neighbouring regions. Local businesses have adapted to the growth of major mining projects in the region in the last 5 years and are well positioned to continue to grow and prosper as new projects such as BCP commence. New businesses have also established themselves in the region over a similar timeframe to cater for mining activities and maximise the potential economic benefits available.

However, the potential economic benefits of the project will be significantly diminished in the first 6 years of the project based on the proposal to establish a TWA as part of the BCP. Whilst it is recognised that it is difficult to capture the direct workforce benefits during the construction phase of a major project because of the transient nature of the workforce (ie. the income benefits largely accrue outside the region), there are still potential benefits from construction whereby the workforce

utilises local accommodation and services. As discussed above, local businesses have already planned for continued mining expansion in the Region and there is sufficient accommodation capacity to cater for both the construction needs of the mining industry and traditional forms of tourism activity. The proposed TWA not only takes away the income effect, but also eliminates the opportunity for local businesses to provide accommodation and hospitality services to the construction workforce. Combined with the negative impact on local agricultural production (ie. loss of \$3Mpa), the TWA does not deliver any economic benefit to the region at all.

It is important to note that the 800 construction workers associated with the BCP are considered as visitors to the region. According to Destination NSW, each visitor to the region contributes an average \$145 per day in additional expenditure. This represents potential income for the region of up to \$42.3 million per annum, depending on the length of stay and number of construction workers. This income generating opportunity for the region will not occur with a TWA.

### **Cumulative Impacts**

The project has failed to adequately address the “*likely interactions between the development and other existing, approved or proposed mining development in the vicinity of the site*” as required by the SEAR’s. In particular the activities at Wilpinjong and Moorlarban have been overlooked. For example, there has been no investigation as to the cumulative impact of education and a statement in the documentation that the government considers that it can manage this impact as part of the natural growth is insufficient. The SIA also fails to identify the cumulative social impact on the communities of Wollar, Ulan and now Bylong in terms, for example of the loss of identity through the closure of schools and loss of volunteers as properties have been acquired and communities shrunk. Similarly the traffic and transport impacts having regard to the existing mine traffic have not been considered, in particular from the intersection of Wollar Road with Ulan Road and into Mudgee. All of these issues should be examined in the SIA.

The community infrastructure fund set up under various planning agreements and via conditions of consent (in the case of Moorlarben) will support the roll out of priorities in the Community Plan. Those areas of greater concern are around health and education where local government is not primarily responsible for the delivery. It has been our experience that the service providers are reactive to pressure in these areas and council will need financial assistance from time to time to address this. It should also be noted that Council has made an allowance for a new primary school site should the thresholds require it in the longer term. The SIA proposes an increase in school aged children of around 250 in Mudgee alone in project year 9 and this highlights the importance of having strategies in terms of monitoring the actual impacts of all mining activities on social infrastructure on an ongoing basis and to remain ahead of change in demographic trends, particularly in health and education.

### **VPA**

The council has been in negotiation with the company in regard to the VPA for community infrastructure contributions. There has been in principle agreement as follows;

- (a) Subject to this Agreement, the Developer is to make the following Development Contributions in respect of the Development:
  - (i) payment of \$1.5 million to the Council on the granting of the Development Consent by the Consent Authority and KEPCOs approval for the Development on the Land and the Other Land;
  - (ii) payment of \$1.25 million to the Council on the Mine Commencement Date; and
  - (iii) payment of \$0.05 per tonne of product coal transported by rail in connection with the Development to the Council towards the Community Investment Fund, which is payable within three months of the end of each Financial Year for the Term.

The EIS makes reference to a Community Needs Assessment (CNA). The role of the CNA is not clear in the EIS and there were initial concerns as to the CNA particularly given the reference to commitments throughout the SIA. It has been confirmed by Worley Parsons that the CNA will

outline the company's investment strategy to 2017. Council has a Community Plan (CP) developed out of the IP&R process and endorsed by the council and the community for implementation through the operational and delivery programs. As has been the case with previous VPA agreements, council intends to use the additional contribution to deliver community infrastructure in accordance with the commitments of the CP. There are concerns then that reference in the SIA to the CNA and numerous opportunities citing VPA is inconsistent with negotiations to date.

### **Traffic and Transport**

Council has some concerns regarding the *Bylong Coal Project Traffic and Transport Impact Assessment* (TIA) prepare by Parsons Brinckerhoff (Appendix Z), the most obvious being that a scenario without a TWA was not considered. This is despite the indication given by Council on numerous occasions that such a facility is unlikely to be favoured by Council or considered necessary with the upgrade of Wollar Road. The report does however acknowledge in Section 5.2 that the uncertainty surrounding the life of the facility will generate quite different outcomes in terms of traffic volumes. The TIA is therefore significantly flawed and should be reviewed to include a scenario in which the TWA is not built as an option.

The Wollar road upgrade presently being undertaken by Council is a project funded on the premise that the road would be heavily utilised by the mine, including commuter traffic. Indeed Section 3.5.4 of the report states that once the upgrade is complete the traffic will be in the vicinity of 500-1000 vehicles per day. This was an estimate provided to the proponent by Council on the basis of a commuting workforce. If the TWA is not built, and it is the position of Council that it cannot be justified and should not proceed, the traffic impact forecasts provided in the EIS will be substantially lower than in reality.

Not considering a scenario that excludes the TWA also has implications for the level of service of intersections. In all the scenarios posed in Section 5 of the report, all intersections operate at the 'A' level of service indicating a free flow condition. Section 5.2.1 recommends basic intersection treatments on the basis of warrants that assumes an accommodation facility is in service.

However, the assessment has not considered how these intersections will perform at change of shift with all the workforce attempting to enter/leave the site within a short space of time. It is likely that motorists would experience queues and delays in this circumstance and the assessment will have failed to identify a much lesser level of service. Council concurs with the consultant's recommendation to conduct a formal safety audit to identify and prioritise road safety treatments. This should form the basis of any negotiation relating to contributions towards capital upgrades particularly for the section of road between Wollar Village and the Ulan Road intersection with Wollar Road.

Table 5.11 provides daily traffic projections for mid-block road sections. Baseline figures appear to be based on Section 1.6 of the report which outlines traffic surveys and 'referenced' previous traffic counts from 2011. The counts from 2011 indicate a higher level of traffic movement than from the survey, which was not conducted over a 24 hour 7 day period as was the case for the 2011 counts. It is Council's view that using the higher counts would have been a more conservative approach to forecasting AADTs once the mine commences production.

Accurate predicted traffic volumes in any event provides Council the opportunity to adequately assess the increased maintenance needs of public roads. It is suggested that once the mine commences construction and progresses to operation that the Bylong Valley Way and the Wollar Road, between Wollar and the intersection of the Ulan Road, will require a higher levels of maintenance. Negotiations with the proponent to date have not included a contribution to Council for the ongoing maintenance of these sections of road due to mine related traffic. This maintenance cost will be strongly linked to traffic volumes, which in turn are affected by reliable baseline estimates and the implementation of accommodation facility.

The report identifies two alternative routes for landholders located to the south of the project area to utilise when the Upper Bylong Road is re-aligned resulting in the isolation of private holding to the south of the lease area. These are the Budden Gap and Lee Creek Roads. Whilst neither route is ideal for the affected parties, the latter is Council's preferred option as the road is already formed and traverses comparatively moderate terrain and this was articulated in Council's initial submission to the SEAR's in February 2014. The Lee Creek Road alternative is a considerably simpler road to upgrade from a constructability point of view and is less problematic in terms of

flooding. The access for the affected landholders should be negotiated prior to any approval being issued for the project.

It is further noted that there is a real potential for subsidence in parts up to 3m over more than 3km of Bylong Valley Way affecting 12 culverts. The EIS makes reference to remediation by re-leveling culverts where cracking and titles sufficient to cause a grade reverse and progressive road maintenance and repair work as mining progresses. Erosion protection may also be required to stabilise slopes. This would necessitate the implementation of speed restriction along the road and directly impacting the level of service of the infrastructure over a significant time period. Council is very concerned about the risk to public safety that this poses as well as an ongoing maintenance burden for Council. Any approval should ensure that the proponent is responsible for the ongoing cost associated with the maintenance and repair of this part of Bylong Valley Way. A full condition report of this road should be undertaken to determine the current condition of the asset as part of the approval process.

### **Road maintenance contributions**

As discussed in the traffic section above, the lack of data around a development option that excluded the TWA is a serious concern not least because it then fails to then provide accurate traffic data against which to determine the initial adequacy of the transport route and maintenance contribution for the Wollar Road over the life of the project. Council anticipates that any approval would include provision for such a contribution as a direct impact of the development on the local road network. Further in the response to the SEARs Council articulated that the EIS should include a Road Dilapidation Report and complete audit of local road infrastructure including the Bylong Valley Way, Wollar and Lue Roads. Again the TIA fails to address the full impact of the proposal on the local road network, in particular Wollar Road from Wollar to Mudgee which will likely be the transport route.

### **Noise and Vibration**

Any approval needs to be responsive to noise impacts beyond those anticipated in the EIS. As has been the experience in Wollar with the Winpinjong project, the modelling in some instance does not adequately account for the actual local conditions particularly where topographic features are variables to the way noise travels.

Vibration will have a significant impact of the remaining buildings and those identified as significant (see heritage impacts below).

### **Heritage Impact**

Council supports the Bylong community in concerns raised as to the impacts on environmental heritage and the nomination of Tarwyn Park for an Interim Heritage Order.

Further community consultation should be undertaken with the key stakeholders (including Council) again exploring the option of relocating –

- Bylong Upper Public School
- Our Lady of the Sacred Heart Catholic Church
- Upper Bylong Post Office and Store
- Bylong Upper Hall

If the community does not respond to the invitation for the relocation of these items, it is they should be relocated and moth balled on the mine site until such a time an opportunity arises for relocation as opposed to demolition, particularly given the relatively short term open cut operation.

The curtilage of those items identified as partially impacted (table 10 – Impact Assessment Summary) items should be further clarified in more detail.

Council concurs with the proposals for the management of historic burial sites, however, suggests that should they be relocated out of the locality a memorial site should be dedicated including all the information on the headstones and the new burial site. The location of such a memorial should be identified in consultation with the Bylong community and Council.

### **Extent of Mining Beyond the Approval**

There are real concerns about the “concessions” made by KEPCO since the purchase of the authorisations in 2010 (*Mine Justification Report* p 37). This only highlights that there remains a significant coal resource well beyond the horizon in the present application with the combined

measured, indicated and inferred resource being 391.6Mt for the open cut (this approval is seeking to recover 33Mt) and 482.7Mt for the underground (91Mt under this approval). It is not only the experience of the MWRC community but other communities around the state that the initial approval for a mining project provide a platform for continuous expansion though Modifications invariably extending the life of the project well beyond the 25 year limit under regulation with economic feasibility then becoming the most significant determinant to ongoing production. This is not to discount the rigorous environmental and social impact assessment that is required for a modification to proceed but to simply identify that if this proposal is approved as is over 85% of the resource is still in the ground. Council has concerns that arguments as to efficient resource recovery verses the social and environmental impacts and loss of additional agricultural land are unable to be adequately addressed under the current statutory approval process.

### **Agricultural Land**

In the first instance, Council questions the figures used throughout the EIS in relation to the value of Agricultural land and would like to see these clarified in terms of both the source and accuracy of the data and that data then validated.

The objective of the Strategic Regional Land Use Plans is to protect the states \$12 billion agricultural industry from mining and coal seam gas industries. The issues raised by the Gateway Panel in terms of the potential for direct and significant impacts on verified BSAL by the BCP are still not adequately addressed. Agricultural land, like coal is a finite resource, however, unlike coal if managed will continue to deliver net production indefinitely so while economically in the short term the net value of coal eclipses that of agriculture it is just that; short term.

The BCP has an impact on valuable and productive land beyond that which has been experienced in association with mining in the MWRC LGA in the past. There is 440.8ha of verified BASL within the project disturbance area alone. The agricultural land lost to mining as a result of this project equates to \$2.66M annually which is significant representing over 4% of the total production of the LGA. Council has noted the examples in the Hunter Valley cited in the *Rehabilitation Strategy* (Appendix W) where land has been restored, however, despite the best undertakings Council remains sceptical about the future reinstatement of land to production. The success of the rehabilitation will hinge on the soils stripping, handling and stockpiling all of which would be rigorously scrutinised and conditioned in any approval. In addition, Council questions the assumption that the impacts on land within the subsidence area will be indirect and temporary particularly in areas that are subject to subsidence which impacts the surface hydrology.

### **Groundwater**

The BCP relies on security of water from the Bylong River alluvial aquifer accessed by a number of groundwater bores. There is concern that the BCP in this assessment fails to adequately account for contingencies around water supply and fully address the Office of Water requirements for the EIS. In the submission to the SEARs, Council raised concerns about the allocation and security of water resources within the project area and beyond and the need to identify actual availability rather than assumptions as to the existing water licences.

In addition the EIS in relation to groundwater, like subsidence, proposes measures to manage impacts only if they occur, for example in relation to water security above and aquifer interference, rather than taking a precautionary approach.

Council would like to see an independent hydrologist engaged to assess both the ground and surface water assessments with particular attention to their adequacy around water security, the importance of ascertaining accurate data from ALL the existing groundwater bores and including any perceived anomalies identified in the EIS.

### **Biodiversity**

The *Ecological Impact Assessment* (EIA) will need to be amended to include the impacts on any changes that may have been made and come into force under the EPBC Act since March 2014. The BCP will have significant direct and indirect ecological impacts with the removal of up to 753ha of native vegetation, however, it is noted that the offset areas proposed are populated with similar habitat. There is some concern that the Biodiversity Offset Sites are simply properties the ecological value of which are already protected through a combination of legislative controls at Commonwealth and State level together with land use zoning and associated provisions under the MWRC LEP 2012 all of which provide a reasonable level of protection from destruction and the offset areas should include identifying areas that are under threat. Further, Offset Areas 4 and half

of Yarran View result in the loss of an additional productive agricultural land as a direct result of the project. In addition there is a failure to identify the mechanism proposed to conserve the offset sites and Council is concerned about the impact on rate income if land is taken out of production and sterilised in perpetuity.

**Representations from the Community**

In its Open Day immediately prior to the commencement of the Ordinary Meeting of Council on 21 October 2015, Council heard submissions from the community which Council would like to reinforce. The issues raised included;

- impacts on environmental heritage and the call for Council to support an Interim Heritage Order on Tarwan Park as well as concerns about loss of local heritage generally;
- Surface and Groundwater impacts and the inadequacy of the impact reports and mitigation measures;
- Loss of agricultural land to mining and questioning the feasibility of returning the land to its current state post mining;
- Loss of agricultural land through biodiversity offset areas;
- The long term value of agriculture in the region against the short term destruction as a result of open cut operations that will only recover a fraction of the coal resource;
- Noise and dust; and
- Access for land holders who will be isolated by the closure of Upper Bylong Road without any firm option for an alternative.
- Loss of community and social impacts associated with land acquisition including volunteer services such as RFS
- Cumulative social impacts as a result of closure of schools leading to a loss of focal point for small rural communities.

As stated above, please consider this to be the submission from MWRC superseding the draft submission posted 6 November 2015. Should you have any queries in relation to this matter please contact Liz Densley Acting Director Development on 63782850.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Brad Cam', with a stylized 'B' and a horizontal line extending to the right.

Brad Cam  
GENERAL MANAGER