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KEPCO Submission, Integrated Mining Policy Stage 1

Executive Summary

KEPCO Australia Pty Ltd (KEPCO) welcomes the opportunity to make a submission on Stage 1 of the New South Wales Government's Integrated Mining Policy (IMP) reform package.

Streamlining the assessment and regulation of State significant mining developments is an important endeavour. KEPCO's view is that providing better guidance to proponents, the community and regulatory bodies will reduce confusion and unnecessary delays currently associated with the NSW planning approvals process. KEPCO strongly advocates the Government's priorities to reduce duplication while safeguarding the scientific rigour of the assessment process.

KEPCO welcomes attempts to codify best practice assessment processes to ensure mining developments maximise economic and social benefits to the State and local communities, while providing decision makers, and the community with greater guidance on how associated environmental impacts must be minimised and mitigated.

While KEPCO supports many of the changes outlined in the first round of publicly-exhibited IMP documents, we are concerned that these, or any other reforms contemplated in the future should not be applied retrospectively to existing projects which have already developed plans based on existing policy. Certainty is critical to any long-lead investment decision such as a mining development.

Similarly, improving and streamlining mining policies in NSW will only come through a truly integrated approach encompassing aspects of the assessment and approvals process currently causing unnecessary delays and duplication. KEPCO cautions against implementing piecemeal and isolated policy changes that will fragment the assessment regime to the detriment of the IMP.

About KEPCO and the Bylong Coal Project

KEPCO is a wholly owned subsidiary of Korea Electric Power Corporation (KEPCO Korea). KEPCO Korea is the largest electricity utility company among public companies in Asia and one of the top ten consumers of coal in the world. In 2014, KEPCO Korea imported 80 million tonnes of thermal coal with 27 million tonnes coming from Australia. By 2020 KEPCO Korea is forecasting an increase in direct coal imports to 110 million tonnes, with Australia expected to make an important contribution to that growth.

The Bylong Coal Project is KEPCO Korea's first 100 per cent equity investment in the Australian market and the first time KEPCO Korea has secured management rights of a coal mine. Energy and supply chain security are important objectives for KEPCO Korea, with the Bylong Project allowing the company to control the entire value chain from exploration and development to production and sales. The success of the Bylong Project will be an important determinant of KEPCO Korea's future investment in coal projects in NSW.

In 2010, KEPCO invested more than \$400 million to purchase Authorisations A287 and A342. Since this initial investment, KEPCO has spent an additional \$210 million, with a forecast requirement of \$1.3 billion capital investment for the project.

Authorisations A287 and A342 are located in the Upper Bylong Valley, approximately 55 kilometres from Mudgee and 230 kilometres from Newcastle. The proposed development is for the extraction of approximately 6.5 million tonnes of raw coal per year through a combination of open cut and underground mining methods for a period of up to 25 years. The mine will create 470 jobs during peak operations and generate royalties of close to \$800 million over the life of the mine.

KEPCO is currently finalising its EIS for submission to the Government in July 2015.

Response to the Integrated Mining Policy: Improving Mining Regulation in NSW

KEPCO welcomes the Government's move to improve mining regulation in NSW. The release of the first round of IMP policy documents is an important step in achieving this aim. The assessment process can be significantly enhanced by removing duplication and providing greater clarity and guidance for proponents, regulators and the community. These improvements must not come at the expense of a scientifically rigorous assessment process.

As a significant foreign investor in NSW with a desire to expand its presence (pending the approval of the Bylong Coal Project), KEPCO sees particular virtue in streamlined processes and reducing the scope for uncertainty. Since investing in the Bylong Coal Project, KEPCO has at times been frustrated by duplicated assessment requirements which add little to the rigour of the process. The Bylong Coal Project, for example, will undergo three groundwater assessments - one by the Mining Gateway Panel, another through the EIS and by the Federal Government under the Commonwealth Environmental Assessment process. Similarly, there is significant duplication in the current Planning Assessment Commission (PAC) process, where both a public meeting and a public hearing are held.

The task of improving mining policy in NSW requires a truly integrated and holistic approach, and one which considers instances of excessive red-tape and duplication in all stages of the approvals

process. While the specific initiatives outlined in the first round of IMP documents are sound, implementation in isolation makes the scope for improvement to mining regulation in NSW finite.

Further, if the IMP is to afford proponents greater consistency and certainty, no new initiatives should be applied retrospectively and sufficient transitional arrangements should both be made and communicated to proponents early on. The Bylong Coal Project's approval timeline has been delayed by the introduction of new policies such as the Strategic Regional Land Use Policy and new arrangements for biodiversity offsetting. While KEPCO is fully committed to adhering to the high assessment standards set by government policy, it is also of the view that regulatory changes must be effectively communicated to the industry early and then introduced through an extensive process of consultation which ensures no rework and delays are incurred by proponents with projects already advanced in the planning approvals process.

KEPCO notes that the Government will soon release additional documents relating to the IMP, such as new guidelines for Voluntary Planning Agreements (VPAs). As KEPCO has already reached in-principle agreement to the terms of its VPA with the relevant council, it is particularly concerned that any retrospectively-applied changes would nullify progress to date and may require negotiations to restart, subjecting the Project to further delay and uncertainty.

Below are KEPCO's specific comments on the three documents currently on exhibition.

Standard Secretary's Environmental Assessment Requirements:

KEPCO welcomes the move to harmonise the requirements for further studies required in the EIS by standardising the Secretary's Environmental Assessment Requirements (SEARs). While KEPCO has already been issued with its SEARs for the Bylong Coal Project and is currently in the process of completing an EIS in respect of these requirements, it agrees with the principle of providing greater clarity for proponents in terms of their assessment obligations. It also notes the potential for this document to reduce the time taken for departments to coordinate and minimise the likelihood of SEARs having to be reissued.

Mine Application Guideline:

KEPCO believes the new Mine Application Guideline is a positive step in the Government's attempt to provide greater guidance for mining proponents in NSW. Given the need to liaise with a number of government departments and agencies and satisfy their respective requirements, KEPCO is of the opinion that any improvement in communication to proponents about Government expectations is welcome.

KEPCO notes that the Guideline largely codifies existing practice when it comes to preparing the PEA and EIS. KEPCO is strongly committed to the principles of iterative project design outlined in the Guideline, which requires proponents to demonstrate attempts to refine and improve key design features. This principle has been an important consideration as KEPCO has sought to mitigate impacts to the local environment and community while maximising economic returns from the coal

resource. What would be of concern to KEPCO would be if bona-fide attempts to develop an approvable project were not given due consideration in the assessment and determination process such that further contractions of a project were demanded to appease objectors regardless of compliance with the relevant codified criteria.

Policy Framework for Biodiversity Offsets for Upland Swamps and Associated Threatened Species:

KEPCO notes the Policy Framework is not of direct relevance to the Bylong Coal Project. However KEPCO believes that the principle of providing greater clarity for offsetting requirements in sensitive ecological areas impacted by underground mines is important. KEPCO notes there is a lack of guidance about specific requirements for measuring impacts to a number of ecological communities which sit above underground mines. This can lead to protracted delays with key regulators and the uneven and inconsistent application of offsetting requirements which, in turn, creates significant uncertainty.

KEPCO is of the opinion that where it is demonstrated that mine subsidence impacts do not materially impact on terrestrial ecological communities there should be no need for offsets. Further such areas should be able to be relied upon in biodiversity offset strategies to compensate for any impacts from necessary vegetation clearance that does occur.

KEPCO notes that many of the principles outlined in the Upland Swamps Policy Framework are unworkable as it relies upon the Framework for Biodiversity Assessment (FBA) to quantify offset requirements. This is fundamentally flawed as the FBA assumes total disturbance, which is rarely the case for subsidence, where any impacts are typically only localised and minor. This inevitably results in hugely inflated offset requirements.

Concluding remarks

KEPCO welcomes the Government's attempt to reduce duplication while safeguarding the scientific rigour of the assessment process through the measures announced in Stage 1 of the NSW Government's IMP reform package.

We are very concerned however that the introduction of such initiatives has the potential to frustrate and delay projects such as the Bylong Coal Project which are well advanced in the planning approvals process as has been experienced with the introduction of other planning reforms in NSW.

We appreciate the opportunity to make comment on the proposals and look forward to your consideration of the issues raised in this submission.

Should you require more information on any elements of this submission please contact to 02 8904 9508.

Yours faithfully.



Je Hyeon Kim
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KEPCO Australia Pty Ltd