

15 November 2019

Mr Peter Achterstraat AM
NSW Productivity Commissioner
GPO Box 5469
Sydney NSW 2001

**RE: SUBMISSION TO THE NEW SOUTH WALES PRODUCTIVITY COMMISSIONER'S
REVIEW INTO THE INDEPENDENT PLANNING COMMISSION**

Dear Commissioner,

Please find below Clean TeQ Sunrise Pty Ltd's (Clean TeQ) submission to the New South Wales (NSW) Productivity Commissioner's Review of the Independent Planning Commission.

Clean TeQ is developing its world-class Clean TeQ Sunrise Project (the Project) in central NSW. The Project is one of the highest grade and largest nickel and cobalt deposits outside of Africa and is also one of the largest and highest grade scandium deposits in the world.

The Project's unique mineral resource, combined with Clean TeQ's proprietary ion-exchange extraction and purification processing technology, has the potential to meet a significant portion of global demand for the raw materials needed to help expand the lithium-ion battery industry. In addition, the Project would provide scandium for production of the next generation of lightweight aluminium alloys for key transportation markets.

An application to modify the Project Development Consent (MOD 4) under the *Environmental Planning and Assessment Act, 1979* (EP&A Act) was determined by the Independent Planning Commission (IPC) in December 2018. This submission is based on Clean TeQ's experience of the IPC assessment process for this recent modification application.

Department of Planning, Industry and Environment's Assessment

1. *Duplication of Assessment:*

Clean TeQ considers that the IPC should place greater emphasis on the Department of Planning, Industry and Environment's (DPIE) assessment report in reaching its determination. The DPIE conducts a transparent and robust assessment of all applications in accordance with the EP&A Act, which includes community and relevant NSW Government agency consultation.

The DPIE and other NSW Government agencies involved in the assessment process have personnel with the relevant qualifications and experience to assess complex State Significant Development (SSD) applications in accordance with the NSW legislation and NSW Government policy.

Given the above, the IPC's re-assessment of applications rather than relying on the DPIE's assessment report is a duplication of process that results in delays to approvals and possible inconsistencies with NSW Government policy.

For example, the IPC's re-assessment of Clean TeQ's recent modification application took a further three months after the modification application had undergone a nine-month assessment process with the DPIE.

2. Determinations Inconsistent with NSW Government Policy:

Further, Clean TeQ considers that when determining applications, the IPC should adopt NSW Government policy considered in the DPIE's assessment report recommendations, to provide policy certainty for proponents. For example, in determining Clean TeQ's recent modification application, the IPC adopted modified Development Consent conditions (inclusion of 'acquisition upon request' noise-related conditions) that were inconsistent with the NSW Government's *Voluntary Land Acquisition and Mitigation Policy* and inconsistent with the DPIE's recommendations.

Independent Planning Commission Referral Triggers

3. Inappropriate objection trigger (25+) for SSD Projects:

The current objection trigger (25 or more) is considered to be inappropriate for SSD projects. The current objection trigger allows opponents to easily use the IPC process as a mechanism to frustrate and delay approvals in situations where there is no significant opposition to the application (e.g. through the use of form submissions). In fact, the current low objection trigger can result in an application that has general community support being referred to the IPC, resulting in a diversion of IPC resources and approval delays.

It is suggested that the Minister for Planning use his/her discretion in determining whether an application that receives objections is referred to the IPC.

4. Referral of Minor modifications for SSD Projects not justified:

In addition to the above, it is Clean TeQ's view that SSD modification applications should not be referred to the IPC (i.e. only new SSD applications should be referred to the IPC). As an approved SSD project has already been subject to a comprehensive assessment process under the EP&A Act (potentially including an IPC process), and SSD modification applications are required to be "substantially the same development" under the EP&A Act, the referral of a modification application to the IPC is not considered to be justified and results in approval delays. As mentioned above, the IPC process added an additional three months to a nine-month assessment process for Clean TeQ's recent modification application, which included relatively small changes to the approved Project.

It is noted that if both of these suggested changes are implemented, all applications would continue to be subject to a comprehensive assessment process by the DPIE in accordance with relevant NSW legislation and NSW Government policy.

Independent Planning Commission Briefing Procedures

5. Administrative constraints:

All IPC briefings are currently transcribed and made publicly available on the IPC website. This procedure does not promote an environment for frank or open discussion between the IPC members, NSW Government agencies and/or the proponent, as it can result in participants being concerned about making errors on the public record. It is Clean TeQ's view that this limits the IPC's ability to understand complex SSD projects and the associated environmental assessment issues.



While Clean TeQ supports transparency in the assessment process, it is suggested that briefing minutes (including presentation materials), rather than briefing transcription, be made available on the IPC website to improve the IPC's understanding of the SSD projects and the associated environmental assessment issues.

The consistent application of NSW Government Policy is critical to providing certainty for proponents to attract investment for their projects.

Please do not hesitate to contact the undersigned should you have any questions regarding Clean TeQ's submission.

Yours sincerely

CLEAN TEQ HOLDINGS LIMITED



General Manager Government, External Relations & Community