

## BRIEFING NOTE

31 March 2021

### Risks associated with AGL's rehabilitation and decommissioning obligations in light of demerger – AGL Loy Yang Pty Ltd

AGL's demerger announcement on 30 March 2021 raises significant concerns on the financial risks associated with the rehabilitation of the generating assets which will form part of its proposed new corporate entity PrimeCo.

This briefing paper considers the specific risks associated with the AGL Loy Yang Pty Ltd rehabilitation and decommissioning obligations. At time of writing there is a paucity of detail surrounding the creation of both New AGL and PrimeCo available to investors and the public.

The financial costs associated with the rehabilitation of the Loy Yang mine are likely to be significantly underestimated by AGL, posing the risk of ongoing environmental damage at the site and potentially leaving the community and taxpayers with the bill.

A review of AGL's financial statements - which does not specify estimated restoration costs for each site - shows that the company is allocating just \$344m for four large sites (Liddell, Bayswater, Loy Yang A and Camden Gas Project assets). This is less than half of the estimated costs incurred by Engie in cleaning up the Hazelwood power station and adjacent mine at \$743m.

In its 2020 annual report, AGL stated it had allocated \$45 million for current, and \$299 million for non-current, environmental restoration across its Liddell, Bayswater, Loy Yang A and Camden Gas Project assets.<sup>i</sup>

The costs associated with the Hazelwood mine and power station rehabilitation and decommissioning provides an example of the costs associated with remediation activities. It suggests that AGL's current allocation of \$299 million is likely to be significantly inadequate for the remediation of one asset let alone four.

In its 2014-15 annual report, GDF Suez (as it then was) estimated that the rehabilitation of Hazelwood mine would cost \$73.4 million.<sup>ii</sup> Expert evidence presented at the 2015-16 Hazelwood Mine Fire Inquiry estimated the cost of rehabilitating the Hazelwood mine between \$264 million and \$357 million.<sup>iii</sup>

In the months preceding Hazelwood power station's closure in 2017, Engie announced updated costs to rehabilitate and decommission the mine and power station site to an estimated \$743 million, including \$439 million for mine rehabilitation alone. The company's 2017 estimate is over ten times its 2014-15 estimate.<sup>iv</sup>

In its 2014-15 annual report AGL estimated that the costs associated with the Loy Yang mine rehabilitation at \$54.7 million.<sup>v</sup> Expert evidence presented at the 2015-16 Hazelwood Mine Fire Inquiry estimated the cost of rehabilitating the Loy Yang mine at \$112 million,<sup>vi</sup> and between \$221 million and \$319 million.<sup>vii</sup>

These estimates rely on the cheapest option being open to AGL Loy Yang Pty Ltd which is flooding the mines with water either fully or partially. The feasibility of water availability for mine rehabilitation in Latrobe Valley is in doubt, with the Department of Environment, Land, Water and Planning technical studies demonstrating water resources in Latrobe Valley are unviable at current take amounts let alone if water allocations were increased for the purposes of mine rehabilitation.<sup>viii</sup>

In the event that water from natural sources in Latrobe Valley is not available to AGL Loy Yang Pty Ltd for the purposes of mine rehabilitation, the costs associated with rehabilitation are likely to increase significantly. At time of writing it is unclear whether water will be available to Engie, and even less clear whether water will be made available to AGL Loy Yang Pty Ltd as the last mine likely to close in the region.

AGL Loy Yang Pty Ltd will also be liable for significant costs associated with decommissioning and demolishing the power station site including its coal ash dams. The AGL Loy Yang Pty Ltd ash dam receives the coal ash – the by-product of burning coal – for both Loy Yang and Loy Yang B brown coal-burning power stations.

In March 2021 the Victorian Environment Protection Authority (**EPA**) released a public report into the findings of the Victorian brown-coal licence review.<sup>ix</sup> As a result of the licence review, among other things, AGL Loy Yang Pty Ltd.'s licence has been amended to obligate the company to prepare a rehabilitation plan for its coal ash dam, and to update that plan every five year.

There is substantial contamination associated with the Loy Yang ash dam, including a large groundwater contamination plume which has been subject of a clean-up notice issued by the EPA in 2001 and registered on the EPA's priority site register.<sup>x</sup> Although not currently reflected in its licence, the EPA has indicated that AGL Loy Yang Pty Ltd will be required to remediate impacted groundwater once the ash dam is of no further use.

AGL Loy Yang Pty Ltd may be exposed to additional financial risk associated with compliance with the general environmental duty under the *Environment Protection Act 2017* (Vic) when that Act comes into force mid-2021; obligations imposed under the finalised Declared Mine Regulations when these come into force in late-2021 or early 2022; and as a result of decisions made by government departments in the context of the Latrobe Valley Regional Rehabilitation Strategy.

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<sup>i</sup> AGL, Annual Report 2020, p. 23. Available at: [https://www.agl.com.au/-/media/aglmedia/documents/about-agl/asx-and-media-releases/2020/2097212\\_annualreport.pdf?la=en&hash=82E8FF1E819275718B654F3B19C7862F](https://www.agl.com.au/-/media/aglmedia/documents/about-agl/asx-and-media-releases/2020/2097212_annualreport.pdf?la=en&hash=82E8FF1E819275718B654F3B19C7862F).

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- <sup>ii</sup> 2015-16 Hazelwood Mine Fire Inquiry, Volume IV *Mine Rehabilitation*, p. 105 (2015-16 Hazelwood Mine Fire Inquiry Volume IV). Available at: [https://www.parliament.vic.gov.au/file\\_uploads/11172\\_HAZ\\_MFIREport-2015\\_16-Volume4\\_FA\\_LR\\_15B0\\_pQfGZRfC.pdf](https://www.parliament.vic.gov.au/file_uploads/11172_HAZ_MFIREport-2015_16-Volume4_FA_LR_15B0_pQfGZRfC.pdf)
- <sup>iii</sup> AECOM rehabilitation liability estimate for the Hazelwood mine, commissioned by the Department of Economic Development, Jobs, Transport and Resources. Viewed in: 2015-16 Hazelwood Mine Fire Inquiry Volume IV p. 105.
- <sup>iv</sup> Josh Gordon and Benjamin Preiss, 'Hazelwood owners facing unprecedented \$743 million rehab bill', Sydney Morning Herald, 20 January 2017. Available at: <https://www.smh.com.au/business/companies/hazelwood-owners-facing-unprecedented-743-million-rehab-bill-20170119-gtun85.html>.
- <sup>v</sup> 2015-16 Hazelwood Mine Fire Inquiry, Volume IV *Mine Rehabilitation*, p. 105. Available at: [https://www.parliament.vic.gov.au/file\\_uploads/11172\\_HAZ\\_MFIREport-2015\\_16-Volume4\\_FA\\_LR\\_15B0\\_pQfGZRfC.pdf](https://www.parliament.vic.gov.au/file_uploads/11172_HAZ_MFIREport-2015_16-Volume4_FA_LR_15B0_pQfGZRfC.pdf).
- <sup>vi</sup> GHD revised rehabilitation liability indicative cost model based on the 2015 work plan for Loy Yang, viewed in: 2015-16 Hazelwood Mine Fire Inquiry Volume IV, p. 105.
- <sup>vii</sup> AECOM rehabilitation liability estimate for Loy Yang mine, commissioned by Department of Economic Development, Jobs, Transport and Resources. Cited in: 2015-16 Hazelwood Mine Fire Inquiry Volume IV p. 105.
- <sup>viii</sup> Hale, J., Boon, P., Lloyd, L., Vietz, G. and Jempson, M., Latrobe Valley Regional Water Study – Ecological Effects Assessment, report to the Department of Environment, Land, Water and Planning (2020). Available at: [https://www.water.vic.gov.au/\\_data/assets/pdf\\_file/0031/497731/LVEEA\\_Final-for-publication\\_Nov2020.pdf](https://www.water.vic.gov.au/_data/assets/pdf_file/0031/497731/LVEEA_Final-for-publication_Nov2020.pdf).
- <sup>ix</sup> Available at: [https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/1616/1490/3888/Power\\_station\\_licence\\_review\\_-\\_Public\\_Report\\_-\\_FINAL.pdf](https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/1616/1490/3888/Power_station_licence_review_-_Public_Report_-_FINAL.pdf).
- <sup>x</sup> Available at: <https://www.epa.vic.gov.au/for-community/environmental-information/land-groundwater-pollution/priority-sites-register>.