



ERM Power

Wellington Power Station Modification to Consent Ref 06_0315

Submissions Report

15 May 2014



Document information

Client: ERM Power
Title: Wellington Power Station
Modification to Consent Ref 06_0315
Subtitle: Submissions Report
Document No: 2162434B-ENV-REP-001 Rev002
Date: 15 May 2014

Rev	Date	Details
001	15/04/2014	Draft
002	23/04/2014	Final
003	15/05/14	Final - amended

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1. Introduction

1.1 Purpose of this report

This report has been prepared by Parsons Brinckerhoff in consultation with ERM Power to provide a response to submissions received in relation to ERM Power's application to modify Project Approval No. 06_0315 (modification application reference MP06_0315MOD2).

1.2 Background

On the 4 March 2009 by the Minister for Planning granted Project Approval No. 06_0315 for the construction and operation of a gas fired power station at Wellington. This approval included the following:

- Construction and operation of four gas-fired turbines to generate a nominal total capacity of between 600 and 660 MW.
- Construction and operation of a natural gas pipeline connecting the power station to the Central West Gas Pipeline near Parkes.
- Associated electricity transmission infrastructure.

On 7 September 2010 the Project Approval was modified to allow for greater flexibility in the selection of gas turbines and provided for the establishment of an alternative station layout comprising of either 4 X 150MW or 2 X 225MW gas-fired turbines (Modification MP06_0315 MOD 1). The environmental assessment undertaken at that time demonstrated a reduction in environmental impacts – notably noise – relative to the original project approval.

Additionally, on 10 March 2011 ERM Power separately obtained approval for the construction and operation of a gas pipeline between Young and Wellington (Project Approval 09_0143) to serve the project, as an alternative to the Parkes to Wellington pipeline forming part of the original consent.

A modification request (reference MPO_0315MOD2) was submitted in early 2014 and placed on exhibition from 26 February to 13 March 2014 that sought to:

- Vary condition 1.4 of Planning Approval 06_0315 by extending the approval expiry date by 5 years.
- Vary condition 2.7 of Planning Approval 06_0315 by substituting revised noise goals that reflect the construction of a two-unit power station (as described in earlier modification ref. MP06_0315MOD1).

1.3 The modification

1.3.1 Modification to Condition 1.4 - extension of expiry date for approval

The original project approval (as modified) includes Condition 1.4 which states that the project approval shall lapse 5 years from the date of the consent unless the works had physically commenced (i.e. an expiry date of 4 March 2014). The ongoing delays to project commencement are due to the Global Financial Crisis that saw a significant tightening in the availability of project financing, and a major shift in national energy policy that led to a material and sustained reduction in the demand for energy. However in the longer term the demand for the project is likely to remain. The modification is required to ensure the ongoing validity of the consent.

1.3.2 Modification to condition 2.7 – allowable noise levels

The original approval provided consent for a four-turbine power station, with condition 2.7 specifying an allowable noise limit of 35dBA at noise-affected properties, with the exception of Nanima House, where a noise level of 39dBA was approved.

Modification ref. MP06_0315MOD1 provided flexibility that retained the above noise limits for a four-turbine development, but specified that in the event that an alternative two-turbine development was built, a lower noise limit of 35dBA would apply at Nanima House (with other limits remaining unchanged).

The current modification seeks to amend Condition 2.7 to provide that only the two-turbine development noise limits should apply to the Project Approval, reflecting that there is no likelihood that a four-turbine development will ever be built.



2. Submissions

2.1 Summary of submissions received

Fourteen submissions were received as summarised in Table 2.1 below. Of these 14 submissions, eight were in support of the project, three were opposed to it and the remaining three either had no comment or only observations.

Table 2.1 Submissions received

Submission number	Submission	Organisation type	Nature of submission
1	Paul McGirr (Sydney)	Community / local business	Support
2	Taylor Home Décor (Wellington)	Community / local business	Support
3	Malcolm Scott (Wellington)	Community / local business	Support
4	Leslie Thomas, Wellington NSW	Community / local business	Support
5	Graham & Ward Solicitors (Wellington)	Community / local business	Support
6	Garth Dawson (Lion of Waterloo Tavern, Wellington)	Community / local business	Support
7	David Baxter (The Macquarie Stud Farm)	Community / local business	Support
8	Nat Barton (Wellington)	Community / local business	Objects
9	Linda Lyons	Community / local business	Objects
10	Unnamed objector	Community / local business	Objects
11	EPA	Government / agency	Observations
12	Wellington Council	Government / agency	Supports
13	Office of Environment and Heritage	Government / agency	No comment
14	Transgrid	Government / agency	No Comment

2.2 Analysis of submissions

Submissions 1 to 7 are from local residents or local businesses and all cite their support for the project based on the need for investment and job creation in the local area. Several of the submissions are positive about the way in which ERM Power has engaged with the local community.

A detailed analysis of the submissions is provided in Table 2.2 below.

Table 2.2 Analysis of submissions

Ref	Comments	Response
1	<p>Socio-economic</p> <p>Support for project due to investment and employment generation in Wellington.</p>	Noted
2		
3		
4		
5		
6		
7		
8a	<p>Unrelated issue</p> <p>Supports the proposal on the following conditions:</p> <p>ERM Power undertake immediately to pay all legal expenses incurred by the submitter as a consequence of the (Wellington Power station) planning approval.</p>	This matter is outside the scope of the planning approvals process and is not considered further.
8b	<p>Heritage</p> <p>ERM Power immediately do a statement of heritage impact for the Nanima House property pursuant to the letter from Mr Chris Thompson, Senior Planner at Wellington Council.</p>	<p>The Environmental Assessment for the project (pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 (Parsons Brinckerhoff, May 2008) identified at the time that provided appropriate landscape management measures were put in place around the power station site, there would be no adverse impact on the heritage significance of Nanima House.</p> <p>Subsequently, following exhibition of the EIS, in response to concerns over the noise impacts of the project on Nanima House, a noise wall approximately ten metres from the building façade of Nanima House (and up to seven metres high) was proposed, to be constructed in the event that the operational noise impacts exceeded the EPA guidelines (and if requested by the owner).</p> <p>It was recognised that given the proximity of the proposed wall to Nanima House and its scale, it could potentially impact the heritage significance of the homestead. Accordingly, Statement of Commitments reference HH3 from the project submissions report (Parsons Brinckerhoff, September 2008) stated that prior to construction, the proponent (ERM Power) would prepare a statement of heritage impact to address the impact of the noise wall on Nanima House, and that any noise mitigation</p>

Ref	Comments	Response
		<p>measures would be done in accordance with that statement.</p> <p>That requirement remains unchanged following the approval of Modification 1 in 2010, and the current modification for an extension of time makes no material difference that would require a change to the current commitment.</p> <p>Given that there are no immediate plans to commence construction of the power station, ERM Power does not propose to immediately undertake a statement of heritage impact.</p> <p>In the event that ERM Power were to acquire Nanima House it would be committed to ensuring that the property is managed in a manner that ensures its heritage value is preserved.</p>
8c	<p>Noise</p> <p>ERM Power immediately construct an earthen wall around the property and plant with trees / shrubs</p>	<p>Any acoustic barrier to Nanima House, as foreshadowed by Condition of Consent 2.9, would be developed in consultation with the owner in accordance with Condition 2.9 of the development consent (as modified), to ensure that the barrier is in place prior to the commencement of operation.</p>
8d	<p>Unrelated issue</p> <p>ERM Power immediately upgrade, install and pay for the Nanima watering system.</p>	<p>The current statement of commitments or conditions of approval governing the project do not require these works to be undertaken. This request is not considered relevant for the effective management of environmental impacts associated with the project, and any agreements which may be reached between ERM Power and the owner in relation to this matter are considered to be outside the scope of this application for modification for an extension of time.</p>
8e	<p>Noise</p> <p>ERM Power immediately install sound proofing in the roofs of the Nanima House.</p>	<p>Any installation of sound proofing to Nanima House, as foreshadowed by Condition of Consent 2.9, would be developed in consultation with the owner in accordance with Condition 2.9, to ensure that the barrier is in place prior to the commencement of construction.</p>
8f	<p>Unrelated issue</p> <p>ERM Power immediately install solar panelling to the roof of the homestead</p>	<p>The installation of solar panelling will not mitigate any impact from the proposed project, and is not required under the current planning approval. It therefore has no relevance to the current modification request. Any agreement which may be reached to install solar panelling to the homestead would be considered as a matter between ERM Power and the property owner, outside the scope of this modification application.</p>

Ref	Comments	Response
8g	<p>Heritage</p> <p>ERM Power immediately paint the Nanima House in accordance with the Heritage requirements of Wellington Council.</p>	<p>Statement of Commitments reference HH3 from the project submissions report (Parsons Brinckerhoff, May 2008) stated that prior to construction the proponent would prepare a statement of heritage impact to address the impact of any wall on Nanima House. Any requirement to paint the Nanima House would be determined following the completion of the statement of heritage impact, if it could be determined that this was an appropriate mitigation measure and agreed by NSW Planning and Infrastructure (P&I).</p>
8h	<p>Unrelated issue</p> <p>ERM Power complete and provide to the submitter a copy of pre-construction reports.</p>	<p>The reports listed by the submitter are all required pursuant to the conditions of approval, and would be prepared prior to construction. As such they are not currently available.</p> <p>ERM Power would submit these reports as required by the Conditions of Consent.</p>
8i	<p>Unrelated issue</p> <p>A requirement that ERM Power pays monies to the submitter regardless of whether the project goes ahead.</p>	<p>This matter is considered to be outside the scope of this modification application, and so is not considered further.</p>
8j	<p>Unrelated issue</p> <p>A requirement that ERM Power pays legal expenses to the submitter.</p>	<p>This matter is considered to be outside the scope of this modification application, and so is not considered further.</p>
8k	<p>Unrelated issue</p> <p>A requirement that ERM Power pays outstanding rates and levies owed by the submitter to Wellington Council.</p>	<p>This matter is considered to be outside the scope of this modification application, and so is not considered further.</p>
8l	<p>Location</p> <p>I own the most affected residence, Nanima House that is within 700m of the proposal. I note that the closest residence to AGL's "Dalton Project" is some 2.3km away</p>	<p>Noted, however the reference to the AGL Dalton Project is not of relevance to this project.</p>

Ref	Comments	Response
8m	<p>Heritage</p> <p>Nanima House is an Historic property and is on the Wellington LEP, registered with the National Trust and on the Register of National Estate.</p>	<p>Of relevance, the Register of the National Estate was closed in 2007 and is no longer a statutory list. It is noted that Nanima House has a local heritage listing in the Wellington LEP, and it is acknowledged that the homestead has heritage significance. However, assessment undertaken at the time of the EA by heritage specialists AMBS noted that, with appropriate landscape management measures to screen the power station, there would be no adverse impact on the Nanima House.</p> <p>The development of a noise wall within the curtilage of Nanima House was proposed in the project submissions report and was noted to have a potential impact on the heritage value of Nanima House. However, as noted above, the statement of commitment ref HH3 from the project submissions report commits to the preparation, at the appropriate time, of a Statement of Heritage Impacts for such a wall.</p>
8n	<p>Noise</p> <p>My property Nanima House is non-compliant with NSW Industrial Noise Policy (see Table 1 of PB memo dated 23 December 2013)</p> <p>Nanima House is non-compliant with Condition 2 of the Request for Modifications (see Table 1 in Parson Brinkerhoff Memo)</p>	<p>The project in its unmitigated state is identified in the Wellington Power Station EA and subsequent modification assessment to exceed the night-time noise goals in the NSW Industrial Noise Policy. Accordingly, Conditions 2.9 to 2.12 of the EIS (as amended by modification ref. MP06_0315 MOD 1) establish a framework that requires ERM Power to fund, at no cost to the owner, appropriate at-receiver mitigation measures as agreed with the applicant, in order to achieve compliance. Furthermore, provision is made, by virtue of Condition 2.10 to 2.12, for the property owner to request (within five years of operation) that ERM Power purchases the property at market value and pay all relevant costs.</p> <p>In the context of the current application for modification to extend the expiry date, the requirements of those conditions remain relevant but as yet have not been triggered. Accordingly, the submitter's statement is not accurate.</p>
8o	<p>Property Devaluation</p> <p>Nanima House is severely blighted by the Project Approval – there were no bids at a Public Auction and no subsequent offers</p> <p>The impact of this proposal on the saleability/marketability of Nanima Subdivision land has been devastating. All interest evaporated once the Gas Fired Power Station proposal was made known</p> <p>I am unable to sell the Nanima Subdivision Land until the effect of this Project is known (i.e. after it is built and operating)</p>	<p>There is no evidence in the socio economic assessment undertaken for the EIS to suggest that a devaluation of property value is likely to occur as a result of the project.</p>

Ref	Comments	Response
8p	<p>Compliance with the existing Project Approval</p> <p>None of the promises/commitments in s4.23 of the Submissions have been complied with by ERM Power</p> <p>Commitment N12 in the Statements of Commitments has not been complied with – there is no “negotiated agreement”</p> <p>There is no compliance by ERM Power with all of the Condition 5.1 (a) to (d) Community information, consultation and involvement and if € and (f) have been complied with they are not on the ERM Power website</p> <p>ERM Power have provided no information to me or on their website on Condition 2.21 to 2.41 (Hazards and Risks, Bunding and Spill Management, Pre-Construction Hazard Studies, Pre-Commissioning Hazard studies, Traffic and Transport Impacts Ecological Impacts, Visual Amenity Impacts</p> <p>ERM Power have not done a Statement of Heritage Impact – s4.23.5 of the Submissions</p> <p>ERM Power have made no effort to enter into a “negotiated agreement” to the satisfaction of all parties involved – N12 Statement of Commitments</p>	<p>All of the matters raised by the submitter relate to conditions or commitments that, under the terms of the existing development consent (as modified) must be satisfied either prior to construction, prior to operation or post-operation. Given that pre-construction planning has not yet started, compliance with these conditions is not yet relevant.</p>
8q	<p>Noise</p> <p>Nanima House is non-compliant with Condition 2 of the Request for Modifications.</p>	<p>There is no Condition 2 referred to in the modification application. However the submission also refers to Table 1 of the accompanying PB memo which identifies a 2.5 dB exceedance of night time noise goals at Nanima House under adverse conditions (whereby a 5dBA noise penalty applies).</p> <p>Given this exceedance, the mitigation and acquisition provisions set out in Conditions 2.9 to 2.13 (as modified) will continue to apply.</p>
9a	<p>Noise</p> <p>This power station would have a detrimental effect on those living close to this station in particular the noise. The noise guidelines are not stringent enough to protect our community.</p>	<p>Noise and other impacts on residential receivers were assessed in the EA and subsequent modification and deemed to be acceptable provided the recommended mitigation measures were applied. Noise impacts on near neighbours were additionally subject to an obligation to install at-receiver mitigation (Condition 2.9, as modified).</p> <p>The noise guidelines used as the basis for the assessment were the standard EPA guidelines in force at the time of the application, and continue to be relevant. Whether or not the guidelines are stringent enough is a state-wide policy issue that is outside the scope of this assessment.</p>

Ref	Comments	Response
9b	<p>Property Devaluation</p> <p>The devaluation of real estate in particular to Mount Nanima and Keston has not been taken seriously enough.</p>	<p>There is no evidence in the socio economic assessment undertaken for the EIS to suggest that a devaluation of property value is likely to occur as a result of the project.</p>
10a	<p>Statutory Context</p> <p>This project has been in planning phase since 2005. If it was truly a project of state significance, surely it would have proceeded by now.... we are now 8 to 9 years down the track. This is clearly NOT a project of state significance.</p> <p>It would be appropriate to undertake a more up to date environmental impact assessment for noise and visual impact issues given the significant time that has elapsed since the original proposal that was advocating different technology, size and number of stacks, and ignored sound related issues at residential homes in close location to the project. The mitigating strategies proposed by the proponent were not appropriate or feasible and the Department of Planning needs to reassess these issues before any new approvals are granted</p>	<p>The project was determined to be of state significance by virtue of its inclusion in the State Environmental Planning Policy (Major Development) 2005. Its state significant designation is not related to the market demand for the project.</p> <p>In relation to the undertaking of up to date environmental assessments, there has been no significant change to the receiver environment, nor a change to the noise (or other) guidelines that would change the outcomes of any new assessment, and it is therefore not considered necessary.</p>
10b	<p>Location / land use</p> <p>My residential home is within 800m of this proposed development. Since the original approval was granted for this project, the government has indicated that wind farms should not be located within 2km of residential homes, yet this project is proposed to be built within 2km of numerous homes within the Wellington township. There does not appear to be any consistency in approach between approvals for wind farms and approvals for gas fired power plants and location from residential homes. This is outrageous.</p>	<p>The guidelines associated with wind farms are not directly relevant to this proposal.</p> <p>There are no minimum distance standards in relation to the separation between gas fired power stations and residential receivers provide the environmental impacts on those receivers can be managed to within acceptable limits.</p>
10c	<p>Property</p> <p>The original approval for this project was made without any consideration of the fact that I own title to land that will be impacted by the footprint of the project. The proponent has refused to disclose this significant issue to the Department of Planning, and there has been no conclusion between parties as to appropriate purchase price, compensation and transfer of title for this land. Discussions have been focused on land locking my parcel of land, so as to render it unusable, without any reasonable compensation</p>	<p>ERM confirms that the project has not and will not change any formal access arrangements to any land and the power station layout will be designed so as not to directly impact on the footprint of adjoining land.</p>

Ref	Comments	Response
11	<p>Noise</p> <p>Notes that if DP&I accept limits above the project – specific noise goals, then EPA will be prepared to issue a licence for exceedances of up to 5dBA.</p>	Noted.
12	<p>Noise</p> <p>Supportive subject to the following comments.</p> <p>I believe the mitigation requirements relating to noise at paragraphs 2.9 and 2.10 set out in the 4 March 2009 approval File Number S06/01062 should be retained. ERM Power should identify noise abatement strategies as per paragraph 2.9 to reduce the noise impact on occupants of Nanima House. I believe this is appropriate given that proposed noise levels according to the Parsons Brinkerhoff report are likely to occur outside the approved limits for that location. Council is supportive of the ERM Power request to use 2 x 4000F gas fired turbines subject to conditions being met requiring noise abatement strategies to reduce the impact on the occupants of Nanima House.</p>	Noted – this modification does not seek to modify the provisions of Conditions 2.9 and 2.10 as outlined in the development consent (as modified).
13	No specific comments	Noted.
14	No specific comments	Noted.