

NSW Planning Assessment Commission

Project Proposal: AGL's Application to extend the consent period for its approved development of the Dalton Peaking Power Station for a further two years until 2019.

Submission from the Hon Pru Goward MLA, NSW Member for Goulburn.

Summary:

This submission opposes the extension of AGL's consent period for the Dalton gas-fired peaking power plant for a further two years. Under the extension application, Modification 1, AGL (the Company) seeks to modify the previously approved project, approved under transitional arrangements of a now repealed section of the NSW Environmental Planning and Assessment Act. This submission argues that the Company's Modification request cannot be construed to be either related to the originally approved proposal or a modification of it, but should instead be treated as a new proposal under current planning legislation instead of under Part 3A of the Act, now repealed. This will entail much greater consideration of residents' concerns and extend the timeframe for approval, but will strengthen public confidence in the NSW planning system and its integrity as well as produce a final decision which will be of overall community benefit.

Further, the Modification request has arisen in the final weeks of the original five-year consent period, giving local residents no warning and limited opportunity for engagement. This has distressed the local community and, if assented to, may reduce public confidence in the planning system itself. I am advised the Company has made no attempt to comply with the original consent conditions over the course of the last four years and nine months and its community re-engagement has been only very recent and limited.

In addition, extending the original consent period for a further two years would continue the assessment of this proposal under the now repealed Part 3A of the Planning Act. It is five years since that repeal occurred and in the community's view, allowing a proposal to be assessed and approved up to seven years later (under a section repealed 12 months prior to the original approval) is inconsistent with the LNP Government's declared commitment to provide New South Wales with an improved planning instrument.

Background:

The Company originally gained consent to build a gas-fired peaking power plant four kilometres from the village of Dalton in 2012, despite strong local opposition. The plant's location was the result of its proximity to the Moomba-Sydney gas pipeline, which would provide feedstock for the plant, and the electricity grid into which the plant would feed.

Residents' concerns at the time included, but were not limited to, the noise from the plant on active days or at active times being highly disturbing and that the construction phase (two years) would involve significant numbers of trucks driving the narrow rural Gunning to Dalton road, thus endangering local road users and disrupting the peacefulness of the region.

Three months after receiving approval, the Company announced that market conditions were unfavourable to the project and that it would not proceed with the project. The Company did not advise whether the suspension was permanent or temporary but the local community drew its own conclusions when the company was not heard from again. Further population growth and land sales have occurred in the intervening period.

I was not the local Member of Parliament at the time of the original development application and was only recently advised by the Company that it was seeking a two year extension of its consent period. Subsequently, I have been approached by many residents with additional information.

Discussion:

I oppose the extension of the current consent period for this project on the following three grounds:

1. Project Features:

The original proposal included three significant features that now appear to have changed; the proposed technology for burning the gas, the source of the gas and the number of days/hours per year that the plant is most likely to operate.

- The Company's public advice is that it would like to explore developments in technology that would make the plant more efficient. While the proponent has pointed to upgrading its use of 'F Class' turbines to 'fast start' aero derivative turbines, emitting significantly greater noise than originally approved, it has not indicated what other new technology it is exploring, despite saying it is broadly doing so. This uncertainty is concerning for residents. Also, given the original

proposal's noise levels were of great concern to residents and were closely considered by decision makers at the time, this current proposal requires a comprehensive noise assessment consistent with a new proposal. Since peaking plants operate intermittently, nighttime disturbance should also be considered. Many residents are concerned about suffering a noise impact similar to that arising from the (smaller) Uranquinty peaking power plant.

- The original source of gas for this project was the Moomba-Sydney pipeline, adjacent to the development site. It is widely understood that future gas extraction from Moomba and adjacent fields will be converted to LNG for export or domestic sale while current contracts to provide the Company with natural gas are due to expire in the near future. I understand from discussions with the proponent that instead of gas sourced from the pipeline, they are now planning to use LNG fuel at the Dalton plant. This must make the design of any future Dalton Peaking Power Station qualitatively different to the original proposal. In addition the use of trucked LNG not only obviates the need to locate the peaking power station at this particular site but would also require on-going truck haulage of LNG to the site. The impact of additional truck movements on local roads requires comprehensive assessment. All risks, including vehicle accident risks, on narrow rural roads require reassessment, particularly in light of local population growth over the past five years and increased local traffic.
- The original proposal anticipated the use of this plant would be 5-15% of the year, a maximum of 54 days. It was understood that the plant was unlikely to be required for an entire day and that those 54 days might in practice be greater in number, depending on the spread of operating hours. The Company's most recent advice appears to be that the increased unreliability of power supply arising from the use of solar and wind turbine generation may mean that the Dalton plant would operate for a greater percentage of the year. The Company does not identify a new operating percentage and without any attempt to model or otherwise estimate this, it would be reckless to grant approval under the existing proposal.

In these circumstances it is not reasonable for the Commission to extend the consent period for a further two years since the Company clearly intends to construct and operate a significantly different plant to that originally approved. In these circumstances this Modification request should be refused and the Company be invited to submit a new proposal and under NSW's current planning laws.

2. Community Engagement and Confidence in the Planning System:

The local community was not advised of the Company's intention to seek an extension of their consent period directly, only by way of public notice in local newspapers. I understand that no individual community member was contacted directly and it is possible that many residents still do not know that the project may be extended. Many residents are concerned that their opportunity to express their concerns and position has been intentionally compromised and this has not only heightened community fears but reduced confidence in the planning process.

3. Advantageous treatment using now repealed planning law:

Part 3 A

The Company's Dalton proposal was originally approved in 2012 under the Transitional Arrangements for Part 3 A of the Environmental Planning and Assessment Act because it had commenced under this section. In 2012, Part 3A was repealed by the NSW Parliament because the NSW Liberal Nationals had committed to doing so during the 2011 election campaign. Many in the community believed Part 3A deeply infringed upon their rights and failed to adequately consider and protect the wider public good. The incoming Government, including me, shared that belief. It was understood there would be a tail of projects such as the Dalton Power Project that would gradually work their way through the process but would be resolved in reasonable time.

The Company's application to now have the five year consent period extended a further two years makes this tail unacceptably long. While it is true that the Company did not declare that the original project, although approved, would never be built, the community inferred this from the Company's statement at the time the project was suspended and also from their on-going neglect of the site.

Subsequently, throughout the district, land has been bought and sold and the population of Dalton-Gunning has grown, again on the assumption that the Company's plant would not be built. Should the Commission give the Company approval to proceed to consider this project for a further two years under Part 3A, in my view the wider community would see this as an abuse of process that would undermine confidence in the Government's original determination on coming to office in 2011 to repeal this widely disliked section of the Act.

Finally, it should also be noted that the Dalton-Gunning population has grown significantly over the past five years and many more residents will be affected by the construction of this plant than originally anticipated. The district's

changing demographics would best be considered as part of a new development application.

Summary:

In light of the Company's advice to date, there should be no Modification granted to the original approval. Instead, the Company should be required to apply for approval of a new project under the now reformed planning system. It is important to maintain the integrity of the planning system and public confidence in that system. Extending an approval period for two years under Part 3A of the Planning Act threatens that integrity and public confidence. The continued use of a repealed section of the Planning Act (Part 3A) also undermines the Government's stated intention in 2011 of improving the rights of affected community members and better protecting the greater public good. If the Modification is approved, the PAC risks being seen as affirming unacceptable planning processes politically rejected eight years prior.

Further, the Company's poor community consultation and the compressed time frame for consideration of this current application at the very end of the current consent period of five years are viewed cynically by the community and threaten wider community confidence in the planning process.

A line in the sand must be drawn to protect the integrity of the planning system.

Thank you for the opportunity to make this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Pru Goward', with a stylized, cursive script.

The Hon. Pru Goward MLA
Member for Goulburn