

16 September 2008

Mr Nathaniel Barton
Namina House
Coolma Road
Wellington NSW 2820

Dear Mr Barton

**Proposed Wellington Power Station
ERM Power Pty Ltd**

1 Background

As you are aware:

- (1) ERM Power Pty Ltd (**ERM**) proposes to develop the Wellington Power Station at Goolma Road, Wellington (**Power Station**).
- (2) The location of the proposed Power Station is in the vicinity of the property owned by you being Lot 2 in DP 806578 (**Your Property**).
- (3) On 22 November 2006 ERM lodged an application seeking a project approval from the Minister of Planning (**Minister**) under Part 3A of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) to the proposed Power Station (**Project Application**).
- (4) On 26 February 2008 the Minister declared the Power Station to be a critical infrastructure project within the meaning of Part 3A of the EP&A Act.
- (5) ERM subsequently prepared and submitted a detailed Environmental Assessment in relation to the Project Application (**Environmental Assessment**).
- (6) The Environmental Assessment was placed on public exhibition from 21 May 2008 to 23 June 2008 during which time any person was entitled to make submissions in relation to the Project Application.
- (7) The Environmental Assessment predicts that the Power Station is likely to result in a noise impact at Your Residence.

- (8) ERM is attempting to negotiate with you and is prepared to either purchase Your Property or otherwise implement noise mitigation including the installation of a noise attenuation barrier on Your Property. However, to date, no agreement has been reached in this regard.

2 The Planning Application Process

If the Minister approves the Project Application this approval will be subject to such conditions as the Minister may determine. For example, the conditions of approval could include a condition requiring ERM, if noise levels resulting from the Power Station exceed certain levels when measured at a near-by residence, to:

- (1) to construct at its cost a noise attenuation barrier on the land on which the residence is located in the event that the land owner so requests; and/or
- (2) acquire the land on which the affected residence is located at "market value" as defined in 5Section 56 of the Land Acquisition Act (Just Terms Compensation) Act 1991 if the land owner so requests.

Alternatively, the Minister may determine not to impose any such conditions on any approval granted to the Project Application.

3 ERM Remains Willing to Negotiate With You

ERM considers that it is in our mutual interest to reach an agreement prior to Ministerial determination of the Project Application.

At any time prior to the Minister determining the Project Application, ERM remains willing to negotiate a written agreement with you on terms that ERM believes are more favourable to you than those likely to be contained in any condition imposed by the Minister on any approval granted to the Project Application. ERM invites you to negotiate a written agreement with ERM whereby:

- (1) ERM acquires Your Property from you for \$2 million (exclusive of GST) being twice the independently assessed market value as per the attached valuation; or
- (2) ERM and you agree that:
 - (a) ERM will:

- pay you a lump sum of \$500,000 to you in compensation for noise and disturbance during the construction and operation of the Power Station; and
- grant you a put option which will allow you to require ERM to purchase Your Land for 1½ times "market value" at the time of purchase (as determined by an independent valuer) at any time during the next 20 years; and
- at ERM's cost, construct a noise attenuation barrier on Your Land to reduce the noise impacts from the proposed Power Station at Your Residence to an acceptable level.

- (b) You agree to consent to any applications made by ERM in relation to the Power Station and to not make any objections or complaints in relation to noise from the Power Station provided the noise does not exceed the above mentioned levels.

Naturally, if you wish to negotiate with ERM, we strongly suggest that you obtain appropriate expert legal advice.

4 Next Step

I understand that arrangements have now been made for ERM's heritage and noise experts to meet with you and Council representatives on 29th September and finalise the design and location of the noise barrier.

I'm also advised that the Department of Planning would recognise your endorsement of this letter as an in principle agreement leading to the resolution of the noise issue at your residence.

Your urgent consideration and of our proposal is appreciated. Please do not hesitate to contact us if you require any additional information.

Yours sincerely



Andrew St Baker
Chief Commercial Officer
ERM Power Pty Ltd

confidential
fax



To: Andy
Fax Number: 0292514827

From:
Fax Number:
Business Phone:
Home Phone:

Pages: 40
Date/Time: 16/08/2007 4:25:20 PM
Subject: Valuation report

Andy please find following valuation report for "Nanima", Wellington.

Regards

Anne

→

10. VALUATION

Subject to the assumptions and qualifications contained within the body of this report, we have assessed the market value of the subject property (exclusive of GST) at:-

"Namina Homestead"	\$500,000 (Five Hundred Thousand Dollars)
Stage 1 – Proposed Subdivision	\$530,000 (Five Hundred and Thirty Thousand Dollars)
Total Market Value	\$1,030,000 (One Million and Thirty Thousand Dollars)



Tracey Richards
REGISTERED VALUER 10022

This valuation is for the use only to whom it is addressed and for no other purpose. No responsibility is extended to any third party who may use or rely on the whole or any part of the content of this valuation. No responsibility will be accepted for photocopied signatures.

Neither the whole nor any part of this valuation or any reference thereto may be included in any published documents, circular or statement, nor published in part or full in any way, without written approval of the form and context in which it may appear.

This valuation report does not purport to be a site or structural survey of the land or improvements thereon, nor was any such survey undertaken. An opinion as to the condition of improvements is not given in the capacity as an expert and should not be relied upon.

This valuation is current as at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of three months from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.

Valuation: Proposed "Nanima", Wellington, NSW

20

Annexure 1 Title Documentation

NSW LPI Title Search

Title: 2/806578

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 2/806578

SEARCH DATE	TIME	EDITION NO	DATE
13/8/2007	6:04 PM	7	16/5/2002

LAND

LOT 2 IN DEPOSITED PLAN 806578
AT WELLINGTON
LOCAL GOVERNMENT AREA WELLINGTON
PARISH OF NANIMA COUNTY OF BLIGH
TITLE DIAGRAM DP806578

FIRST SCHEDULE

NATHANIAL KELBURN DUNBAR BARTON (T 2490778)

SECOND SCHEDULE (9 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 B617638 LAND EXCLUDES MINERALS (S.141 PUBLIC WORKS ACT, 1912)
- 3 BK 462 NO 102 RIGHT OF WAY AFFECTING THE PART OF THE LAND ABOVE DESCRIBED SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 4 EASEMENT(S) AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM CREATED BY:
 - DP806578 FOR WATER SUPPLY 5 WIDE
 - DP806578 RIGHT OF CARRIAGEWAY 20 WIDE
 - DP806578 RIGHT OF CARRIAGEWAY 10 WIDE
 - DP806578 TO DRAIN WATER 5 WIDE
 - DP806578 TO DRAIN WATER 15 WIDE
- 5 2869026 MORTGAGE TO I & L SECURITIES PTY LTD
6250249 TRANSFER OF MORTGAGE 2869026 MORTGAGEE NOW ATLANTIC 3-FINANCIAL (AUST) PTY LTD
- 6 6667596 MORTGAGE TO ATLANTIC 3-FINANCIAL (AUST) PTY LTD
- * 7 7221646 CAVEAT BY LEONARDUS GERARDUS SMITS & JOHN ANTHONY LESLIE
- 8 7291319 ORDER OF COURT
- * 9 AA439288 CAVEAT BY MACQUARIE DEVELOPMENTS PTY LIMITED

NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

TR/DC1308A - NAMIMA

PRINTED ON 13/8/2007

Espreon hereby certifies that the information contained in this document has been provided electronically by the Registrar-General in accordance with Section 98B(2) of the Real Property Act, 1900.

*Any entries preceded by an asterisk do not appear on the current edition of Title.

Warning: The information appearing under notations has not been formally recorded in the register.

35

confidential
fax



To: Andy
Fax Number: 0292514827

From:
Fax Number:
Business Phone:
Home Phone:

Pages: 40
Date/Time: 16/08/2007 4:25:20 PM
Subject: Valuation report

Andy please find following valuation report for "Nanima", Wellington.

Regards

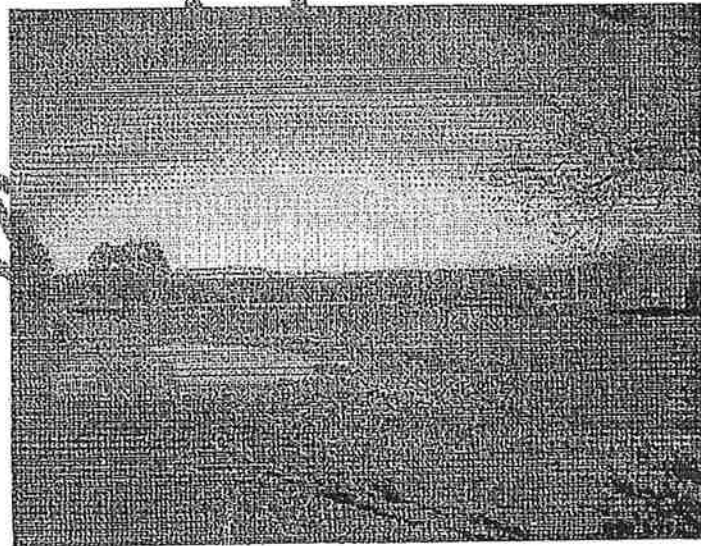
Anne

→

Dubbo
DC1308a
TR/AG

VALUATION REPORT

Residential Development Site



"NANIMA"
WELLINGTON, NEW SOUTH WALES

As At:

29 June 2007

Prepared For:

ERM Power Pty Ltd

8.4 Feasibility Analysis

We have undertaken a feasibility analysis on a cash flow basis for the proposed subdivision being 12 lots to test the project's profitability in the current market.

This analysis focuses on the likely cash inflows and outflows that would result from the project in the event that a purchaser purchased the property today and continued to subdivide and develop the property in accordance with the plans provided and the existing development approval. The analysis seeks to determine the level of profitability likely to result from the project.

Tabled below are the workings for the readers direct reference.

Preliminary Hypothetical Development Assessment

Potential Lots	12	
Average Sale Price @ Completion	\$126,250	\$1,515,000
Agents Fees	\$45,450	
Marketing	\$6,000	
Legals	\$6,600	
GST (std 10%)	\$151,500	
Realisation Cost		\$209,550
Net Realisation		\$1,305,450
Construction Costs	\$260,000	
Allowance Consultants	\$24,000	
Finance & Interest Allowance @ 9% pa	\$45,833	
Council Contributions	\$42,664	
Project Contingency	\$33,166	
Project Cost		\$410,464
Sub-total (profit before P & R)		\$894,986
Developer's Profit (Costs + Land) @	30%	\$363,139
Affordable Acquisition		\$531,847
Stamp Duty		\$1,000
Legals on Acquisition		\$5,000
		\$525,847
Affordable Price of Land, say		\$530,000

Please note that the above modelling has been based on information provided and checked to the best of our ability. In the event some of this data is proven inaccurate or false then we reserve the right to review our findings. These workings indicate a relative low land value due to the expenses required to develop the site.

9. VALUATION COMMENTS AND CONCLUSIONS

The property presents as a 77.71 hectare site situated on the fringe of Wellington with elevated views of Wellington. A large, C1900's historic homestead known as "Namina" is situated on the property which features seven bedrooms, ballroom and a large formal dining room.

Approximately 30 hectares of the site is zoned "1 (c) Small Rural Holdings and has subdivision approval for a development as a 12 lot rural/residential subdivision. The remainder of the land which includes the Namina homestead is zoned "1 (a) Rural".

We have valued the property in two separate parcels and provided an aggregate figure for the entire property.

HTW COPY

Valuation: Proposed "Nanima", Wellington, NSW

10. VALUATION

Subject to the assumptions and qualifications contained within the body of this report, we have assessed the market value of the subject property (exclusive of GST) at:-

"Namina Homestead"	\$500,000 (Five Hundred Thousand Dollars)
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Valuation: Proposed "Nanlma", Wellington, NSW

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UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

TR/DC1308A - NAMINA

PRINTED ON 13/8/2007

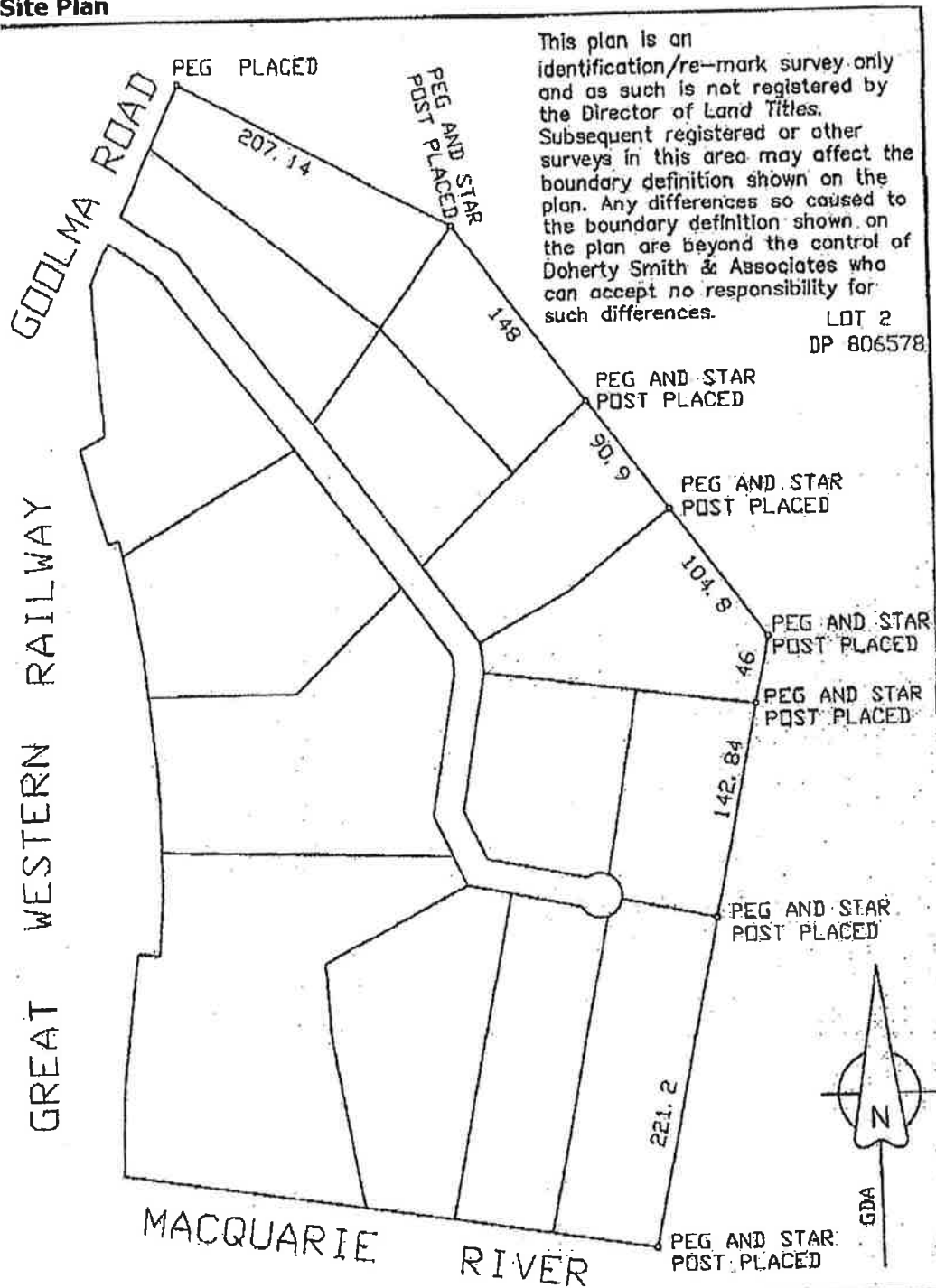
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Valuation: Proposed "Nanlma", Wellington, NSW

Annexure 2 Site Plan



TERTY SMITH ASSOCIATES Box 87 JINGTON 2820 6845 1403 6845 3329	Project	PEG PROPOSED BOUNDARIES	Approved <i>[Signature]</i>
	Plan Title	NAT BARTON LOT 2 DP 806578	Date 27/7/06
			Drawing Number 0660setout

Received
26/3/10
[Signature]

Level 26
44 Market Street
Sydney NSW 2000 Australia

37

GPO Box 4139
Sydney NSW 2001

Phone +61 (0)2 9231 4688
Fax +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

MALCOLM JOHNS & COMPANY
LAWYERS

Our Ref: MNJ:KSB:201935

24 March, 2010

Mr Andrew St Baker
Commercial Director
ERM Power Pty Ltd
PO Box 7152
RIVERSIDE CENTRE
QLD 4000

EXPRESS POST

Dear Mr St Baker,

NATHANIAL KELBURN DUNBAR BARTON AND ERM POWER PTY LTD
NANIMA WELLINGTON NEW SOUTH WALES

Further to our exchange of emails today, we enclose the Valuation of our client's property, *Nanima*, prepared by Mr Alan Hyam OAM, Barrister-at-Law, Registered Valuer No. 1546 (NSW) and Certified Practising Valuer.

You will observe that the Valuer has assessed what, in the Valuer's opinion is just compensation for the acquisition of *Nanima* pursuant to conditions 2.10 to 2.13 of the development consent granted by the Minister for Planning on 4 March 2009.

Our client would be prepared to adopt that quantum of just compensation for a period of 3 months from the date of this letter.

We look forward to hearing from you in the near future.

Yours faithfully,

MALCOLM JOHNS & COMPANY

Malcolm N Johns
Encl.

Cc. N K D Barton Esq

Higgins Valuers Pty Ltd
Valuation of Property "Nanima"
7109 Mudgee Road, Wellington

52.7 hectares @ \$26,000	\$1,370,000
Allowance for proximity to town, river frontage and town water availability	150,000

	\$1,520,000
Added value of heritage buildings	400,000

	\$1,920,000
15 in globo lots @ \$55,000	825,000

	\$2,745,000
Disturbance allowances	150,000

	\$2,895,000
Say	\$2,900,000

16. Valuation.

In our opinion compensation for the acquisition of the property known as "Nanima", 7109 Mudgee Road, Wellington, described as Lot 2 in Deposited Plan 806578, being the whole of the land contained in Certificate of Title Folio 2/806578, by ERM Power Pty Limited, pursuant to conditions 2.10 to 2.13 of the development consent granted by the Minister for Planning on 4 March 2009, is the sum of **Two million nine hundred thousand dollars (\$2,900,000).**



LJ Hooker's Rex Turner called Nanima a national treasure at the auction yesterday.

HIGH DRAMA

Auctioneer LJ Hooker's Rex Turner called Nanima 'a national treasure' but no one expected the high drama which was to follow its offer for sale.

Owner Nat Barton revealed that ERM Power had at the last minute offered to re open negotiations.

"It is a positive side for the homestead and sub division's future. I feel a lot happier about that," Mr Barton said.

Mr Turner told the estimated crowd of more than 50 watching at the Civic Centre that the home had been in the Barton family for more than a century.

"There have been prime ministers and premiers here, it will be a sad day

for Nat if it's sold today," he said.

The home was offered but no bidders came forward and the famous homestead was passed in.

"For those interested we can negotiate further but for now I have to pass it in," Mr Turner said. "It's not clear if negotiations with ERM Power will produce results and if they do Nanima would stay on the market or try and be resold later on."

A world away in Sydney, the company which originally was going to feed the gas-fired power station, Eastern Star Gas, has been sold to multi-national powerhouse Santos.

"There was overwhelmingly support for the sale of ESG to Santos," a

spokesperson for Eastern Star Gas told the *Times*.

"Ninety-four per cent of shareholders matter of fact," he added denying stories that a late push for shareholders to change their minds would make a difference.

"The vast majority didn't agree with a small push not to sell and the interests of ESG will be in Santos hands in the next few months."

The Wilderness Society held a protest outside the Shangri La Hotel where the shareholders meeting was held.

Santos would now be the pipeline operator, ERM Power the operator of the gas-fired power station.

Casserie Open Tuesday to Saturday
Daily Special Tuesday to Saturday

Tuesday: Melbourne Cup Special
Wednesday: Chicken & Bacon Pie w/Veg
Thursday: Rissoles & Gravy w/Veg
Rump Steak & Dianne Sauce w/Veg or Salad
Saturday: Salmon Patties w/Salad

Weekly - \$10 Specials
ESDAY NIGHT ONLY Large Pizza \$10
Thursday Night
DRAW \$1,600 plus 10 Meat Trays
Tickets on sale from 6.30pm
FRIDAY Meat Raffles 6.30pm

Melbourne Cup Luncheon

From 11.30am to 2.30pm
Roast Beef w/Baked Veg & Baked Custard
\$12.00 per head
w/Free Glass of Sparkling
Sweeps & TAB Available
Bookings appreciated



T.A.B. Keno

8 Cold Beers on tap

Enquire about our **FREE**
Membership Loyalty Card

Federal Hotel

Wellington's Only Drive-in
Bottleshop

Ph: 6845 2914

Cnr Arthur & Maughan St

2737387

**Buyer Activity
Inspection Comments****Nanima 7009 Goolma Road, WELLINGTON**

25/10/2011	Interested in inspection times.
25/10/2011	Made inspection who was family member but did not make an offer
3/05/2012	Was interested in doing subdivision but went cold upon investigation
25/05/2012	Was looking for investment property but was not in a position to pay the asking price, plus do repairs etc
24/09/2012	Made offer of \$590000 on 110 acres, Liz has increased her offer to \$650000
8/09/2012	Spoke to me concerning price and general inquiry
6/10/2012	Had inspection, was concerned about the power house. Made no offer as the property needed a lot of work
16/10/2012	Made inspection but felt that there was too much work and money to be spent on the house but was interested in the subdivision but never proceeded. Consent for sub division and plan was sent on 10/10/13
24/10/2012	Just made inquiry on price - no further contact
11/12/2012	Asked for set of questions on property which was sent and in file
25/02/2013	Had inspection earlier, made another inquiry re power house 24/2/13 so are still interested but pwer house is a problem to them.
25/05/2013	Has indicated that he may be interested around \$1.5 Mil but has not made an official offer
27/05/2013	Said her employer was interested and wanted to know if it was heritage listed.



Received 11/1/13

The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Minister Assisting the Premier on Infrastructure NSW

42

12/19162

Mr Nat Barton
'Nanima'
Wellington NSW 2820

Dear Mr Barton


I refer to your email dated 22nd November, 2012 concerning Nanima House and the proposed Wellington Gas Fired Power Station.

I appreciate the opportunity I had to meet with you on 20th November, 2012, and gain an understanding of your concerns. For your information, I have now written to the power station Proponent (ERM Power), emphasising the need for them to continue to try and resolve the issues relating to Nanima House with you, at an early date.

I have also asked the Department of Planning and Infrastructure to meet with the Proponent and impress upon them the need for this matter to be resolved at the earliest opportunity.

I trust this is of assistance.

Yours sincerely



HON BRAD HAZZARD MP
Minister

08 JAN 2013

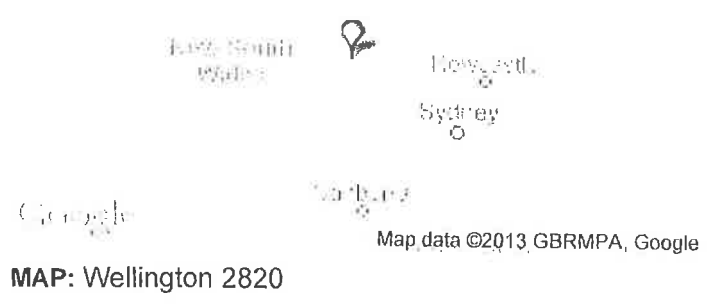


Confidence Wellington power station will go ahead

Posted 2 hours 30 minutes ago

Power company, ERM says it is still confident a gas fired power station will be built at Wellington.

The state government approved the 700 million dollar project in 2009, but construction is yet to start.



ERM's New South Wales Director Andy Pittlik says the company has five years to act on the approval, with a final investment decision not expected until next year.

The company is also allowed to build a 220 kilometre gas pipeline from Young to Wellington, but Mr Pittlik cannot say if that is dependent on the power station's construction.

"I really can't speculate on that, but to say we're very confident that the project will proceed and in our view, it's still the best power station project down in New South Wales down the track," he said.

"We sort of regret the fact we've not been able to proceed with the project, but events like the global financial crisis and the general downturn in demand for electricity are beyond our control.

"We're very appreciative of the patience that property owners along the pipeline have shown.

"It's been a slow process, slower than perhaps we'd like, but there's an optimisation process going on.

"We want to make sure the pipeline can be located to suit the particular farm management activities.

"It has taken some time, but we're making progress."

Topics: electricity-energy-and-utilities, urban-development-and-planning, regional, wellington-2820, young-2594, orange-2800

MT/MB/DF28052013

28 May 2013

The Hon Brad Hazzard
Minister for Planning and Infrastructure
NSW Government
Governor Macquarie Tower
Level 31, 1 Farrar Place
SYDNEY NSW 2000

Dear Minister

**RE: DEVELOPMENT OF GAS FIRED POWER STATION AT WELLINGTON.
CONCERNS OF NEIGHBOURING RESIDENT MR NAT. BARTON
(YOUR REF :PROJECT APPROVAL 06.0315)**

Mr Nat. Barton is the owner of Mount Nanima, an historic residence and curtilage near Wellington. The Nanima homestead is an important item of the settlement heritage of this district.

His property was identified as being potentially impacted by the Proposal, especially by noise in the planning assessment and some specific conditions were imposed. There are also statements of intent of the proponent which include the need for further heritage assessment and consultation with Mr Barton.

I understand Mr Barton has written to you and the former Minister for Planning raising a number of concerns and he has also expressed concerns to Council. His concerns centre on what he considers are several breaches of the conditions of approval in terms of the Proponent entering into meaningful discussions/actions to address the issues and adverse impacts identified in the Project Approval.

While Council has not effected a rigorous assessment of all requirements of the Approval, Council has not identified an actual breach of conditions to date. I note the project seems to have yet to commence construction but there have been media releases to the effect the Proponent is still likely to commence the project. I note the lapsing date would be 4 March 2014.

The point of time for serious efforts by the Proponent relating to achieving physical commencement before the lapsing date appears to be rapidly approaching and, while Council has not identified any breach, Council can sympathise with Mr Barton's predicament in that the uncertainty of the impacts is basically preventing him from resolving the future of his property.

I undertook with Mr Barton to relay his concerns to you and those of Council that perhaps the Proponent should be commencing meaningful dialogue with him including the heritage assessment and resolution of the required noise attenuation measures.

Council appreciates this is a State Approval and as such is not a matter of direct Council responsibility. Should your staff require further background from Council, can they please contact Council's Planning section on (02) 6840 1735.

Yours faithfully

A handwritten signature in black ink, reading "Michael Tolhurst". The signature is written in a cursive, flowing style.

Michael Tolhurst
GENERAL MANAGER

cc Mr N Barton

Nat Barton

cc A. Pittlik, J. Jones, R. Turner

27/6/13 47

From: "Nat Barton" <nba43079@bigpond.net.au>
To: "Brad Hazzard" <office@hazzard.minister.nsw.gov.au>
Cc: "Andrew Gee" <orange@parliament.nsw.gov.au>; "Alan Hyam" <hyam@culwulla.com.au>
Sent: Wednesday, 26 June 2013 12:20 PM
Subject: Fw: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315
 The Hon Brad Hazzard MP
 Minister for Planning & Infrastructure,
 SYDNEY NSW 2000

Dear Minister,

I refer to your letter to me dated 8 January 2013 in which you had advised me that you had requested the Department of Planning and Infrastructure to meet with ERM Power and impress upon them the need to resolve this matter at the earliest opportunity.

I also refer to the letter from Wellington Council to you dated 28 May 2013 which sympathises with my current predicament and requests that serious efforts by the proponents be made to resolve the outstanding matters as the commencement date is rapidly approaching.

Despite my best efforts ERM Power have not responded to my attached email which is an offer to meet with me and my legal advisor to examine every avenue to effect an early and equitable outcome of this matter in accordance with your wishes.

I can only conclude that ERM have no intention of attempting to broker a fair and reasonable "negotiated agreement - pre operation" in accordance with N12 of the Statement of Commitments and your wishes.

Could you please direct ERM to enter into negotiations with me and my legal advisor, Mr Alan Hyam, in good faith at an early date.

Many thanks,

N Barton

----- Original Message -----

From: [Nat Barton](#)
To: [Andy Pittlik](#)
Cc: [Alan Hyam](#); [Andrew Gee](#)
Sent: Tuesday, June 18, 2013 9:56 AM
Subject: Re: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

Dear Andy,

As outlined in my email sent to you on 22 May 2013 at 2.14pm the purpose of the proposed meeting is to examine every avenue to effect an early and equitable outcome of this matter in accordance with the wishes of the Minister.

If I do not receive a positive response to my offer within the next 7 days I will inform the Minister that ERM is not willing to negotiate and is in contravention of his wishes and the Project Approval.

Nat

----- Original Message -----

From: [Andy Pittlik](#)
To: [Nat Barton](#)
Sent: Monday, June 17, 2013 8:22 AM
Subject: RE: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

Dear Nat,

ERM have not rejected out of hand to meet with you and your representatives. Indeed I have personally met with you a number of

26/06/2013

times to try and resolve your concerns.

To be clear, what ERM have rejected is:

1. the previous valuations of Nanima which have been put forward by you;
2. that ERM is in any way responsible for the unsuccessful sale of Nanima in October 2011;
3. various public allegations, including that ERM have acted in an "opportunistic, predatory, misleading and deceptive manner from the outset" or that ERM is responsible for "creating severe disruption to my horse enterprise and imposing a severe blight on my property to the extent that it is now valueless";
4. that ERM should reimburse your legal expenses for advice that is unrelated to our discussions regarding a negotiated agreement; and
5. your proposed basis for settlement dated 25 March 2013 which included a \$400,000 annual fee indexed to inflation for the life of the power station.

ERM have always, and continue to act in good faith to reach a negotiated agreement within the framework of the Project Approval. Despite your statement that you remain committed to reaching an agreement acceptable to both parties, you have not put forward any proposal or offer that is reasonable or within the framework of the Project Approval.

Until you do so, ERM can see no benefit to either party to meet with you or your representatives at this point in time.

Regards,

Andy Pittlik
NSW Director

ERM Power Limited
Direct Ph: +61 2 8243 9101
Mobile: +61 4 1822 8394

PO Box R1971
Royal Exchange NSW 1225
Ph: +61 2 8243 9100
Fax: +61 2 9251 4827
www.ermpower.com.au



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From: Nat Barton [mailto:nba43079@bigpond.net.au]
Sent: Wednesday, 12 June 2013 10:36 AM
To: Andy Pittlik
Cc: Alan Hyam
Subject: Fw: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

26/06/2013

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From: Nat Barton [<mailto:nba43079@bigpond.net.au>]
Sent: Friday, 17 May 2013 3:39 PM
To: Andy Pittlik
Cc: Alan Hyam
Subject: Fw: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

Dear Andy,

I have today discussed at length my desperate situation as a result of the blight imposed by ERM Power over my property, Nanima, with my Barrister, Mr Alan Hyam.

Mr Hyam has offered to meet with you and other decision makers from ERM if required, to see if the present situation can be resolved.

Could you please advise a suitable date and venue.

Many thanks,

Nat

----- Original Message -----

From: [Nat Barton](#)
To: [Andy Pittlik](#)
Cc: [John Jones](#)
Sent: Friday, May 10, 2013 8:51 AM
Subject: Fw: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

Dear Andy,

I refer to our meeting on 25 March 2013 attended also by Mr John Jones, RFS, Dubbo and your commitment to discuss the settlement proposition but to you by me with the ERM Board.

To date I have not heard back from you.

Could you please advise asap.

Nat

----- Original Message -----

From: [Nat Barton](#)
To: [Andy Pittlik](#)

26/06/2013

Cc: Wellington Council ; Brad Hazzard ; Andrew Gee

Sent: Tuesday, March 26, 2013 10:58 AM

Subject: WTN GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315

Dear Andy,

I refer to our conversation yesterday and also to statements made by you in your letter to Mr Scott Jefferies, NSW Department of Planning dated 5 March 2010 which states ; -

The Assessment concludes that the proposed modification will not warrant any change to the approved mitigation measures stated in the EA. The proposed modification is therefore considered acceptable in that it generally reduces noise levels and complies with the NSW Industrial Noise Policy.

Table 4.2 of the Parsons Brinkerhoff - Attachment B - Noise Assessment attached to your letter to Scott Jefferies clearly states that Nanima is **Non Compliant** with the NSW Industrial Noise Policy and the concluding paragraph confirms the potential noise exceedance at Nanima House. I attach excerpts from the Parsons Brinkerhoff Assessment.

I attach also Wellington Council's letter to me dated 18 June 2008 which was forwarded to Scott Jefferies prior to the Project been approved. The letter sets out the various elements that need to be covered in the Statement of Heritage Impact and concludes that ERM failed to use appropriate expertise and provided no research, analysis and recommendations or for that matter appropriate mitigation measures.

ERM promises in the Submissions at 4.23.5 (attached) to do a Statement of Heritage Impact and the Director General of Planning obviously thought that this would be done immediately the Project was approved when he accepted ERM's Statement of Commitment (N12) that ERM would enter into a negotiated agreement, pre operation and recommended the Project be approved.

It beggars belief that ERM could possibly think that this was to be done after physical work had begun.

I look forward to ERM's Statement of Heritage Impact now that we are under 11 months before physical work begins (Clause 1.4 of the Project Approval) and noting that the way things are at the moment the Project Approval is in breach of the Wellington LEP. As you are well aware Nanima was registered on the National Estate in the 1970's, is a heritage item on the Wellington LEP and registered with the National Trust.

It seems to me a waste of everyone's time and money if injunctive proceedings need to be initiated to force you to honour your promises.

I note that you have still not reimbursed me for any of my legal expenses directly related to the Wellington Peaking Power Station Project despite your promises to do so.

Nat

26/06/2013



Mr Nat Barton
'Nanima'
WELLINGTON NSW 2820

13/11330

Dear Mr Barton

I refer to your letter to the Hon Brad Hazzard MP, Minister for Planning and Infrastructure, concerning ERM Power and its failure to continue negotiations with you in relation to Nanima House and the proposed Wellington Gas Fired Power Station. The Minister has asked me to reply on his behalf.

I note that you have requested the Minister direct ERM Power to enter negotiations with you. The Minister does not have the power to formally direct such negotiations.

However, the Minister is aware of your situation and I can advise that the Minister met with ERM Power representatives in April this year and emphasised the need to find a solution to your concerns.

ERM Power advised it is considering options and will respond to the Department in due course. I understand that, in light of your recent correspondence, the Minister will be writing to ERM Power reminding it of its commitments, and emphasising the need to continue negotiating with you.

Should you have any further enquiries about this matter, I have arranged for Ms Karen Jones, A/Director, Infrastructure Projects, of the Department of Planning and Infrastructure, to assist. Ms Jones can be contacted on telephone number 02 9228 6150.

Yours sincerely

17.7.13

Chris Wilson
Executive Director
Development Assessment Systems and Approvals

Nat Barton

From: "Andy Pittlik" <APittlik@ermpower.com.au>
To: "Nat Barton" <nba43079@bigpond.net.au>
Sent: Thursday, 23 August 2012 9:37 AM
Subject: RE: NANIMA - LEGAL FEES
 Dear Nat,

As per our email of 14 August, we confirm our preparedness to consider payment of your reasonable legal expenses subject to relevant evidence of same.

As to your other points, when ERM applied for approval of the project it was targeting financial close by September 2012. In August 2011 ERM advised the market (in accordance with its continuous disclosure obligations as a listed entity) that it intended to make a financial investment decision in relation to the Wellington project in 2014. That advice remains current.

Regards
Andy Pittlik
 NSW Director

ERM Power Limited
 Direct Ph: 61 2 8243 9101
 Mobile: 61 4 1822 8394

PO Box R1971
 Royal Exchange NSW 1225
 Ph: 61 2 8243 9100
 Fax: 61 2 9251 4827
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From: Nat Barton [mailto:nba43079@bigpond.net.au]
Sent: Thursday, 16 August 2012 8:24 AM
To: Andy Pittlik
Cc: Alan Hyam; Brad Hazzard
Subject: Re: NANIMA - LEGAL FEES

Dear Andy,

Could you please advise :-

(a) Whether or not ERM intends paying reimbursement on the invoices sent to you by email on 25 July 2012 ?

(b) Whether or not any plans/studies have been or are been drawn for the proposed Gas Fired Power Station ? and

(c) the Statements made to the ASX by ERM appear to contradict the Project Approval in that a FID is not expected until 2014 yet the Project Approval states construction should physically begin by 4 March 2014

10/03/2014

(Condition 1.4). Could you please explain.

Nat

----- Original Message -----

From: [Andy Pittlik](#)

To: [Nat Barton](#)

Sent: Tuesday, August 14, 2012 4:46 PM

Subject: RE: NANIMA - LEGAL FEES

Dear Nat,

I refer to your email of 9 August below and respectfully disagree with your assessment.

The invoices attached to your email of 25 July 2012, while relevant to your property 'Nanima', do not (on the whole) appear to be in respect of legal advice you obtained regarding ERM's draft option deeds. While we understand you did obtain advice in respect to the draft terms, we are unable to determine from these invoices the amount paid in respect of that advice. We therefore repeat our request for you to resubmit your legal invoices clearing showing costs incurred in respect to obtaining advice regarding the draft agreements so that we may consider payment of your reasonable legal expenses in respect of the same.

We also wish to reiterate that conditions 2.10-2.13 of the project approval have no application at present. With respect to N12 in our Statement of Commitments, we reaffirm our commitment to working with you to achieve a negotiated agreement regarding potential noise impacts at your property prior to operations commencing.

Regards

Andy Pittlik

NSW Director

ERM Power Limited

Direct Ph: 61 2 8243 9101

Mobile: 61 4 1822 8394

PO Box R1971

Royal Exchange NSW 1225

Ph: 61 2 8243 9100

Fax: 61 2 9251 4827

www.ermpower.com.au



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From: Nat Barton [<mailto:nba43079@bigpond.net.au>]

Sent: Thursday, 9 August 2012 11:33 AM

To: Andy Pittlik

Cc: Alan Hyam; Malcolm Johns; Brad Hazzard

Subject: Re: NANIMA - LEGAL FEES

Dear Andy,

Thankyou for considering reimbursement of my reasonable legal expenses pursuant to N12 of the Statement of Commitments in the Project Approval and Modifications.

As detailed in the Malcolm Johns & Coy Invoices sent to you all of these expenses have been incurred during the negotiation process after the Project was approved and include :-

- (a) discussions between Malcolm Johns and Andrew St Baker,
- (b) the ramifications of the Option Deed with Eric Smith and other stakeholders regarding the Subdivision Land on Nanima,
- (c) Collation of the material for the Expert Valuer,
- (d) Reviewing the Modifications material and advice to me,
- (e) ERM in a jointly signed letter sent to Ms Gail Sanders of the Australian Property Institute ("API") on 20 December 2011 agreed and I quote :-

Notwithstanding the foregoing ERM at the request of Mr Barton is considering an earlier acquisition of the property and the parties have agreed to seek an independent organisation to appoint an independent valuer to provide advice for the benefit of both parties as to what may constitute a fair and reasonable acquisition price. This acquisition advice would be based on the premise that Mr Barton was able to request an offer at the date of the advice from ERM to purchase the subject property pursuant to the provisions of clauses 2.10 and 2.11 of the Project Approval.

As you are aware the API would not appoint an independent valuer to provide non-binding advice and it was ERM that insisted on non binding advice.

Given the complexity of the matters and the time involved it is my view that the legal fees are reasonable in all of the circumstances and are directly relevant to N12 of the Statement of Commitments and Revised Statement of Commitments. I note that the Project Approval and the Modifications both concede that Nanima is non compliant with Operational Noise Impacts (see table 4.2 of Attachment B - Noise Assessment - Parsons Brinkerhoff - Modifications) which goes on to recommend no change to the conditions already included in the Project Approval.

At 4.23.5 of the Submissions of the Project Approval ERM commits to doing a Statement of Heritage Impact. To date no Statement of Heritage Impact has been prepared by ERM and no appropriate engineering and financial data pertaining to Nanima released to me by ERM. Further ERM has had ample opportunity to acquire Nanima (as stated in the Submissions) and did not bid at the Public Auction on 28 October 2011.

The Project Approval makes it clear at 2.11(b) that ERM should pay my reasonable expenses and at no point suggests that I should pay for expenses incurred by the actions of ERM.

I request that ERM reconsider it's position and pay these reasonable expenses immediately.

Nat

----- Original Message -----

From: [Andy Pittlik](#)

To: [Nat Barton](#)

Sent: Wednesday, August 08, 2012 4:14 PM

Subject: RE: NANIMA - LEGAL FEES

Dear Nat

We refer to your recent request below to reimburse you for certain invoices paid to Malcolm Johns between 2009 and 2012. On reviewing the detail in the invoices provided, it appears that much of this work is unrelated to your discussions with ERM regarding a negotiated agreement.

On that basis, we are unable to reimburse you for those amounts. The costs incurred by you in having Mr Johns brief Mr Hyam to prepare the valuation report were not agreed with ERM, appear unnecessary and are quite high (particularly in light of the fee charged by Mr Hyam for the report which was reimbursed by ERM). We would be willing to consider reimbursement of your reasonable legal expenses related to negotiating the option deed with ERM and ask that you resubmit on that basis.

Regards
Andy Pittlik
 NSW Director

ERM Power Limited
 Direct Ph: 61 2 8243 9101
 Mobile: 61 4 1822 8394

PO Box R1971
 Royal Exchange NSW 1225
 Ph: 61 2 8243 9100
 Fax: 61 2 9251 4827
www.ermpower.com.au



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From: Nat Barton [<mailto:nba43079@bigpond.net.au>]
Sent: Wednesday, 25 July 2012 1:55 PM
To: Andy Pittlik
Cc: Brad Hazzard; Alan Hyam
Subject: NANIMA - LEGAL FEES

Dear Andy,

Please find attached legal fee tax invoices :-

29 JUN 2009	\$2341.35
3 AUG 2009	\$2961.20
28 JAN 2010	\$1587.30
30 SEP 2010	\$980.10
7 MAR 2012	\$980.10
30 MAR 2012	\$326.70
30 MAY 2012	\$707.85

TOTAL **\$9884.50**

Could you please deposit reimbursement for same as cleared funds into my Westpac Bank Account at your earliest convenience:-

NKD BARTON
 WESTPAC DUBBO BRANCH
 BSB: 732 646

ACCOUNT NO: 57 2976

Many thanks,

Nat

MALCOLM JOHNS & COMPANY
LAWYERS

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Phone +61 (0)2 9231 4688
Fax +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

Our Ref: MNJ:KSB:201935

29 June, 2009

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820

Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.33555 for your kind attention.

Payment of this account can be made:-

- * by cheque, posted directly to Malcolm Johns Legal Pty Limited, GPO Box 4139 Sydney NSW 2001; or
- * by Direct Deposit to Malcolm Johns Legal Pty Limited, ANZ Bank, BSB: 012 003, Account No. 4954 99121.

Yours faithfully,

MALCOLM JOHNS & COMPANY

Malcolm N Johns
Encl.

MALCOLM JOHNS & COMPANY
LAWYERS

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Telephone +61 (0)2 9231 4688
Facsimile +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

Mr Nathaniel Barton
'Nanima'
Mudgee Road
WELLINGTON, NSW 2820

Tax Invoice No. 33555

Our Ref: 201935

29 June 2009

YOU AND ERM POWER PTY LIMITED

To our costs of acting for the period to date including instructions and advising:-

23 Jun 09	MNJ	Reviewing , reading and considering files and documents relating to ERM Power acquisition	\$990.00	2.00
	MNJ	Teleconference with A St Baker	\$198.00	0.40
	MNJ	Drafting submission to ERM Power	\$495.00	1.00
	MNJ	Telephone attendance on L Smits	\$49.50	0.10
	MNJ	Perusing email from client	\$49.50	0.10
	MNJ	E-mail to client	\$49.50	0.10
	MNJ	Perusing and considering email from client and email to client with report and advice	\$297.00	0.60

Total Fees	\$2,128.50	4.30
GST Applied	\$212.85	

TOTAL FEES INCLUDING GST	\$2,341.35
--------------------------	------------

Recd 1/7/09
[Signature]

DISBURSEMENTS

Total Disbursements	\$0.00
GST on Disbursements	\$0.00
TOTAL DISBURSEMENTS INCLUDING GST	\$0.00

***Non-Taxable Disbursements**

Our ref: 201935

SUMMARY OF AMOUNT DUE

Total Fees	\$2,128.50
Total Disbursements	\$0.00
GST applied	\$212.85
<hr/>	
Total Current Bill as above	\$2,341.35
Plus previous Outstanding Balance	\$0.00
<hr/>	
TOTAL OUTSTANDING BALANCE NOW DUE	\$2,341.35

E & OE

TERMS: NET 7 DAYS

Notification of client's rights (Legal Profession Regulation 2005 Clause 111A):

1. Interest may be charged at the current rate of 5.00% prescribed by clause 110A of the Legal Profession Regulation 2005 on any bill which remains unpaid after 30 days.
2. The following avenues are available to you if you are not happy with this bill: -
 - (a) You may apply to have this bill assessed under Division 11 of the Legal Profession Act 2004 (even if the costs have been wholly or partly paid). Any such application must be made within 12 months after this bill has been given to you.
 - (b) You may also apply under section 336 of that Act to have a costs dispute mediated where the amount in dispute is less than \$10,000.00. Referral to mediation is not permitted after an application for assessment has been accepted by the Manager Costs Assessment.
 - (c) You may also apply for the setting aside of a costs agreement or provision of a costs agreement under section 328 of the said Act.
 - (d) If a lump sum bill is given to you, you have the right to ask for an itemized bill. Any itemized bill might include items of costs not taken into account in the lump sum bill thereby increasing costs. If an itemized bill is required, we reserve the right to rely on the itemized bill of costs as our final bill.
 - (e) You may also discuss your concerns with us.
3. There may be other avenues available in your State or Territory. For more information about your rights, please read the fact sheet titled 'Your Right to Challenge Legal Costs'. You can ask us for a copy, or obtain it from The Law Society of New South Wales (or download it from its website).

With compliments


MALCOLM JOHNS & COMPANY

MALCOLM JOHNS & COMPANY
LAWYERS

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Phone +61 (0)2 9231 4688
Fax +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

Our Ref: MNJ:KSB:201935

3 August, 2009

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820

Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.33584 for your kind attention.

Payment of this account can be made:-

- * by cheque, posted directly to Malcolm Johns Legal Pty Limited, GPO Box 4139 Sydney NSW 2001; or
- * by Direct Deposit to Malcolm Johns Legal Pty Limited, ANZ Bank, BSB: 012 003, Account No. 4954 99121.

Yours faithfully,
MALCOLM JOHNS & COMPANY

Malcolm N Johns
Encl.

MALCOLM JOHNS & COMPANY
LAWYERS

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Telephone +61 (0)2 9231 4688
Facsimile +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

Mr Nathaniel Barton
'Nanima'
Mudgee Road
WELLINGTON, NSW 2820

Tax Invoice No. 33584

Our Ref: 201935

03 August 2009

YOU AND ERM POWER PTY LIMITED

To our costs of acting for the period to date including instructions and advising:-

30 Jun 09	MNJ	Perusing and considering communication from ERM, considering development approval acquisition and compensation clauses, email to L Smits and email to A St Baker	\$495.00	1.00
	MNJ	Telephone attendance on L Smits	\$99.00	0.20
	MNJ	Perusing and considering Project Approval	\$495.00	1.00
	SH	Viewing documents and analysing reference to Nanima	\$300.00	1.20
01 Jul 09	MNJ	Teleconference with A St Baker	\$148.50	0.30
	MNJ	Preparation of advice to client	\$990.00	2.00
	MNJ	Telephone attendance on L Smits	\$49.50	0.10
	MNJ	E-mail to client	\$49.50	0.10
	MNJ	E-mail to L Smits	\$49.50	0.10
Total Fees			\$2,676.00	6.00
GST Applied			\$267.60	
TOTAL FEES INCLUDING GST			\$2,943.60	

DISBURSEMENTS

Photocopy Expense	\$16.00
<hr/>	
Total Disbursements	\$16.00
GST on Disbursements	\$1.60
<hr/>	
TOTAL DISBURSEMENTS INCLUDING GST	\$17.60

***Non-Taxable Disbursements**

Our ref: 201935

SUMMARY OF AMOUNT DUE

Total Fees	\$2,676.00
Total Disbursements	\$16.00
GST applied	\$269.20
<hr/>	
Total Current Bill as above	\$2,961.20
Plus previous Outstanding Balance	\$0.00
<hr/>	
TOTAL OUTSTANDING BALANCE NOW DUE	\$2,961.20

E & OE

TERMS: NET 7 DAYS

Notification of client's rights (Legal Profession Regulation 2005 Clause 111A):

1. Interest may be charged at the current rate of 5.00% prescribed by clause 110A of the Legal Profession Regulation 2005 on any bill which remains unpaid after 30 days.
2. The following avenues are available to you if you are not happy with this bill: -
 - (a) You may apply to have this bill assessed under Division 11 of the Legal Profession Act 2004 (even if the costs have been wholly or partly paid). Any such application must be made within 12 months after this bill has been given to you.
 - (b) You may also apply under section 336 of that Act to have a costs dispute mediated where the amount in dispute is less than \$10,000.00. Referral to mediation is not permitted after an application for assessment has been accepted by the Manager Costs Assessment.
 - (c) You may also apply for the setting aside of a costs agreement or provision of a costs agreement under section 328 of the said Act.
 - (d) If a lump sum bill is given to you, you have the right to ask for an itemized bill. Any itemized bill might include items of costs not taken into account in the lump sum bill thereby increasing costs. If an itemized bill is required, we reserve the right to rely on the itemized bill of costs as our final bill.
 - (e) You may also discuss your concerns with us.
3. There may be other avenues available in your State or Territory. For more information about your rights, please read the fact sheet titled 'Your Right to Challenge Legal Costs'. You can ask us for a copy, or obtain it from The Law Society of New South Wales (or download it from its website).

With compliments


MALCOLM JOHNS & COMPANY

MALCOLM JOHNS & COMPANY
LAWYERS

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Phone +61 (0)2 9231 4688
Fax +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

Our Ref: MNJ:KSB:201935

28 January, 2010

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820

Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.33784 for your kind attention.

Payment of this account can be made:-

- * by cheque, posted directly to Malcolm Johns Legal Pty Limited, GPO Box 4139 Sydney NSW 2001; or
- * by Direct Deposit to Malcolm Johns Legal Pty Limited, ANZ Bank, BSB: 012 003, Account No. 4954 99121.

Yours faithfully,

MALCOLM JOHNS & COMPANY

Malcolm N Johns
Encl.

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

Telephone +61 (0)2 9231 4688
Facsimile +61 (0)2 9221 5459
Email mnj@malcolmjohns.com.au

MALCOLM JOHNS & COMPANY

LAWYERS

Mr Nathaniel Barton
'Nanima'
Mudgee Road
WELLINGTON, NSW 2820

Tax Invoice No. 33784

Our Ref: 201935

28 January 2010

YOU AND ERM POWER PTY LIMITED

To our costs of acting for the period to date including instructions and advising:-

22 Jan 10	MNJ	Telephone attendance on A Hyam	\$99.00	0.20
	MNJ	Collation of material for Expert Valuer and classifying same	\$1,237.50	2.50
	MNJ	E-mail to client	\$49.50	0.10
	MNJ	Letter to A Hyam	\$49.50	0.10
25 Jan 10	KSB	Collating documentation for brief to A Hyam	\$7.50	0.30
Total Fees			\$1,443.00	3.20
GST Applied			\$144.30	
TOTAL FEES INCLUDING GST			\$1,587.30	

DISBURSEMENTS

Total Disbursements	\$0.00
GST on Disbursements	\$0.00
TOTAL DISBURSEMENTS INCLUDING GST	\$0.00

***Non-Taxable Disbursements**

Our ref: 201935

SUMMARY OF AMOUNT DUE

Total Fees	\$1,443.00
Total Disbursements	\$0.00
GST applied	\$144.30
<hr/>	
Total Current Bill as above	\$1,587.30
Plus previous Outstanding Balance	\$2,988.70
<hr/>	
TOTAL OUTSTANDING BALANCE NOW DUE	\$4,576.00

E & OE

TERMS: NET 7 DAYS

Notification of client's rights (Legal Profession Regulation 2005 Clause 111A):

1. Interest may be charged at the current rate of 5.75% prescribed by clause 110A of the Legal Profession Regulation 2005 on any bill which remains unpaid after 30 days.
2. The following avenues are available to you if you are not happy with this bill: -
 - (a) You may apply to have this bill assessed under Division 11 of the Legal Profession Act 2004 (even if the costs have been wholly or partly paid). Any such application must be made within 12 months after this bill has been given to you.
 - (b) You may also apply under section 336 of that Act to have a costs dispute mediated where the amount in dispute is less than \$10,000.00. Referral to mediation is not permitted after an application for assessment has been accepted by the Manager Costs Assessment.
 - (c) You may also apply for the setting aside of a costs agreement or provision of a costs agreement under section 328 of the said Act.
 - (d) If a lump sum bill is given to you, you have the right to ask for an itemized bill. Any itemized bill might include items of costs not taken into account in the lump sum bill thereby increasing costs. If an itemized bill is required, we reserve the right to rely on the itemized bill of costs as our final bill.
 - (e) You may also discuss your concerns with us.
3. There may be other avenues available in your State or Territory. For more information about your rights, please read the fact sheet titled 'Your Right to Challenge Legal Costs'. You can ask us for a copy, or obtain it from The Law Society of New South Wales (or download it from its website).

With compliments


MALCOLM JOHNS & COMPANY