

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

MALCOLM JOHNS & COMPANY
LAWYERS

Our Ref: MNJ:KSB:201935

30 September, 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.34417 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. 34417

Our Ref: 201935

30 September 2010

YOU AND ERM POWER PTY LIMITED

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

| | | | | |
|--------------------------|-----|---|----------|------|
| 14 Sep 10 | MNJ | Reviewing further material including modifications to major projects,application, media release and other information | \$742.50 | 1.50 |
| | MNJ | Telephone attendance on client | \$148.50 | 0.30 |
| Total Fees | | | \$891.00 | 1.80 |
| GST Applied | | | \$89.10 | |
| TOTAL FEES INCLUDING GST | | | \$980.10 | |

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 | \$891.00 |
| Total Disbursements | \$0.00 |
| GST applied | \$89.10 |
| <hr/> | |
| Total Current Bill as above | \$980.10 |
| Plus previous Outstanding Balance | \$0.00 |
| <hr/> | |
| TOTAL OUTSTANDING BALANCE NOW DUE | \$980.10 |

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 6.50% 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

Received
9/3/12
[Signature]

Level 26
44 Market Street
Sydney NSW 2000 Australia

GPO Box 4139
Sydney NSW 2001

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

MALCOLM JOHNS & COMPANY
LAWYERS

Our Ref: MNJ:JTM:201935

7 March, 2012

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820


Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.35058 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

MALCOLM JOHNS & COMPANY
LAWYERS

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

Tax Invoice No. 35058

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

Our Ref: 201935

07 March 2012

YOU AND ERM POWER PTY LIMITED

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

| | | | | |
|-----------|-----|---|----------|------|
| 09 Nov 11 | MNJ | Perusing email from client | \$49.50 | 0.10 |
| 11 Jan 12 | MNJ | Perusing email from client | \$49.50 | 0.10 |
| | MNJ | Telephone attendance on client with advice | \$99.00 | 0.20 |
| | MNJ | Conference with A. Forrest regarding subdivision | \$198.00 | 0.40 |
| | MNJ | Formulation of joint venture proposal with Jaclac Pty Ltd | \$495.00 | 1.00 |

| | | |
|-------------|----------|------|
| Total Fees | \$891.00 | 1.80 |
| GST Applied | \$89.10 | |

TOTAL FEES INCLUDING GST

\$980.10

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 | \$891.00 |
| Total Disbursements | \$0.00 |
| GST applied | \$89.10 |
| <hr/> | |
| Total Current Bill as above | \$980.10 |
| Plus previous Outstanding Balance | \$0.00 |
| <hr/> | |
| TOTAL OUTSTANDING BALANCE NOW DUE | \$980.10 |

E & OE

TERMS: NET 7 DAYS

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 - (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.
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With compliments


MALCOLM JOHNS & COMPANY

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Sydney NSW 2001

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MALCOLM JOHNS & COMPANY
LAWYERS

Our Ref: MNJ:JTM:201935

30 March, 2012

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820

Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.35075 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

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Sydney NSW 2001

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Email mnj@malcolmjohns.com.au

MALCOLM JOHNS & COMPANY

LAWYERS

Tax Invoice No. 35075

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

Our Ref: 201935

30 March 2012

YOU AND ERM POWER PTY LIMITED

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

| | | | | |
|-----------|-----|--|---------|------|
| 05 Mar 12 | MNJ | Perusing email from client | \$49.50 | 0.10 |
| | MNJ | Telephone attendance on client | \$99.00 | 0.20 |
| 07 Mar 12 | MNJ | Telephone attendance on Junior Counsel | \$99.00 | 0.20 |
| | MNJ | Perusing email from Senior Counsel | \$49.50 | 0.10 |

| | | |
|-------------|----------|------|
| Total Fees | \$297.00 | 0.60 |
| GST Applied | \$29.70 | |

TOTAL FEES INCLUDING GST **\$326.70**

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 | \$297.00 |
| Total Disbursements | \$0.00 |
| GST applied | \$29.70 |
| Total Current Bill as above | \$326.70 |
| Plus previous Outstanding Balance | \$980.10 |

TOTAL OUTSTANDING BALANCE NOW DUE \$1,306.80

E & OE

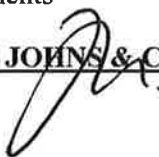
TERMS: NET 7 DAYS

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With compliments

MALCOLM JOHNS & COMPANY



Received
1/6/12 *Q*
Level 8
65 York Street
Sydney NSW 2000 Australia
GPO Box 4139
Sydney NSW 2001

MALCOLM JOHNS & COMPANY
LAWYERS

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

Our Ref: MNJ:JTM:201935

30 May, 2012

Mr Nathaniel Barton
Nanima
Mudgee Road
WELLINGTON
NSW 2820

Dear Mr Barton,

YOU AND ERM POWER PTY LIMITED

We **enclose** our Tax Invoice No.35127 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 8
65 York 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

MALCOLM JOHNS & COMPANY
LAWYERS

Tax Invoice No. 35127

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

Our Ref: 201935

30 May 2012

YOU AND ERM POWER PTY LIMITED

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

| | | | | |
|--------------------------|-----|---|----------|------|
| 03 May 12 | MNJ | Drafting instructions to Doherty Smith | \$495.00 | 1.00 |
| | MNJ | E-mail to E. Smith and Nanima stakeholders | \$49.50 | 0.10 |
| | MNJ | Perusing and considering press release regarding mining | \$99.00 | 0.20 |
| Total Fees | | | \$643.50 | 1.30 |
| GST Applied | | | \$64.35 | |
| TOTAL FEES INCLUDING GST | | | \$707.85 | |

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 | \$643.50 |
| Total Disbursements | \$0.00 |
| GST applied | \$64.35 |
| Total Current Bill as above | \$707.85 |
| Plus previous Outstanding Balance | \$1,306.80 |

TOTAL OUTSTANDING BALANCE NOW DUE \$2,014.65

E & OE

TERMS: NET 7 DAYS

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

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With compliments

MALCOLM JOHNS & COMPANY

Nat Barton

From: "Leonardus Smits" <smits.leonardus@gmail.com>
To: "Nat Barton" <nba43079@bigpond.net.au>
Sent: Wednesday, 14 December 2011 3:33 PM
Subject: Fwd: Barton
 Nat:

Three brokers and one specialist banker could not get you finance.
 I did everything I could and more to get you a Loan as per our agreement, but no -one would
 lend to you, nor on security of Nanima.
 I deny any breach.
 I hope my comments below are of some assistance.
 Best regards
 leo

----- Forwarded message -----

From: **Leonardus Smits** <smits.leonardus@gmail.com>
Date: Wed, Dec 14, 2011 at 3:25 PM
Subject: Barton
To: Malcolm Johns <Malcolm.Johns@malcolmjohns.com.au>, Kylie Borodin
 <Kylie.Borodin@malcolmjohns.com.au>

It appears that HH might have erred in deciding that:

1. The Deed of Loan was kept alive, notwithstanding cl 6.3- WITHOUT THE DOL- the security was empty
2. All loan security rights were not intended to merge in a Consent Judgment-as usually occurs and would therefore be intended.
3. It could have been in contemplation /intended that the R1M would secure compromise agreement with the fourth assignees of the security after 10 years of litigation.
4. That a 2011 debt (\$450K) gets priority by tacking onto a 1999 security ahead of interim liabilities owed and secured to others of which they had notice (including the LGS and the Litigation Funders).
5. That the retention of the DOM had no work to do if the 2011 debt was secured in priority after the other mortgagees.
6. That Barton was unconscientious when he owed no duty of disclosure- refer to cases- LGS has citations and assumption that Johns knew the exact purport and effect of the DOS which took HH 85 pages to explain. Is it unconscientious to run the best arguments you can marshal for your client.
7. That Funders on notice that in 2011-AFTER 11 YEARS OF LITIGATION- Barton might secure further liabilities to the Investors- now that is fanciful- cf Clyde v Matzner Securities- there has to be an obligation to tack ? para 62 + para 142 -see the dragnet cases-all moneys cases- do not support HH.
8. Why would risk of bankruptcy not figure higher in Barton's considerations than security.
9. That separate consideration had to be provided and that no consideration was provided (contra- discontinuance of Qld proceedings, cl 6.3 etc) for the D/M: para 88- Aliter D/M only flowed "provided" Barton paid the 2011 debt- but it was a proviso- not a condition precedent and failure resulted in a consent judgment-but if secured that ranked afterwards- that was why the D/M could be retained but the R1M became relegated in priority.
10. That there was any agreement to create a new mortgage interest. : see para 117- at best a retention of whatever existed- which was nil because the DOL was extinguished.
11. D/M was retained "for some other reason" - if any security existed in respect of 2011 debt- even if postponed security -paras 145-146. The Investors were on notice of the Funders loan security rights BEFORE the 2011 debt created- tacking rules apply
12. My recollection was that it was first in time in absence of postponing conduct- not who has the best equity.

Nat Barton

32

From: "leo smits" <leo.smits.52@gmail.com>
To: "Nat Barton" <nba43079@bigpond.net.au>
Sent: Wednesday, 6 March 2013 6:57 PM
Subject: Re: Letter of Demand
Nat:

I am not obliged to respond to your request for particulars after non payment of my debt for years.

You claim whatever set off you think you can get away with because you are hopelessly insolvent.

No one can help you get out of your mess.

I have the relevant particulars

They will be used if and when that becomes necessary, but i expect that you will become bankrupt before that time.

On Wed, Mar 6, 2013 at 8:55 AM, Nat Barton <nba43079@bigpond.net.au> wrote:

Dear Leo

In your emails in late October 2012 you indicated that I was unable to satisfy any lender on serviceability, capacity.

1. Would you advise what lenders were approached by by you?
2. Please disclose all applications and responses.
3. Did you support any application with a guarantee by you?
4. If not, why not?
5. Did any lender ask for your guarantee?
6. Upon any refusal, did you enquire whether a guarantee by you would cause reconsideration?
7. If so, please provide details and documents substantiating.

If I do not receive these details and documents within the next twenty eight days, then the only conclusion to be reasonably drawn is that they do not exist. In short, in that case, I will conclude that you had no intention to honour the Deed.

For the record, I remain ready, willing and able to perform my part of the Deed (Clause 5). Further I foreshadow my claim of losses as a result of your failure to perform, to be offset against any liability I have to you.

Nat

Nat Barton

From: "arthur forrest" <a.j.forrest@optusnet.com.au>
To: "'Nat Barton'" <nba43079@bigpond.net.au>
Cc: "'Malcolm Johns'" <malcolm.johns@malcolmjohns.com.au>
Sent: Friday, 25 January 2013 11:47 AM
Subject: RE: NKD BARTON & ERM POWER
Dear Nat,

After my visit to Nanima in April last year and on the suggestion of Malcolm Johns I looked at whether a short term investment would be suitable to my client Jaclac Pty. Ltd. None of these ERM matters were discussed with me or disclosed to me at the time of the visit or subsequently. I took into consideration all matters that were known to me when I made the proposal of an investment. Subsequent disclosures and statements then threw a different light on my decision mindful of my obligations to my client.

As far as I am concerned the prospect of an investment by Jaclac is now closed.

Regards

Arthur

From: Nat Barton [mailto:nba43079@bigpond.net.au]
Sent: Friday, 25 January 2013 11:36 AM
To: Arthur Forrest
Cc: Rod Roberts; Melinda Knight; John Jones
Subject: NKD BARTON & ERM POWER

Dear Arthur,

Please find for your information :-

- (i) Sec 4.23 of the Submissions Report incl in the Project Approval 06-0315,
- (ii) N12 of Statement of Commitments,
- (iii) Exerpt from Director Generals Report,
- (iv) Letter Wtn Council to NB dated 18 June 2008.

None of these matters have been addressed to date and a severe blight is imposed on Nanima.

The Project Approval and Modifications can be found on the ERM Website or the Department of Planning Website.

Nat

Response

Noted.

This is highly unlikely to occur. However, if, during the detailed design phase, any activities for the project that are required within 40 metres of waterfront land (which are not identified in the Environmental Assessment and Ministerial Approval), application for a controlled activity approval would be sought from the DWE under the *Water Management Act 2000*. The SoCs have been revised to include a commitment relating to this matter (see Appendix B).

4.23 Noise and heritage issues at Nanima House

Numerous submissions raised issues relating to noise amenity and cultural heritage impacts at Nanima House. These issues have been noted in Sections 4.8.4, 4.8.5, 4.12.3, 4.12.4, 4.12.9, 4.13.2, 4.18.1 and 4.18.3–4.18.5; a consolidated response to these issues is provided below.

It is acknowledged that the most notable environmental impact of the proposed development is the potential noise impact at the closest residential receptor located approximately 700 metres west of the proposed power station site, namely at Nanima House.

The results of the noise impact assessment presented in the Environmental Assessment indicate that the noise levels at this receptor could be in the order of 8 dB(A) above the adopted noise criterion of 35 dB(A) $L_{Aeq, 15 \text{ min}}$ under neutral meteorological conditions and with the +5 dB low frequency modifying factor applied.

In its submission, the DECC has indicated that it would not normally licence to this predicted level but would support alternate mitigation solutions, including a negotiated agreement or land acquisition strategy. This advice is consistent with previous discussions held with the DECC on 30 October 2007.

ERM Power undertook significant efforts to address this issue during the Environmental Assessment and currently as part of the Submissions Report process. These efforts have been based on previous discussions with the DoP and DECC, and satisfying the following hierarchy of noise mitigation objectives:

- **Control at the source:** Achieve the maximum possible noise reduction at the source by considering plant orientation and configuration, and the selection of the best available and economically feasible noise reduction technologies.
- **Control at the receiver:** Achieve the maximum possible reduction at the receiver by the construction of a noise barrier near the affected dwelling or installing architectural fittings at the dwelling to significantly reduce noise levels adjacent to and/or inside the dwelling. This requires agreement and consent from the owner of the dwelling.
- **Acquisition of affected property:** This is generally considered a 'last-resort' option should the first two objectives be inadequate to reduce noise impact or rejected by the affected owner. The acquisition of the property and provision of reasonable compensation would be formalised under the terms of a negotiated agreement between ERM Power and the landowner.

The first objective has already been achieved and considered in the noise impact assessment associated with the Environmental Assessment (see below).

ERM Power is currently in discussions with the owner of Nanima House to hopefully reach a mutually-acceptable negotiated agreement that would allow for the implementation of noise controls at the property (subject to satisfying heritage constraints) or the acquisition of the property. This would allow for the operation of the power station without the potential for significant noise impacts on the property.

A more detailed discussion of each of the above items is provided below for the Department's consideration.

4.23.1 Control at the source

Site optimisation (plant location and orientation)

Site optimisation works were carried out with regard to plant location and orientation within the preferred site as part of the Environmental Assessment (see Section 6.2.3 of the Environmental Assessment). Four separate site configurations were assessed (only three configurations were represented in the Environmental Assessment because the fourth was not feasible as it encroached on Gulgong Road). The works found that changes in site orientation resulted in a trade-off of received noise levels, with increases in noise impact predicted to occur at either Cadonia Estate or the Keston Rose Garden Café.

The assessment concluded that the variations in site location and/or orientation did not provide outcomes that were significantly improved with regard to potential noise impacts at each of the nearest potentially affected receivers. On this basis, the plant location and orientation currently being proposed is close to being optimal from a noise impact perspective.

It is important to note that refinements to the final plant location, orientation and/or configuration may be possible during the detailed design phase of the project, which could further reduce the potential noise impacts at Nanima House without affecting other receivers. This would be one of the key objectives of the design phase. Any changes in the final layout and orientation of the gas-fired turbines and exhaust stacks would be reviewed to ensure the environmental impacts associated with those changes are consistent with the predictions made in the Environmental Assessment. Any increase in the environmental impact of the final design would be assessed, and mitigation measures developed accordingly, prior to the commencement of construction.

Source amelioration

The proposed acoustic design of the power station will be undertaken in accordance with the requirements specified within Chapter 7 of the NSW *Industrial Noise Policy* and based on best available technology economically achievable (BATEA) principles.

Siemens, as the preferred plant supplier, has indicated that all reasonable economical and technically feasible noise control options have been considered in the design of the gas turbine facility. A preliminary version of the Noise Protection Concept and Engineering Specification (Acoustical Requirements) prepared by Siemens was considered during the

Environmental Assessment, and will again be reviewed prior to design finalisation and validated during plant commissioning.

The noise impact assessment and associated modelling undertaken as part of the Environmental Assessment considered all of the noise control options and source reductions proposed by Siemens and described herein.

ERM Power confirms that the Noise Protection Concept and Engineering Specification would be equal to industry best practice and consistent with other similar power stations developed in NSW, including Colongra Power Station and Uranquinty Power Station.

A summary of key noise-generating plant with consideration of the noise reduction techniques being proposed by ERM Power and Siemens for this project is detailed below.

Flue gas system — stack

The stack mouth is the key noise source associated with the facility. A sound power level of less than 98 dB(A) would be achieved. Based on PB's experience, this is consistent with industry best practice.

A silencer providing high sound transmission loss would be installed in the exhaust system. The silencer would dampen noise generated by the gas turbine exhaust. At the stack body, upstream of the silencer, acoustical insulation would be included as opposed to traditional thermal insulation only.

It is expected that Siemens would achieve a source reduction greater than 50 dB(A) from the flue gas system — being the key site-specific noise source.

Turbine enclosure

The gas turbine units, generators and air intake ducts would be installed within a high performance acoustic design enclosure that is similar to the Uranquinty Power Station project. It is expected that sandwich panels with acoustic absorption would be utilised for all elements providing a high level of sound attenuation with a weighted apparent sound reduction index (similar to Sound Transmission Class STC) in excess of 49 dB(A).

All interfaces and ventilation openings would be equipped with silencing. It is understood that the noise suppression room would be designed to achieve a maximum wall radiated and ventilation opening emitted sound power level of at least 88 dB(A).

Filter house

The filter house consists of the elbow casing, silencer casing and air inlet openings. Through the provision of double wall construction (metal shell, insulation, liner sheets) for the gas turbine air inlet duct and an absorptive silencer providing a sound transmission loss in excess of 60 dB(A), the resultant sound power level would be 90 dB(A) or less.

Diffuser extension duct

The key noise component of the diffuser extension duct would be area sources present at sections in the exhaust duct. Specific acoustic measures would be implemented at these sections as well as enclosing the entire diffuser extension duct in a noise suppression room.

Applying standard design for the diffuser utilising double wall construction (metal shell, insulation, liner sheets) would reduce the sound power level to 108 dB(A). Further attenuation, through installation inside a high performance noise suppression room providing a high level of sound attenuation with a weighted apparent sound reduction index (similar to Sound Transmission Class STC) in excess of 49 dB, should reduce the sound power level to 98 dB(A) or less. Sound power levels of 90 dB(A) are expected upon finalisation of the detailed acoustic design.

Fin fan coolers

The coolers are expected to be of a low noise design utilising low fan blade tip speed and installed with absorption silencers that would reduce sound power levels to below 96 dB(A). Although details regarding fin fan cooler design and utilisation of absorptive silencers are vendor-specific and unknown at the date of this document, the proposed fin fan coolers would be low noise emitters when compared to industry standards.

Transformers

Low voltage and unit transformers are expected to be included in the design of the facility. The low voltage transformers are designed for low noise operation, the sound power level of each would be 70 dB(A) or less. The unit transformer would be specially designed for low noise and the sound power level would be 93 dB(A) or less.

4.23.2 Controls at the receiver

Noise barrier

Barrier placement options have been assessed. To be effective, the barrier would need to be placed either close to the source or close to the receiver. Placement of the barrier close to the source would not be effective given that the stack tip is located at a height of relative level (RL) +35 metres. Hence, the only feasible option would be to install a barrier as close as possible to the receiver.

A preliminary assessment of changes in expected incremental noise impacts at Nanima House, with consideration to a number of barrier placement options, has been undertaken. Details of this assessment have been provided in Appendix D and a summary of the assessment is provided below.

A separation distance of 10 metres and nominal barrier length of 10 metres were adopted for the purposes of this preliminary assessment. The predicted noise levels at the building façade closest to the power station, under neutral meteorological conditions with the +5 dB low frequency modifying correction factor applied, are provided in Table 4-1.

Table 4-1 Predicted noise levels with noise barrier adjacent to Nanima House

| Parameter | Model scenario | | |
|--|-------------------|-----------------|--------------------|
| | 1 | 2 | 3 |
| Distance between barrier and building façade (nominal) | 10 metres | 10 metres | 10 metres |
| Barrier length (nominal) | 10 metres | 10 metres | 10 metres |
| Barrier height (nominal) | 3 metres | 5 metres | 7 metres |
| Predicted noise level in Environmental Assessment | 43 dB(A) | 43 dB(A) | 43 dB(A) |
| Predicted noise level with barrier in place | 38.5 dB(A) | 35 dB(A) | 31.5 dB(A) |
| Predicted noise reduction | -4.5 dB(A) | -8 dB(A) | -11.5 dB(A) |
| Compliance with 35 dB(A) goal | No | Yes | Yes |
| Compliance with 40 dB(A) (INP night-time ANL) | Yes | Yes | Yes |

Notes: INP = Industrial Noise Policy; ANL = Acceptable Noise Level (Table 2.1 of INP)

The results of the preliminary assessment indicate that a barrier with minimum height of RL +5 metres located at a distance of 10 metres from the residential façade nearest to the proposed power station at Nanima House could reduce noise levels to the extent that the power station would comply with the prescribed noise criterion of 35 dB(A) under neutral meteorological conditions.

Further detailed studies would need to be undertaken to refine the final location and physical dimensions of the barrier while providing optimal noise attenuation.

Architectural treatments

Should adverse noise impacts be experienced at the property and the construction of a noise barrier is not an acceptable solution to the owner of the property, the implementation of noise mitigation at the receiver through architectural treatments on the dwelling would be the next most feasible option. It is understood that the approach is considered acceptable where elevated noise impacts may potentially occur at a single receiver.

Such treatments generally include, but are not necessarily limited to: -

- upgrade of external façades (walls and roof)
- treatment of openings (windows and doors)
- upgrade of insulation to provide further acoustic benefits
- passive/active ventilation options (mechanical ventilation).

Confirmation, design and assessment of adequacy would be required prior to implementation. Consideration would also need to be made to applicable and accepted industry standards and guidelines, and potential heritage implications, particularly in relation to the treatment of openings and external façades.

*air conditioning?
solar power?*

painting?

4.23.3 Discussion on meteorological and operating conditions

The following discussion has been provided following discussions with the DoP and DECC at a meeting held Monday 15 September 2008 (see Section 2.2.3). Please refer to the relevant sections of the Environmental Assessment for a more detailed discussion of these aspects.

Meteorological conditions

A review of the regional meteorological conditions was undertaken as part of the noise impact assessment submitted with the Environmental Assessment. The works demonstrated that wind vectors to the nearest potentially affected receivers do not occur frequently. The associated percentage of occurrence of gradient wind flows is considered low, which significantly reduces the potential for loss of local noise amenity.

An analysis of the presence, or otherwise, of temperature inversion conditions was also carried out. The analysis indicates that temperature inversion gradients may be a feature for the area, which could increase received noise levels by up to 1.5 dB(A) at Nanima House under these conditions.

In response to this, ERM Power expects that the night-time peak winter period is not a period where maximum operations would be expected — this is further outlined in the following section.

Operation and ongoing management

As indicated throughout the approval process, the proposed facility is a peak and high shoulder load power station that would support existing base load generation during high demand periods or system emergency situations. These high demand periods are expected to occur mainly during summer morning and late afternoon/evening times.

The operation of four units would mainly occur during the summer period where the units would typically operate to meet the morning and late afternoon peak periods, which normally last for about 3–5 hours. Outside of these periods, the facility may either be turned off (i.e. stand-by mode) or run intermittently with a lesser number of units, depending on market demands and network constraints.

Peaking power stations typically sell products that require the power station to operate when the electricity pool price is above a specified price, most commonly \$300 per megawatt hour. ERM Power has analysed historical electricity market data for the past six years (2002–07) to determine the number of hours, between 10 pm and 6 am, when this price was exceeded. The only year in which the price exceeded this level for any period of time was during the extreme drought conditions of 2007 when Snowy Hydro generation was severely constrained. In this year, the pool price exceeded \$300 per megawatt hour between 10 pm and 6 am for a total of 4 hours.

ERM Power undertook the same analysis for a lower pool price of \$200 per megawatt hour, at which there is likely to be a commercial incentive to operate, regardless of contractual obligations. This pool price level was similarly only exceeded between 10 pm and 6 am in 2007 for a total period of 13 hours.

Considering the low likelihood of operation during the night-time period, the potential for adverse residential impacts normally associated with sleep disturbance would be substantially reduced.

Irrespective of the range of noise mitigation measures that are actually implemented, ERM Power proposes to establish an adaptive approach to the management of noise issues through the implementation of procedures, corrective actions and follow-up measures within the framework of an operational noise management sub-plan (ONMP), which would be part of the overarching Operational Environmental Management Plan to be developed prior to the commencement of operations, as committed to by ERM Power under SoC M5 (refer to Appendix B). The ONMP would be developed in consultation with the DECC and all potentially affected residents.

4.23.4 Acquisition of affected property

ERM Power believes that all of the options that have been made available to the landowner provide effective outcomes for all parties, such that implementation of any of these options would resolve the noise impact issue at Nanima House, and thus negate the most significant environmental impact associated with this project.

ERM Power considers that the most feasible and effective noise management measure at Nanima House would be the acquisition of this property. However, ERM Power acknowledges that, currently, this is not the property owner's preferred outcome.

ERM Power has consulted with the owner of Nanima House throughout the environmental assessment process, including following receipt of the owner's submission regarding the acquisition of this property and alternate options for this property.

In consultation with the owner, ERM Power has undertaken a valuation of the Nanima House property and has provided the owner with an offer to purchase the property at twice market value. The offer includes an alternative arrangement comprising significant financial compensation and continued occupation of the property through the implementation of:

- architectural treatments being applied to the homestead (e.g. insulation, double-glazing of windows etc) and/or
- the construction of a noise barrier between the property and the power station approximately 10 metres from the homestead and behind the eastern perimeter of the homestead garden.

4.23.5 Heritage issues

The potential heritage impacts of the proposed noise mitigation measures are currently being considered by heritage experts, in consultation with the owner, to ensure they do not affect the heritage significance and aspects of the property. A Statement of Heritage Impact would be prepared for any proposed noise mitigation measures at Nanima House.

Any agreement for ERM Power to acquire Nanima House would also include commitments for ERM Power to manage the property in a manner that ensures its heritage value is preserved.

Not written

| Objective | Ref No. | Commitment | Timing | Guiding principle(s) |
|--|---------|--|-------------------|--|
| Obtain negotiated agreement with owner of Nanima House | N10 | <p>Management of the operational noise impacts from the power station will be undertaken considering the following zones of impact:</p> <ul style="list-style-type: none"> Zone 1: compliance zone — up to 35 dB(A) $L_{Aeq, 15min}$ Zone 2: noise management zone — >35–40 dB(A) L_{Aeq} (for the amelioration of internal noise environments) Zone 3: acquisition zone — >40 dB(A) L_{Aeq} (for the negotiation of property procurement). | Operation | |
| | N11 | Operational noise mitigation measures will be further reviewed and optimised during detailed design and installed at sensitive receptors identified and set out in Section 9.3 of the Environmental Assessment and Technical Paper No. 3 – <i>Noise and Vibration Assessment</i> . | Design, Operation | Section 9.3 of the Environmental Assessment Technical Paper No. 3 – <i>Noise and Vibration Assessment</i> |
| | N12 | The proponent shall secure a negotiated agreement with the owner of Nanima House to ensure potential noise impacts at this property are adequately mitigated. | Pre-operation | |
| Monitor operational noise from the power station | N13 | <p>Within 90 days of the commencement of operation and during a period in which the development is operating under design loads and normal operating conditions, the proponent will undertake a program to confirm the noise emissions performance of the development. The program will meet the requirements of the DECC and will include, but not necessarily be limited to:</p> <ul style="list-style-type: none"> noise monitoring consistent with the guidelines provided in the New South Wales Industrial Noise Policy (EPA, 2000) to assess compliance at the sensitive receptors identified and set out in Section 9.3 of the Environmental Assessment and Technical Paper No. 3 – <i>Noise and Vibration Assessment</i> methodologies for noise monitoring location of noise monitoring frequency of noise monitoring identification of monitoring sites at which pre- and post development noise levels can be ascertained details of any entries in the Complaints Register relating to noise impacts. | Operation | <i>Industrial Noise Policy</i> (EPA 2000) |

construction. In reality, the construction period will be characterised by periods of more and less intense noise impacts and it is reasonably possible for the Proponent to schedule works to avoid the noisiest works at the most sensitive times, and to include appropriate periods of respite for affected landowners. The Department has recommended imposition of standard construction hours as a condition of approval, noting that the Proponent will need to pay particular attention to scheduling of works within those times to achieve its stated aim of best practice noise mitigation and management. The recommended conditions of approval require a formal Construction Environmental Management Plan, including consideration of noise and vibration issues, to clearly document how the Proponent will proactively and reactively manage construction works to minimise acoustic amenity impacts to the greatest extent practicable.

In relation to operational noise impacts, the Department considers that the noise impacts from the compressor station are acceptable and unlikely to adversely impact on the acoustic amenity of surrounding receivers. The Department therefore recommends imposition of a condition of approval that requires the compressor station to be designed and operated to achieve 35 dB(A) at the two closest properties (ie Mount View and "Property A").

Receivers affected by operational noise from the power station component of the project fall into three categories:

1. those at which noise criteria are met (Cadonia Estate);
2. those at which noise criteria are marginally exceeded under certain conditions (Mount Nanima and Keston Garden Café); and
3. those likely to experience elevated noise impacts from the project (Nanima House).

In the case of the impacts at Cadonia Estate, the Department considers the Proponent's assessment to be appropriate and its outcomes reasonable. The Department recommends imposition of noise limits for this receiver (35 dB(A)) and notes that this is likely to be comfortably met by the project.

In the case of Mount Nanima and the Keston Rose Garden Café, the Department considers that impacts under neutral weather conditions would be acceptable. The predicted 1 dB(A) exceedance at Mount Nanima under these meteorological conditions is not considered significant, and within the confidence levels and assumption certainties implicit in the modelling approach. With respect to exceedances of noise limits under adverse weather conditions (2-4 dB(A)), the Department suggests that these exceedances need to be considered in light of the probability of the power station operating concurrently with adverse weather conditions, and the frequency of such concurrence in any particular time period. Given that the power station will operate up to 10% in any year, even if operation occurs concurrently with adverse weather conditions on each occasion, the total duration of exceedance of noise limits would be limited. Further, the magnitude of the exceedance is considered to be minor (ie less than 5 dB(A)). The Department therefore recommends imposition of noise limits of 39 dB(A) and 37 dB(A) at Mount Nanima and Keston Rose Garden Café, respectively. The Department of Environment and Climate Change supports this approach and has agreed to licence the power station accordingly.

To protect the interests of the affected landowners, the Department also recommends the imposition of a condition of approval that allows any affected landowner (of Mount Nanima and Keston Rose Garden Café) to request architectural treatment of their property. Such treatments may include, for example, double glazing or such other measures as the parties may agree. The noise performance of the project would be subject to monitoring requirements through the conditions of approval and a comprehensive noise performance verification review within three months of the commencement of operation.

With respect to the predicted noise impacts at the Nanima House property, the Department recognises the elevated nature of acoustic impacts and the genuine concerns raised by the land owner in relation to the effects on their amenity. The situation confronting the Department in this case is therefore one of elevated impacts from a proposed project that has been deemed essential to the State, and justified as necessary at a regional and a State level. These two competing factors need to be balanced in considering the merits of the project. In considering the merit balance for the project, the Department highlights that:

1. the project is considered essential to the State and will have significant benefits for energy supply and security at a State and regional level;
2. the project is not expected to operate more than 10% in any year;
3. the noise impacts of the project, while elevated, are elevated with respect to a very quiet existing background acoustic environment (relative difference) rather than being excessive in absolute terms;

4. the Proponent has applied all reasonable and feasible noise mitigation measures at the power station (at-source controls) and is prepared to provide further at-receiver mitigation.

With regard to the last point, the Department notes the Proponent's suggestion of a noise wall on the Nanima House property. While the Department accepts that this option may in fact reduce noise impacts to meet Industrial Noise Policy limits, it considers the outcome to be sub-optimal in terms of visual amenity implications and heritage impacts (noting the heritage value of the property). The Department considers that noise mitigation should not physically intrude into the Nanima House property and more than is necessary to reasonable deal with noise impacts, and without significant impacts in other areas. While the Department considers that a noise wall is sub-optimal, the landowner and the Proponent may agree to such an approach (noting that, for example, the landowner may form a different view from the Department in relation to the relative significance of acoustic and visual amenity).

Noting the arguments above, the Department considers that the Minister should grant approval to the project despite the fact that noise criteria derived under the Industrial Noise Policy and strictly applied would not be met. In this case, the Department considers the benefits of and need for the project outweighs the negative aspects of the elevated noise impacts predicted at this particular property. Notwithstanding, the Department considers it fundamental to protect the landowner's interests, and has therefore recommended conditions of approval that allow the landowner to voluntarily seek acquisition of the Nanima House property. Should the project generate a noise impact at the Nanima House property above 40 dB(A) (or 45 dB(A) in the case of short duration sleep disturbance impacts), the landowner may request that the Proponent acquire the property at market value. The conditions of approval provide for independent valuation and dispute resolution by the Director-General, if required. The Department highlights that this approach does not preclude alternative arrangements being made between the parties, for example, negotiation agreements dealing with noise impacts and mitigation.

4.3 Ecological Impacts

Issues

Construction of the power station component of the project will require clearing of remnant vegetation on the site. The Environmental Assessment indicates that this will involve the removal of 20 scattered paddock trees over an area of approximately 4.2 hectares. The Proponent argues that the loss of these trees is not significant and does not represent a significant ecological impact.

With respect to the gas pipeline component on the project, the Proponent has indicated that it endeavoured to align the pipeline to avoid the need to clear native vegetation. Notwithstanding, total avoidance was not possible. It is estimated that 37.2 hectares of native vegetation would need to be cleared during construction of the pipeline, including some vegetation communities listed as endangered. Expected clearing rates for vegetation communities along the pipeline route are summarised in Table 7.

Table 7 - Expected Vegetation Clearing along Gas Pipeline Route

| Vegetation Community | Area to be Cleared (ha) |
|--|--------------------------------|
| Fuzzy Box Woodland (threatened ecological community) | 0.5 |
| Ironbark/ Black Cyprus Woodland | 7.7 |
| Red Stringybark Woodland | 2.3 |
| River Red Gum Woodland | 3.1 |
| Scattered paddock trees including some areas of former Gum Woodland | 14.0 |
| Tumbledown Red Gum and Dwyers Red Gum Woodland | 6.4 |
| White Box-Yellow Box-Blakely's Red Gum Grassy Woodland (threatened ecological community) | 3.3 |
| Total clearing | 37.2 |

The Proponent argues that the extent of clearing necessary for the construction of the gas pipeline is not significant, and would not significantly impact on ecological values. Notwithstanding, it has committed to further minimising clearing to the greatest extent reasonably possible during detailed design of the project. It has also

CT:SM.N.Barton

18th June 2008

Mr N Barton
Nanima
Mudgee Road
WELLINGTON NSW 2820

Dear Mr Barton

RE: HERITAGE ADVICE REGARDING NANIMA MUDGEES ROAD WELLINGTON

Council's Heritage Advisor, Mr David Scobie, recently visited Wellington and has provided the following advice and observations with regard to the above property.

The Proposed Power Station is to be constructed in the vicinity of the Nanima homestead. The EIS documents have been published and a period has commenced for public consultation with a due date of Monday 23rd June, 2008 for submissions to be received at Department of Planning, GPO Box 39, Sydney 2001 for the attention of Major Infrastructure assessments- Wellington Power Station Project.

The Project is being assessed under Part 3(A) of the EP&A Act.

The Nanima property is a Heritage item on the Heritage Schedule of the Wellington LEP 1995. The site has historic, social and aesthetic significance and is correspondingly listed by the National Trust and it is on the Register of the National Estate.

The distinctive elements of the heritage significance are the unusual integrity of the building, fittings and furnishings and the central top-lit room within the layout and the continuous ownership and occupancy by the Barton family.

A brief review of the EIS illustrates the following points in relation to the environmental impact and the validity of the assessment:

- The heritage element of the study was completed by the Australian Museum and makes no detailed reference to the heritage significance of the 3 heritage listed properties in the vicinity. The Museum has no reputation in the area of European heritage and the report makes no reference to experts in that field with whom it may have consulted, however the study does make recommendations in relation to the impacts. The heritage element is therefore regarded as being unsatisfactory in failing to utilise appropriate expertise and in failing to acknowledge items of heritage significance within the vicinity of the project.

- It appears clear from site visits and from aerial photography that there will be significant impacts upon the visual catchments of both Keston and Nanima. These impacts are not acknowledged with the assessments provided in Technical paper No. 5 nor within the mitigation measures. The paper does not refer to the standard assessment method established by the NSW Heritage Branch for analysing visual impacts on Heritage items. For example, within the paper there is no mention of views to heritage items and only views from a narrow range of views from selected places within the heritage places. Limited assessments using a single crane and views from isolated points within the Nanima building are not a satisfactory measure of assessment given the heritage listing is of the building and affects the property defined by its boundary.
- It is clear from the noise data supplied in Technical Paper No. 3 – Noise and Vibration Assessment, that the noise environment at Nanima will experience levels predicted to be 43db(A)- exceeding the noise design criterion by 8dB(A) and 9.5dB(A) in adverse weather. It is claimed that mitigation measures at source are not feasible and that property procurement may be the only feasible measure for Nanima. This strategy would have a substantial impact upon the heritage significance due to the break in the ownership chain and the uncertain future of the occupancy and condition of the property. The current owner is not a willing vendor and wishes to maintain the ownership, occupancy and custodianship of the heritage significance. Secondary measures noted in the Study include insulation, secondary glazing and air-conditioning.
- The Assessment elements of the Study, in particular the heritage element, fail to follow the standard accepted practice established by the NSW Heritage Branch of the Department of Planning of completing a Statement of Heritage Impact (SOHI). The SOHI consists of establishing the significance of the place, providing a description of the proposal with an associated scope of impacts followed by a schedule of mitigating measures proposed including alternatives which may have been considered and discounted. It follows therefore that without the accepted process and analysis, that the conclusions and recommendations cannot be supported.

Conclusions:

- The EIS is inadequate with respect to the research, analysis and recommendations in relation to the assessment of the heritage impact of the Power Station.
- The EIS failed to utilise appropriate expertise for the items of European heritage and failed to follow the accepted process for establishing heritage impacts and appropriate mitigation measures.

Recommendations:

- Appropriate expertise be sought to investigate and establish the heritage significance of the three properties in the vicinity of the proposed power Station;
- The accepted procedures established by the Department of Planning, Heritage Branch should be utilised to establish the impacts on the heritage significance of the properties;
- Appropriate engineering and financial data should be provided to support a standard analysis of alternative mitigation measures, in accordance with the Statement of Heritage Impact process.

If you have any queries please phone Planning Services on 68 401 735.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Chris Thompson', written in a cursive style.

Chris Thompson
SENIOR TOWN PLANNER

Nat Barton

From: "Rex Turner" <wellingtonnsw@ljh.com.au>
To: "Nat Barton" <nba43079@bigpond.net.au>
Sent: Tuesday, 19 November 2013 2:10 PM
Subject: RE: NANIMA

Nat, Rod Roberts rang me to ask me if I had any offers or interest in Nanima and If I did could I write a letter to that fact. I informed him that I could not say that I had a firm offer as I have not. I also informed him that I was working for you and not him. I told Nicola Craven exactly word perfect to what I told Rod. I have just got off the phone to the Perspective Purchaser to ask him if he was still interested in Nanima and his reply was and I quote yes but not until I have read all the information and particular the Environmental Impact Study as there is still to much unknown
 End Quote

Rex Turner

Principal

LJ Hooker Wellington

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From: Nat Barton [mailto:nba43079@bigpond.net.au]
Sent: Tuesday, 19 November 2013 12:37 PM
To: Rex Turner
Subject: Re: NANIMA

Thanks Rex.

Could you please clarify what you said to Nicola Craven on 12 Nov 2013.

Nat

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

From: [Rex Turner](#)

To: ['Nat Barton'](#)

Sent: Tuesday, November 19, 2013 8:56 AM

Subject: RE: NANIMA

Nat, I spoke to historic properties yesterday after speaking with you re the 2.2 mil price and she said that she would change it which she has now done it has Offers Invited now. When I asked her why it still had the price tag on it she said that she did not realise that it had a price tag on it so I think it was a honest mistake as I know that you asked me to remove it which I thought it had been done.

Regards,

Rex Turner – Licensee

LJH Wellington

Ph: (02) 6845 3058
 Fax: (02) 6845 2985
 M 0428 636 888



From: Nat Barton [<mailto:nba43079@bigpond.net.au>]
Sent: Monday, 18 November 2013 11:24 AM
To: Rex Turner
Subject: NANIMA

Rex,

Please find Affidavit that was handed up in Court last Wednesday, 13 November 2013.

Paragraph 5

I deny absolutely that you have been instructed to market the property ever at \$2.2m.

I recall that on the day of the Auction Sale you requested that I write down and put in a sealed envelope a price of what I thought the property was worth. I made it plain to you that that was not a Reserve Price and that any offers would be seriously considered. You will recall that Mr Malcolm Johns attended the Auction and there were no bids and there have been no subsequent offers for all of the property.

After the Auction I recall discussing with you an acceptable price for Nanima. I said that in my view the property was valueless due to Project Approval 06_0315. If any one was prepared to outlay any money for the property in it's present state I would be prepared to consider it providing they were made fully aware of all of the factors pertaining to the property including Project Approval 06_0315. I requested that you take off the internet any price and instead replace it with the words Price On Application (" POA ").

It would appear that Historic Properties website still contains the \$2.2m figure. Could you please explain.

Paragraph 6

As discussed today I deny that I was informed by you that any prospective buyer was fully aware of the Project Approval 06_0315 and you "held an offer from a prospective purchaser for \$1.5m". As you are aware the Project Approval includes the EA, the Submissions Report and the Director Generals Report and ERM make various statements in it that they will do a Statement of Heritage Impact (4.23.5 of the Submissions) and negotiate an agreement N12 of the Statement of Commitments. None of these things have been done. I should point out that there is also a statement that this Project can be expanded in the future and supply upwards of 10% of the State's electricity needs and can use an unlimited amount of Wellington's drinking water to keep the stacks clean even when Darridona Dam is dry.

If the statement in para 6 is untrue could you please supply me with a statement clarifying what you said to

Nat Barton

From: "Nat Barton" <nba43079@bigpond.net.au>
To: "Maryanov, Elisabeth" <Elisabeth.Maryanov@hsf.com>
Sent: Monday, 24 February 2014 6:19 PM
Subject: Re: WELLINGTON GAS FIRED POWER STN - PROJECT APPROVAL 06_0315
 Dear M/s Maryanov,

Are you seriously suggesting that neither the Wellington community or myself are entitled to see the pre construction reports/studies on Hazzard Control, Fire Management and Traffic Control given that physical construction of this Project is less than two weeks away and we are in drought conditions and a tinder dry environment ?

As you are aware over 200,000 acres was burnt to a cinder last year at Coonabarabran and over 60 houses, countless sheds and livestock lost despite so called "best management practices" by Parkes & Wildlife and the Rural Fire Service ("RFS") . The Coonabarabran community will take many years to recover. Is that the scenario you plan for Wellington ?

Just last year hundreds of thousands of acres was burnt in the Blue Mountains and property lost.

I look forward to production of the pre construction reports contained within the Project Approval (Clause 5.1 (a)) so that everyone can scrutinise them.

Why are they not up on the ERM website ?

Yours sincerely,

N Barton

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

From: [Maryanov, Elisabeth](#)

To: [Nat Barton](#)

Cc: [Ferraro, Laura](#)

Sent: Monday, February 24, 2014 5:24 PM

Subject: RE: WELLINGTON GAS FIRED POWER STN - PROJECT APPROVAL 06_0315

Dear Mr Barton

Thank you for your email. As noted in our previous correspondence, we do not propose to respond in detail to your queries at this point. We are instructed, however, that the assertions and conclusions you make in your email below of 20 February are incorrect.

Kind regards

Elisabeth Maryanov

Special Counsel

Herbert Smith Freehills

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www.herbertsmithfreehills.com

Please consider the environment before printing this email

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

Sent: Thursday, 20 February 2014 9:00 AM

To: Maryanov, Elisabeth

Subject: Re: WELLINGTON GAS FIRED POWER STN - PROJECT APPROVAL 06_0315

Dear M/s Maryanov,

Thankyou for your email.

Please provide evidence of the pre construction report/studies pursuant to Project Approval 06_0315 that was granted by the Minister for Planning on **4 March 2009**.

As you are aware Clause 1.4 of the Project Approval states :-

*"This project approval shall **lapse five after the date on which it is granted**, unless the works the subject of this approval are physically commenced on or before that time."*

Failure to provide copies of the pre construction reports can only mean that they have not been done and ERM at no time had any intention of proceeding with the project.

I look forward to your urgent response.

Yours sincerely,

N Barton

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

From: [Maryanov, Elisabeth](#)

To: nba43079@bigpond.net.au

Cc: [Ferraro, Laura](#)

Sent: Wednesday, February 19, 2014 4:37 PM

Subject: FW: WELLINGTON GAS FIRED POWER STN - PROJECT APPROVAL 06_0315

Dear Mr Barton

Our client has conveyed to us your email below of 17 February 2014. We kindly request that in the future you refer all correspondence with ERM in relation to this matter to us, at the address given in our letter of 7 November 2013. A copy of this letter is attached for your convenience.

Our client does not propose at this point to substantively respond to the matters raised in your email below, save with respect to one issue. We note that you have made a number of assertions in relation to various alleged failures and non-compliances by our client. Our client rejects each of these assertions.

Kind regards

Elisabeth Maryanov
Special Counsel
Herbert Smith Freehills

T +61 2 9225 5878 M +61 404 843 398 F +61 2 9322 4000
www.herbertsmithfreehills.com

Please consider the environment before printing this email

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

Sent: Monday, 17 February 2014 3:00 PM

To: Andy Pittlik

Cc: Andrew Gee

Subject: WELLINGTON GAS FIRED POWER STN - PROJECT APPROVAL 06_0315

Dear Andy,

RE: WELLINGTON GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315.

As you are aware the project Approval lapses under **Clause 1.4** on or about **4 March 2014** if physical works have not commenced.

Could you please advise :-

1. Whether or not ERM intends to commence physical works by the Project lapsing date ; and
2. Whether or not ERM proposes to honour any of their commitments in the Project Approval including but not limited to ;-
 - a. Soil and Water Quality Impacts - Clause 2.14 to 2.20,
 - b. Hazards and Risk - Clause 2.21,
 - c. Building and Spill Management - Clause 2.22,
 - d. Pre Construction Hazards Studies - Clause 2.23 (a), (b), (c) & (d),
 - e. Pre Commissioning Hazards Studies - Clause 2.24 (a) & (b),
 - f. Traffic and Transport Impacts - Clause 2.25 & 2.26,
 - g. Ecological Impacts - Clause 2.27, 2.28
 - h. Visual Amenity Impacts - Clauses 2.29 to 2.32,
 - i. Heritage Impacts - Clauses 2.33 to 2.35
 - j. Waste Generation and Management - Clauses 2.36 to 2.39,
 - k. Land Use Interactions and Resource Implications - Clauses 2.40 to 2.41.
 - l. **COMPLIANCE MONITORING AND TRACKING - Clause 4.1 (a), (b), (c), (d), (e) and (f).**
 - m. **COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT - Clauses 5.1 to 5.3,**
 - n. **Environmental Management - all of Clause 6,**

I note that ERM have elected not to honour ;-

- (a) N12 of the Statement of Commitments to date,
- (b) all of section 4.23 of the Submissions,
- (b) preparation of a Statement of Heritage Impact on Nanima 4.23.5 of the Submissions, and
- (c) reimbursement of my legal expenses despite promises that you would do so.

If you elect to proceed with the Project could you please copy to me the reports pertaining to all of the conditions of the Project Approval above as I am the most affected property owner and there have already been two fires in the immediate vicinity.

I note that **you have not complied with any of Clause 5 of the Project Approval to date to the best of my knowledge and belief.**

Your urgent response would be appreciated.

Yours sincerely,

N Barton

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Further information is available from www.herbertsmithfreehills.com.



CRN: 204 092 800J

Mr Nathaniel Barton
"Nanima" 7009 Goolma Road
WELLINGTON NSW 2820

Dear Mr Barton,

Your claim for Transitional Farm Family Payment has been granted

Thank you for your recent claim for the Transitional Farm Family Payment under the hardship provisions. After carefully considering your individual circumstances, a decision been made to grant this payment from 3rd June 2013.

Your fortnightly Transitional Farm Family payment you will receive is \$497.00

What you need to do

As a condition of receiving this payment you will need to be supported by a Rural Financial Counsellor. We have arranged for a counsellor to contact you to make an appointment to commence the development of an Action Plan.

If you have not been contacted by a counsellor within seven days of the date of this letter, please call us on **13 2316** (call charges apply from mobile phones).

Your Transitional Farm Family Payment will stop if you do not commence an Action Plan with a counsellor within 12 weeks from the date of this letter.

Information you should know

If you have any questions or would like more information, please call us on the number shown in this letter.

There is further information in the Policy Guidelines on your mutual responsibilities as part of the Transitional Farm Family Payment.

The guidelines are available on the Department of Agriculture, Fisheries and Forestry website **daff.gov.au/agriculture-food/drought/assistance/tffp**

Yours sincerely

Belinda Geddes
Customer Service Advisor
Centrelink
11th July 2013