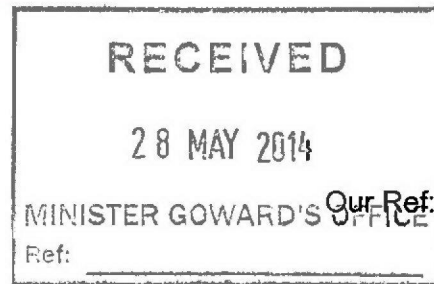




Andrew Gee MP

MEMBER FOR ORANGE



21 May 2014



The Hon Pru Goward MP
Minister for Planning
Minister for Women
Level 34 (WEST) Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

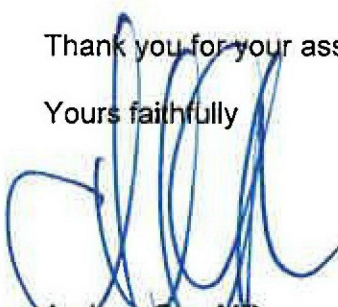
**Nat Barton: Wellington Gas Fired Power Station
Project Approval 06_0315**

Please find **enclosed** further correspondence received from Mr Nat Barton of Nanima in Wellington. I understand Mr Barton has forwarded you this information via email, however I enclose a copy for your records.

I would be grateful if you could add this correspondence to the file sent from my office, on 2 April 2014, and respond to the concerns outlined by Mr Barton.

Thank you for your assistance with this matter.

Yours faithfully


 Andrew Gee MP
Member for Orange

Minister, as this matter has been going on for some years now, i'd be grateful if you could take action to address Mr Barton's concerns. Thank you for your assistance. AG



THE NATIONALS for Regional NSW



Andrew Gee MP

MEMBER FOR ORANGE

POSTED
2 APR 2014

BY:.....

Our Ref: 14/03.107

26 March 2014

The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Level 31 [NORTH]
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

**Nat Barton: Wellington Gas Fired Power Station
Project Approval 06_0315**

Please find **enclosed** correspondence I have recently received from Mr Nat Barton of Nanima in Wellington.

As I'm sure you are aware Mr Barton has concerns regarding the proposed gas fired power station give approval to be constructed by ERM.

You will note that Mr Barton raises numerous matters which he would like to be considered, including the lack of resolution of the matters raised by him relating to ERM's management of the project so far and a lack of consultation with the community.

Mr Barton also advises that ERM have made little effort to resolve the numerous outstanding issues raised by him.

You will also note that Mr Barton indicates that he would be willing to stay on at Nanima if a number of rectification works are commenced by ERM.

I would be grateful if you could respond to the concerns outlined by Mr Barton in his correspondence.

Thank you for your assistance.

Yours faithfully

Andrew Gee MP
Member for Orange

INTERNATIONAL



Rosie Pritchard

From: Nat Barton <nba43079@bigpond.net.au>
Sent: Saturday, 8 March 2014 2:23 PM
To: ElectorateOffice Orange
Subject: WELLINGTON GAS FIRED POWER STN
Attachments: IMG_0001.pdf

Hon Andrew Gee MP,
Member for Orange,
Orange NSW

Dear Andrew,

RE: WELLINGTON GAS FIRED POWER STATION - PROJECT APPROVAL 06_0315 ("the Proposal")

I refer to the large volume of correspondence on this matter between ourselves and to the very generous assistance you have provided to date.

Please see attached application on exhibition **Request of Modifications to the Project Approval**. In effect ERM have applied for:-

1. An extension of the lapse date by 5 years to March 2019 (Condition 1.4), and
2. ERM commits to adopting only the two unit configuration (Condition 2.7).

There are a number of matters to take into consideration ;-

1. I own the most affected residence, Nanima House, that is within 700m of the proposal. I note that the closest residence to AGL's "Dalton Project" is some 2.3km away.

2. Nanima House is an Historic Property and is on the Wellington LEP, registered with the National Trust and on the Register of the National Estate,

3. None of the promises/commitments in s4.23 of the Submissions have been complied with by ERM,

4. Commitment N12 in the Statement of Commitments has not been complied with - there is no "negotiated agreement",

5. Nanima House is severely blighted by the Project Approval - there were no bids at a Public Auction and no subsequent offers,

6. Nanima House is non compliant with Condition 2 of the Request for Modifications (see Table 1 in Parsons Brinkerhoff Memo),

7. ERM Power have made no effort to resolve the outstanding matters re Nanima despite requests from the Minister for Planning, Hon Brad Hazzard to do so and also the CEO of Wellington Council, Mr Michael Tolhurst in his letter to the Minister.

The problem of course, is to provide competition in the electricity market. However, it should be noted ;-

- (i) that this Project has been on foot since 2005,
- (ii) ERM have made numerous promises in the Press, on Radio and TV that the Project will be up and running by 2012 if not before,
- (iii) There is no compliance by ERM with all of Condition 5.1 (a) to (d) **COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT** and if (e) and (f) have been complied with they are not on the ERM website,

(iv) ERM have provided no information to me or on their website on Conditions 2.21 to 2.41 (**Hazards and Risk, Bunding and Spill Management, Pre-Construction Hazards Studies, Pre Commissioning Hazards Studies, Traffic and Transport Impacts, Ecological Impacts, Visual Amenity Impacts**),

(v) The impact of this proposal on the saleability/marketability of the Nanima Subdivision land has been devastating. All interest has evaporated once the Gas Fired Power Station proposal has been made known to them.

(vi) Macquarie Developments lapsed their Option to purchase the Nanima Subdivision after the Project was approved which has caused me substantial damage and the associated Court proceedings are still on foot.

(vii) I am prepared to stay at Nanima and maintain its Heritage providing the works foreshadowed in the EA Submissions are done immediately by ERM namely:-

(a) the sound proofing of the roof on the Homestead, Maids Quarters and Stables and solar panelling installed and connected by ERM,

(b) the construction by ERM of the earthen wall planted with trees/shrubs around all of the buildings including the main Homestead, Maids Quarters and Stables,

(c) the upgrading of my water supply by ERM to water newly planted trees and shrubs ;

(d) ERM pay for and paint the Homestead, Maids Quarters and Stables in compliance with the Department of Heritage guidelines and Wellington Council's Heritage advisor that was commenced but not completed prior to the Project Approval,

(e) all legal expenses I have been forced to incur are paid by ERM, and

(f) an annual payment of say \$400K, paid quarterly, for the life of the Project increasing by 10% per year in recognition of the diminution in value of the Property, the time and costs I have incurred attempting to resolve the outstanding matters and the damages already incurred - ie restitution of my financial position had the Aged Care Project proceeded and/or the Macquarie Developments proposal.

I would be most grateful, if you see fit, to write a Submission to the Department of Planning &/or the Minister for Planning that addresses the above matters.

If you require further information please let me know.

Yours sincerely,

N Barton
"Nanima",
7009 Goolma Rd.,
WELLINGTON NSW 2820
Email: nba43079@bigpond.net.au
Ph: 02 68 451 793

[New South Wales Government](#)

[Department of Planning](#)

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EA Exhibition

Wellington Gas-Fired Power Station

Modification to Project Application - Wellington Gas Fired Power Station

1. An extension of the lapse date by 5 years to March 2019 (Condition 1.4); and
2. The power station can be configured with either two or four gas turbine units. The proponent commits to adopting only the two unit configuration that would significantly reduce noise at the nearest residences (Condition 2.7).

Other assessments against this site:

- [Project Application - Wellington Gas Fired Power Station \(Part3A\)](#)
- [Modification 1 - Wellington Gas-FiredPower Station \(Part3AMod\)](#)

Attachments & Resources

Application and Declaration(2)

- [140214 Modification Request Wellington Power Station.pdf](#) (693.6 KB)
- [2162434B-ENV-MEM-001 RevA.PDF](#) (22.08 KB)

Key dates and other information

Job Status	EA Exhibition Project is currently on public exhibition and opportunity for public submissions is available
Assessment Type	Part3AMod
Project Type	Transport, Energy, Water & Telecommunications > Electricity Generation
Application Number	06_0315 MOD2
Exhibition Start	26/02/2014
Exhibition End	13/03/2014
Location details	
Street	
City	Wellington
State	NSW
Post Code	
Country	Australia
Local Government	Wellington Council

For further information, please contact the planner, Diane Sarkies on 02 9228 6370.

Memo

Date 20 December 2013
To Andy Pittlik
Copy Paul GreenHalgh
From Aaron McKenzie
Ref 2162434B-ENV-MEM-001 RevA
Subject Wellington Power Project - C-weighting noise analysis of Siemens 4000F units

1. Introduction

Parsons Brinckerhoff Australia Pty Ltd (Parsons Brinckerhoff) has been engaged by ERM power to provide a comparative assessment of A and C-weighted noise impacts predicted for operation of Siemens 4000F Gas Turbine Units at the proposed Wellington open-cycle gas-fired power station (the power station).

This memo has been prepared with reference to the Environmental Assessment; *Wellington Gas-fired Peaking Power Station: Environmental Assessment*, (EA, Parsons Brinckerhoff document reference PR_7345, May 2008), and supplementary noise assessment technical letter; *Wellington power project – noise assessment of Siemens 4000F units*, (Parsons Brinckerhoff document reference LT_1716, March 2010).

2. Low frequency noise criteria

NSW EPA's *Industrial Noise Policy* (NSW INP, 2000) aims to apply correction factors to source noise levels at the receiver to account for additional noise characteristics such as tonality, impulsiveness, intermittency, irregularity and dominant low frequency content anticipated to cause greater annoyance to residential receivers.

Following INP guidance, a 5 dB correction factor is to be applied where predicted C- and A- weighted levels over the same time period differ by 15 dB or greater.

3. Assessment of operational noise impacts

Predicted noise impacts from the operation of the 255 MW Siemens 4000F gas-fired turbines modelled for the supplementary noise assessment (LT_1716, March 2010) are presented in Table 1 below. Noise impacts were determined utilising the SoundPLAN (version 6.5) noise modelling software. Following NSW INP guidance, a correction of +5 dB(A) was added to the exhaust stack and fin fan noise source contributions to account for the low-frequency noise components.

Table 1 Predicted A-weighted noise impacts for revised two Siemens 4000F gas-fired turbine operations including +5 dB low frequency noise penalty

Location	Received noise level (dB(A), $L_{Aeq,15min}$)			
	Neutral conditions	Adverse conditions	Allowable noise contribution	Compliance
1. Mount Nanima	29.5	32	39	Yes
2. Cadonia Subdivision	26	29	35	Yes
3. Keston Rose Garden Cafe	28	31	37	Yes
4. Nanima House	36	37.5	35	No

Source: Table 4-2, Page 3, document: LT_1716

Note: Noise levels shown to the nearest 0.5 dB(A)

4. A and C weighting model results

To predict the A and C weighted noise levels Parsons Brinckerhoff re-ran the noise model utilising the March 2010 SoundPLAN model files for adverse meteorological conditions. No penalties were applied to any of the sources. The receiver noise impacts were predicted for both the A and C scale noise weightings. A and C weighted results were then compared to determine whether low frequency corrections are to be applied.

Results are presented in Table 2 below. The difference in A and C weighted noise predictions was greater than 15 dB at each of the receivers.

Table 2 Predicted A- and C-weighted noise impacts for two Siemens 4000F gas-fired turbine operations without +5 dB low frequency noise penalty

Location	Received noise level (dB(A), $L_{Aeq,15min}$)	Received noise level (dB(C), $L_{Ceq,15min}$)	Difference (dB)
	Adverse conditions	Adverse conditions	
1. Mount Nanima	30	46	16
2. Cadonia Subdivision	26.5	42	15.5
3. Keston Rose Garden Cafe	28	44	16
4. Nanima House	34.5	50.5	16

Note: Noise levels shown to the nearest 0.5 dB



Modification to Project Approval No. 06_0315 Wellington Gas-fired Peak Power Station Supplementary Information

The following supplementary information is provided in support of modifications to Project Approval (No. 06_0315) wherein the Proponent requests:

- An extension of the lapse date to March 2019; and
- Changes to the power station configuration that would reduce noise at the nearest residences;

Approval for this modification is sought in accordance with Section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1. Project Applications

1.1. Project Approval 06_0315

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

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

1.2. Modification MP06_0315 MOD 1

On 7 September 2010 the Project Approval was modified to allow for greater flexibility in the selection of gas turbines and provided for the establishment of an alternative station layout comprising of either 4 X 150MW or 2 X 225MW gas-fired turbines.

This approval included a new clause 1.1 which stated the following:

"1.1 The Proponent shall carry out the project generally in accordance with the:

- a) Major Project Application 06_0315*
- b) Wellington Gas-fired Peaking Power Station: Environmental Assessment prepared by Parsons Brinckerhoff Australia Pty Ltd and dated May 2008*
- c) Wellington Gas-fired Peaking Power Station: Environmental Assessment- Submissions Report prepared by Parsons Brinckerhoff Australia Pty Ltd and dated September 2008;*
- d) prepared by ERM Power dated march 2010, including the following supporting documents, Wellington Power Station – Noise assessment of Siemens 4000F units prepared by Parsons Brinckerhoff Australia PTY Limited and dated march 2010 and Wellington power Project Proposed Modification Submissions report dated 1 June 2010; and*
- e) The conditions of this approval. "*



1.3. Project Approval 09_0143

On 10 March 2011 Project Approval was granted for the construction of a related gas pipeline from Young to Wellington. An application for a Pipeline Licence was lodged in March 2012 and work continues on securing the necessary access consents to permit the issue of this licence.

2. Site Location and Context

The approved power station will be located at Wellington, approximately 50 kilometres south of Dubbo in Central Western NSW. The proposed site is approximately 2 kilometres north-north-east of the outskirts of Wellington along the Gulgong Road (also known as Mudgee Road) and adjacent to TransGrid's 330/132 kilovolt (kV) Wellington substation.

The land at the proposed power station site is gently undulating grazing land with some scattered paddock trees. The land is currently zoned 'Rural 1(a)' under the *Wellington Local Environment Plan 1995*.

Three residential properties are located near the approved power station site. The closest residential (and retail) properties include:

- Nanima House, approximately 700 metres to the west
- Mount Nanima, approximately 1.3 kilometres to the south
- The Keston Rose Garden Cafe, approximately 1.5 kilometres to the north-west.

The closest residence in the Cadonia subdivision is approximately 1.6 kilometres to the north-east; however, the majority of land parcels within this subdivision are approximately 2.5 kilometres away.

3. Proposed Modification

3.1. Modification of lapse date

When will the Power Station be built?

Approval of the power station project coincided with the start of the Global Financial Crisis that saw a significant tightening in the availability of project financing and was followed by a major shift in national energy policy that has led to a material and sustained reduction in the demand for electricity.

The Australian Energy Market Operator's (AEMO) publishes an annual forecast of the demand for electricity in the National Electricity Market (NEM). In its latest report (2013 Electricity Statement of Opportunities) AEMO forecasts that in New South Wales, a shortage of generation, based on a medium growth forecast is not expected before 2022-2023 (refer Table 6 of Figure 1). The shortage of generation initially appears as a lack of reserve capacity that is needed to ensure there is enough generation in the event of plant failures and shut downs. The lack of reserve capacity is signalled by AEMO as a Low Reserve Condition (LRC) that could lead to a breach of the Reliability Standard that sets a limit on how much electricity is not supplied to the end users (unserved energy). Figure 1 includes a graph of New South Wales supply adequacy and shows that New South Wales' firm



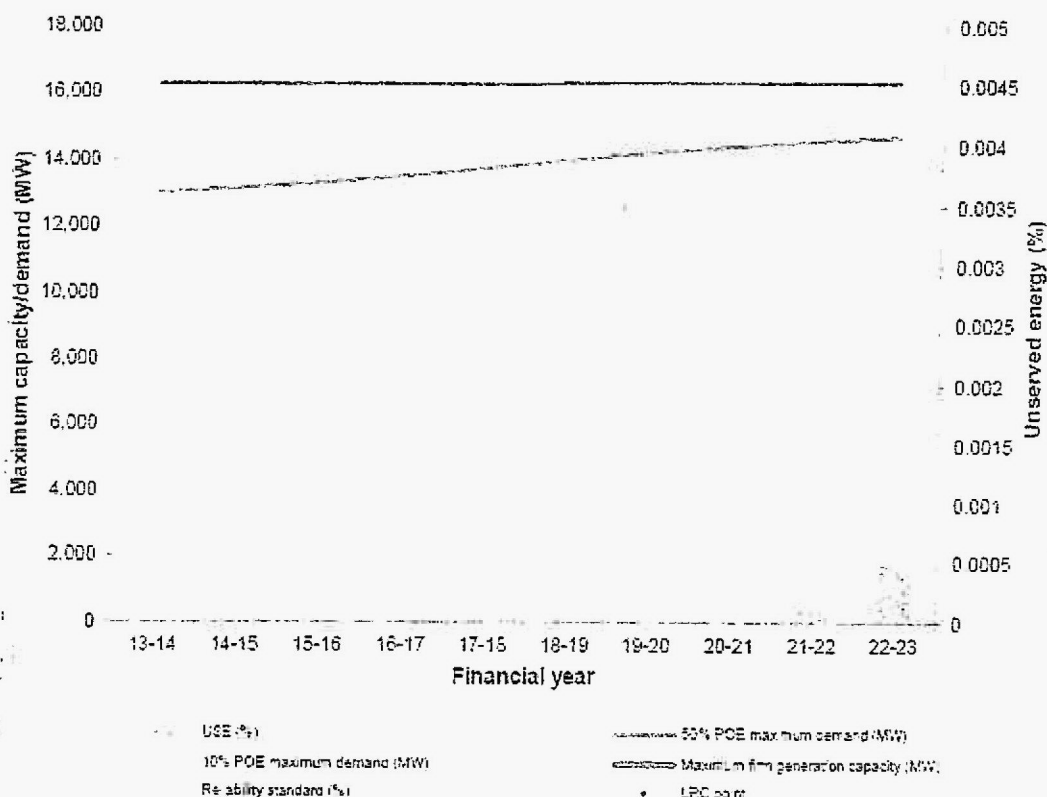
generating capacity of just over 16,000MW will not be enough in the long term and end users can expect to see the level of unserved energy trending upwards by the beginning of the next decade.

The early establishment of peaking power stations is the first remedy to improving the reliability of the supply of electricity but ultimately new base load generation will be required. Given the requirement for additional peaking power would be expected at least 2 years ahead of the need for base load generation, a 5 year extension of the lapse date provides for a latest construction start date of 2019 and would allow for commercial operation in 2021, about two years ahead of the need for new base load generation as predicted by AEMO.

Table 6 — New South Wales supply-demand outlook summary

Region	Low		Medium		High	
	LRC point	Reserve deficit (MW)	LRC point	Reserve deficit (MW)	LRC point	Reserve deficit (MW)
	Beyond 2022-23	-	Beyond 2022-23	-	2021-22	53

Figure 5 — New South Wales supply adequacy



Generation investment interest in New South Wales is focused on wind generation, with 27 projects proposed, dominated by the Liverpool Range, Yass Valley, Rye Park and Sapphire proposals. The Gullen Range (166 MW), Boco Rock stage 1 (113 MW) and Taralga (107 MW) wind generation projects were recently committed.

Figure 1 - *Extract from page 9 of AEMO's 2013 Electricity Statement of Opportunities



Does power station at Wellington still make sense?

There will be a need for peaking power when the demand for electricity increases. In particular peaking power will be required to compensate for the significant and rapid changes in the level of generation resulting from the increasing amount of wind generation needed to meet the RET. Gas turbines are able to respond quickly to such changes and avoid the need for load shedding and blackouts.

The criteria used in the selection of Wellington as a site for the peaking power station have not changed. Wellington 330kV substation will remain the major electricity hub for central and western NSW and provides a solid connection to the main power grid. Accordingly the power station at Wellington will service Sydney's major load centres as well as improve supply reliability to central and western NSW. The power station site is close to existing and future gas sources and there is an adequate and secure supply of water from Burrendong dam.

- Has the environment changed sufficiently to render the site as unsuitable for power generation?

Wellington Council has advised that since the initial Environmental Impact Statement there have been no significant changes to the surrounding land use, no zoning changes or material amendments to local planning instruments that would be incompatible with the proposed development. From observations and discussions with Council there are no additional near neighbours or new developments located within the vicinity of the proposed power station site.

Has the technology changed so as to render the proposal obsolete?

Notwithstanding technological advances with batteries and fuel cells, gas-fired turbines still remain the most commercially viable form of large scale peaking plant. Whilst gas-turbines continue to evolve and each new generation is becoming more efficient and flexible there have been no material changes to the proposed gas-turbine plant.

Have regulations or standards changed since the approval was granted?

- The EPA has advised in their letter of 21 October 2013 that there have been no material changes to the relevant regulations, guidelines and/or policies since the original approval was granted.

Modification to Condition of Consent

Condition 1.4 of Project Approval No. 06_0315 will need to be modified as hereunder to accommodate the proposed extension of the lapse date.

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

3.2. Modification of power station configuration

What is being proposed?

On 7 September 2010 the Project Approval was modified (MP06_0315 MOD 1) to allow for greater flexibility in the selection of gas turbines and provided for the establishment of alternative station layout comprising of either 4 X 150MW or 2 X 225MW gas-fired turbines.



The latter configuration, based on using two 4000F gas turbines, was included to provide greater flexibility and allow the power station to be operated economically for extended periods of time (intermediate duty). It is now proposed to commit to this configuration only and abandon the four unit design.

The proposed modification does not include changes that would warrant any further approvals or impact on already approved processes.

Why is this design change being proposed?

The establishment of Wellington power station using two 4000F gas turbines will reduce the noise at the nearest residences.

The Noise Assessment prepared in support of the modification had regard to acoustic levels approved in 06_0315 (in particular Condition 2.7) and the *NSW Industrial Noise Policy*. The Assessment provided the following table (reproduced as Table 3-1) comparing the acoustic impacts of the proposed modification, at key receivers to that already approved.

Table 3-1 Comparison of Siemens four V94.2 and two 4000F gas-fired turbine operations

Location	Received noise level (dB(A), $L_{Aeq, 15min}$)				
	Allowable noise contribution	Neutral conditions		Adverse conditions	
		Original configuration	Proposed 2 turbines	Original configuration	Proposed 2 turbines
1. Mount Nanima	39	36	295	38.5	32
2. Cadonia Subdivision	35	26.5	26	29.5	29
3. Keston Rose Garden Cafe	37	34.5	28	37	31
4. Nanima House	35	43	36	44.5	37.5

Note: Noise levels shown to the nearest 0.5 dB(A)

Operational noise impacts for Siemens four V94.2 gas-fired turbines adopted from *Wellington Gas-Fired Power Station, Environmental Assessment* (PB May 2008)

In summary the assessment concluded that with the exception of Nanima House, operational noise impacts under neutral and adverse meteorological conditions at the nearest residences were compliant with project maximum allowable noise objectives specified in the *NSW Industrial Noise Policy*.



The assessment concluded that the modification would not warrant any changes to the approved mitigation measures stated in the Environmental Approval.

A more recent (July 2012) environmental impact assessment and approval for the Dalton Power Project included both A and C weighted noise limited for operation of a gas powered peaking plant. C weighted noise limits of 65 dB(C) day time and 60 dB(C) evening and night time were applied to ensure low frequency noise components did not adversely impact the surrounding community. To provide information on low frequency components of the Wellington power station, noise modelling has been undertaken to determine C weighted noise levels from the proposed two 4000F gas turbine configuration (cf PB Report 2162434B-ENV-MEM-001 RevA). These results are summarised in Table 3-2. Table 3-2 Predicted A and C weighted noise levels for two Siemens 4000F gas-fired turbines

Location	Received noise level (dB(A), L _{Aeq,15min})	Received noise level (dB(C), L _{Ceq,15min})
	Adverse conditions	Adverse conditions
1. Mount Nanima	30	46
2. Cadonia Subdivision	26.5	42
3. Keston Rose Garden Cafe	28	44
4. Nanima House	34.5	50.5

Note: Noise levels shown to the nearest 0.5 dB

Predicted noise levels exclude a 5 dB penalty on low frequency components.

The results show that the C-weighted noise levels are 50.5dBA at the most impacted receiver (Nanima House) and well below the limits recently applied at the Dalton project.

Does this change affect the viability of the Power Station Project?

No - as has been demonstrated more recently the 4000F gas fired turbines are proving to be both cost effective and operationally superior to the smaller 150MW V94.2 gas fired turbines even when used in a peaking applications.



Planning &
Infrastructure

Received
28/2/14
[Signature]

Contact: Diane Sarkies
Phone: (02) 9228 6370
Fax: (02) 9228 6355
Email: diane.sarkies@planning.nsw.gov.au

Nat Barton
'Nanima'
WELLINGTON NSW 2820

Our ref.: MP 06_0315 MOD 2

Dear Mr Barton

Subject: Exhibition of Modification Request for Wellington Gas Fired Power Station (MP 06_0315 MOD 2)

I am writing to you because you made a submission to the Department of Planning & Infrastructure during the exhibition of the above project application.

ERM Power has submitted another request to modify the project. The request may be viewed on the Department's website (<http://www.majorprojects.planning.nsw.gov.au>).

The modification request will be on public exhibition from **Wednesday 26 February 2014** until **Thursday 13 March 2014**.

If you wish to make a submission on the proposed modification request you should read the submissions section of the attached document. Submissions must reach the Department by close of business **Thursday 13 March 2014**.

Details on where to view the modification request during the exhibition period are also overleaf.

Yours sincerely,

[Signature]

Diane Sarkies
Senior Planner, Energy

25/2/14



Andrew Gee MP

MEMBER FOR ORANGE

Our Ref: 14/03.107

26 March 2014

Mr Nat Barton
Nanima
7009 Goolma Road
WELLINGTON NSW 2820

Dear Mr Barton

Nat

Thank you for correspondence recently received by my office regarding the Wellington gas fired power station, Project Approval 06_0315.

I have read your email and take particular note of the numerous matters you have raised which require further consideration.

I confirm I have contacted the Minister for Planning, the Hon Brad Hazzard MP and asked him to respond to the matters you have raised in your correspondence.

Thank you for your patience, and I will contact you again when I receive a response from the Minister.

Yours faithfully

Andrew Gee MP
Member for Orange

THE NATIONALS for Regional NSW



14/05/89.
14/03.107

Rebecca Mackay

From: Nat Barton <nba43079@bigpond.net.au>
Sent: Monday, 19 May 2014 10:26 AM
To: Brad Hazzard
Cc: ElectorateOffice Orange
Subject: Fw: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION
Attachments: IMG.pdf

Dear Minister Hazzard,

Please see attached.

Yours sincerely,

N Barton

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

From: Nat Barton

To: Diane Sarkies

Sent: Monday, May 19, 2014 10:23 AM

Subject: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION

Dear M/s Sarkies,

I refer to my submissions and the attached article in the Sydney Morning Herald that was published on 15 May 2014.

The article alleges close links to ERM Power, the proponents of the Wellington Gas Fired Power Station Project, and the Obeid family.

If the information published in this article is correct and the fact that the EPA says the Project should not be licensed serious questions should be asked as to how the Project was approved in the first place.

Further, there are real questions as to whether or not ERM Power are fit and proper persons to do this development and the independence and objectivity of Wellington Council.



If you require further information please do not hesitate to contact me.

Yours sincerely,

N Barton
"Nanima",
7009 Goolma Rd.,
WELLINGTON NSW 2820

smh.com.au

The Sydney Morning Herald

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Metgasco project referred to ICAC as links to Obeid family emerge

Sean Nicholls, Nicole Hasham, Kate McClymont
Published: May 15, 2014 - 5:56PM

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- [More NSW news](#)

Resources company Metgasco's gas drilling operation on the NSW north coast was referred to corruption authorities as links emerged between its largest shareholder and the family of disgraced former Labor powerbroker Eddie Obeid, and controversial businessman Nick Di Girolamo.

On Thursday, NSW Energy Minister Anthony Roberts announced he had suspended Metgasco's exploration licence at Bentley, near Lismore, due to a lack of community consultation.

Mr Roberts also said he had referred the project to the Independent Commission Against Corruption "following receipt of information concerning shareholdings and interests in Metgasco Limited".

The chairman of Metgasco's largest shareholder, ERM Power, is Tony Bellas, who is in business with Eddie Obeid's nephew, Dennis Jabour. Both are shareholders in the Queensland company Gasfields Waste Water and Services, of which Mr Jabour is the sole director.

Until March last year, Mr Bellas was also a director of Australian Water Queensland, a subsidiary of infrastructure company Australian Water Holdings, whose activities are the subject of current ICAC investigations.

Eddie Obeid jnr, the son of Mr Obeid, worked for Australian Water Queensland. The ICAC has heard that from 2009 Mr Obeid jnr led AWH's push into the Queensland market.

Among Mr Bellas's fellow directors on the Australian Water Queensland board were Mr Di Girolamo, a former lobbyist and Liberal party fundraiser who was chief executive of AWH.

Mr Di Girolamo's gift of a \$3000 bottle of Penfolds Grange Hermitage to former NSW premier Barry O'Farrell led to his resignation after Mr O'Farrell gave false evidence about it to the ICAC.

Australian Water Queensland was shut down due to negative publicity about the involvement on the board of a Queensland lobbyist, Wayne Myers. A new company, Gasfields Waste Water and Services, was set up early last year.

Former Gasfields shareholders include Mr Obeid jnr, Mr Di Girolamo and the current director-general of the Queensland department of premier and cabinet, Jon Grayson, who only ceased to have an interest two weeks ago.

On Thursday, Mr Bellas said he was "incredulous" about the referral to the ICAC if it was due to his links with Mr Di Girolamo and Mr Obeid jnr.

"We have nothing to do with Metgasco's operation, we're just a shareholder," Mr Bellas said.

Asked about the nature of his association with Mr Di Girolamo and Mr Obeid jnr, Mr Bellas replied: "I'd prefer not to comment on either, because they are before the ICAC."

Metgasco's license to explore for coal seam and conventional gas resources in northern NSW was first granted to Carlita Holdings in November 1996, when the Carr Labor government was in power.

Peter Gray, a high-profile stockbroker, was a director and secretary of Carlita Holdings and was later revealed as an investor in Cascade Coal, a company at the centre of an ICAC inquiry involving Mr Obeid snr and another former Labor resources minister, Ian Macdonald, last year.

The ICAC found Cascade Coal paid \$30 million to the family of Mr Obeid to buy out part of their stake in a mining joint venture over the Obeids' Bylong Valley farm.

ICAC found Mr Macdonald acted corruptly in creating a mining tenement at Mount Penny in the Bylong Valley over land owned by the Obeid family.

In his final report, the ICAC found Mr Macdonald expressly reopened a tender to enable Cascade Coal to put in a bid, which it subsequently won.

Mr Gray was not accused of any wrongdoing.

In August 1999, the north coast exploration license, known as PEL 16, was transferred from Carlita Holdings to Metgasco, when Mr Obeid snr was Minister for Mineral Resources. Mr Obeid renewed the licence in 2000 and it was again renewed by Mr Macdonald in 2006.

The licence was most recently renewed last year, under former Liberal resources minister Chris Hartcher. Mr Hartcher is currently the subject of an ICAC inquiry involving Australian Water Holdings.

He and fellow state MPs Chris Spence and Darren Webber are accused of soliciting donations to an alleged slush fund, including from AWH, in return for political favours.

Metgasco shares went into a trading halt on Thursday morning. In a statement, the company said it was "confident that it is in compliance with the PEL 16 licence conditions and is seeking to demonstrate this to government".

The chief executive, Peter Henderson, declined to comment further.

This story was found at: <http://www.smh.com.au/nsw/metgasco-project-referred-to-icac-as-links-to-obeid-family-emerge-20140515-zrdfz.html>

Rebecca Mackay

From: Nat Barton <nba43079@bigpond.net.au>
Sent: Monday, 19 May 2014 11:55 AM
To: ElectorateOffice Orange
Cc: Brad Hazzard
Subject: Fw: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION
Attachments: IMG.pdf

Categories: Printed

Dear Andrew,

Please find for your information.

If appropriate you may wish to make representations on my behalf.

Yours sincerely,

N Barton

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

From: Nat Barton
To: pru goward
Sent: Monday, May 19, 2014 10:46 AM
Subject: Fw: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION

Dear Minister Goward,

Congratulations on your appointment as Planning Minister. My apologies for not keeping up to date with all the changes.

Please see attached article in the SMH that alleges close links between ERM Power and the Obeid family.

You may wish to support my submissions to ICAC that I will send in a further 4 emails or alternatively refer them to Minister Roberts.

Yours sincerely,

Nat Barton
"Nanima",
7009 Goolma Rd.,
WELLINGTON NSW 2820
Ph: 02 68 451793
Email: nba43079@bigpond.net.au

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

From: Nat Barton
To: Brad Hazzard
Cc: Andrew Gee
Sent: Monday, May 19, 2014 10:25 AM
Subject: Fw: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION

Dear Minister Hazzard,

Please see attached.

Yours sincerely,

N Barton

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

From: Nat Barton

To: Diane Sarkies

Sent: Monday, May 19, 2014 10:23 AM

Subject: MOD 2 - MP 06_0315 - WELLINGTON GAS FIRED POWER STATION

Dear M/s Sarkies,

I refer to my submissions and the attached article in the Sydney Morning Herald that was published on 15 May 2014.

The article alleges close links to ERM Power, the proponents of the Wellington Gas Fired Power Station Project, and the Obeid family.

If the information published in this article is correct and the fact that the EPA says the Project should not be licensed serious questions should be asked as to how the Project was approved in the first place.

Further, there are real questions as to whether or not ERM Power are fit and proper persons to do this development and the independence and objectivity of Wellington Council.

If you require further information please do not hesitate to contact me.

Yours sincerely,

N Barton

"Nanima",

7009 Goolma Rd.,

WELLINGTON NSW 2820

"Nanima",
7009 Goolma Rd.,
WELLINGTON NSW 2820
Ph: 02 68 451793
Email: nba43079@bigpond.net.au

18 May 2014

SENT BY POST & EMAIL

I.C.A.C.
Level 21,
133 Castlereagh St.,
SYDNEY NSW 2000
Ph: 02 8181 5999
Email: icac@icac.nsw.gov.au

Dear Sirs,

RE: ERM POWER & MP 06_0315 AND NKD BARTON.

I refer to my online corruption form sent to you today and include :-

- (i) Affidavit of NKD Barton dated 7 April 2014,
- (ii) Letter dated 2 December 2010 – ICAC to NB, and
- (iii) Article SMH dated 15 May 2014.
- (iv) Orders of Slattery J dated 3 October 2013,
- (v) The Daily Advertiser – Wagga – 20 Dec 2009, and
- (vi) Goulburn Post – Hon Katrina Hodgkinson MP, Minister for Agriculture and Member for Burrinjuck - 2 July 2012.

In essence MP 06_0315 blights my property to the point it is valueless. The property is a heritage listed property and is registered with the National Trust, Wellington LEP and is on the Register of the National Estate. It is within 700m of the proposed \$1.6billion – Wellington Gas Fired Power Station. The property is non compliant with *NSW Industrial Noise Policy* should the Power Station proposal proceed. ERM Power says the proposal will proceed.

My submissions to the Department of Planning are on the Department of Planning website and are on public display and can be downloaded.

My Affidavit spells out the contemptuous way that ERM Power have treated the current Minister for Planning, Hon Brad Hazzard MP and myself. The Project Approval has caused me severe financial hardship to the extent I now receive Transitional Farm Family Payments from Centrelink as my property is not saleable and developers for the subdivision land have bolted despite spending hundreds of thousands of dollars on planning on projects worth well in excess of \$20m that could have had a huge beneficial impact on Wellington..

ERM Power have known from the outset in 2005 that I had unresolved Court proceedings -- they were noted on my land title and ERM commissioned a valuation in 2007.

I am without legal representation in the myriad of Court proceedings I am currently involved in. In the Local Court of Sydney, the Federal Court and SCNSW. I cannot afford legal representation and despite orders by His Honour Justice Slattery no legal representatives have to date been found.

I have not included all the exhibits to my Affidavit dated 7 April 2014 because there are too many of them and because payment for my horses is so slow and I cannot afford to copy them at this stage.

The Affidavit is in support of a NOM to join Wellington Council and ERM Power to the *Roberts Fund P/L & Ors v NKD Barton & Ors* proceedings currently before the SCNSW.

There is absolutely no doubt in my mind that ERM Power have taken the position they have in an effort to bankrupt me and obtain my historic property for little if any consideration.


I propose to join Wellington Council as the ex Mayor, Councillor Anne Jones announced to all that there were "stringent" conditions when the Project Approval was announced jointly by Mr Andy Pittlik, NSW Director, ERM Power, Councillor Anne Jones and Hon Kristina Keneally, Minister for Planning .

The announcement was made despite an unfolding debacle at Uranquinty where over 10 properties were acquired in 2009 as the Department of Planning had got the noise modelling wrong for the power station built by NewGen Power - a company jointly owned by ERM Power and Babcock & Brown.

It is my understanding that Joseph Stalin when he was acquiring properties in the 1930's in the "state's best interests" in communist Russia at least had the courtesy to give the former owners two red tablecloths -- that is a 200% increase on what I have received.

Nanima has contributed hugely to Australia, Edmund Barton (Australia's first Prime Minister) , Banjo Patterson, Dorothea Mackellar, Conrad Martins and my Grandfather have all direct links to this property -- they are all either relatives or frequent visitors.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N Barton', with a long horizontal flourish extending to the right.

N Barton

COPY

AFFIDAVIT OF NKD BARTON DATED 7 APRIL 2014

COURT DETAILS

Court	SUPREME COURT OF NSW
#Division	EQUITY
#List	POSSESSION
Registry	SYDNEY
Case number	2013/218863

TITLE OF PROCEEDINGS

[First] plaintiff **ROBERTS FUND PTY LTD**

#Second plaintiff #Number of
plaintiffs (if more than two) 3

[First] defendant **NATHANIAL KELBURN DUNBAR BARTON**

#Second defendant #Number of
defendants (if more than two) 16

FILING DETAILS

Filed for **NATHANIAL BARTON – FIRST DEFENDANT/THIRD
CROSS CLAIMANT**

#Filed in relation to **NOTICE OF MOTION – JOINDER OF ERM POWER LTD
AND WELLINGTON COUNCIL AND LEAVE TO FILE
3XC**

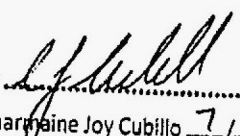
#Legal representative **ACTING IN PERSON**

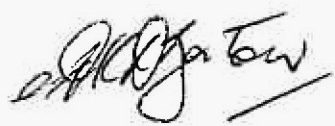
#Legal representative reference

Contact name and telephone **NATHANIAL BARTON – 02 68451793**

Contact email **nba43079@bigpond.net.au**

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[on separate page]

AFFIDAVIT

Name Nathaniel Kelburn Dunbar Barton
 Address "Nanima", 7009 Goolma Rd., Wellington NSW 2820
 Occupation FARMER/GRAZIER
 Date 7 April 2014

I say on oath :

- 1 I am the First Defendant/Third Cross Claimant.
- 2 At all material times since 1996 I was the owner of the property known as "Nanima", 7009 Goolma Rd., Wellington NSW that is contained in Land & Property Folio Identifier 2/806578. ("the property").

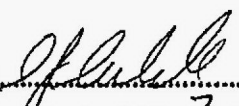
HISTORICAL HERITAGE OF NANIMA

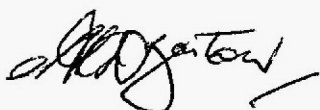
- 3 On 5 February 1974 the Nanima Homestead and Outbuildings were classified with the Australian Heritage Commission.[p1-2]
- 4 On 11 February 1974 Nanima was entered on the Register of the National Trust of Australia (NSW) in recognition of its Heritage Significance.[p3]
- 5 On 20 March 1978 Nanima was registered by the Australian Heritage Commission on the Register of the National Estate.
- 6 The Nanima Homestead is listed as a Heritage Item under Schedule 1 of the Wellington Local Environmental Plan 1987 ("LEP") and was gazetted on 26 June 1987.[p4-10]
- 7 On 17 July 2013 the National Trust produced a National Trust Register Listing Report of Nanima that included a Statement of Heritage Significance that was authorised by Mr Graham Quint.[p11-23]

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AGED CARE DEVELOPMENT AND VALUATIONS

- 8 On 26 July 1990 DA 57/90 was approved by Wellington Shire Council that granted approval of 12 Subdivision Building Blocks on the property.[p24-36]

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 Charmaine Joy Cubillo 21/4/14



- 9 In April 1997 Mr Peter Macadam GVLE B.Com (L.Ec) Registered Valuer No 3784 for and on behalf of EDWARD RUSHTON AUSTRALIA PTY LTD estimated the Reinstatement with new Value of Nanima as at April 1997 was \$2,755,000.00 and that the estimated limit of liability for insurance purposes was \$3,235,000.00. [p27-35]
- 10 On 14 May 1999 Mr Shane Trethewey, Shane Trethewey & Associates did a Valuation Report for Tower Finance of Nanima that valued the property at \$1,100,000.00. [p36-44]
- 11 On 3 September 1999 The Wellington Times carried a front page story titled "Million Dollar Development – Wellington to become a retirement mecca." [p45]
- 12 On 6 September 1999 Mr Harry Wallis, a retiree, was supportive of the proposal and requested further information about the Project so that he could review his situation. [p46]
- 13 On 19 October 1999 the General Manager, Wellington Council, Mr D H Ramsland, wrote to me and advised that Council has resolved in principle support for the Riverlink Aged Care/Motel project and is prepared to work closely with you and your associates to develop a positive outcome for the project. Mr Ramsland went to say that "there are quite distinct short, medium and long term benefits not only for Wellington but the entire Central Western Region as well. [p47]
- 14 Mr Charles Warren and Mr Albert Philpot, the proposed co developers of the Riverlink concept, produced in Draft form an estimate of costs and projected income. [p48-54]
- 15 On 22 October 1999 the Wellington Times published a story, **Council gives motel approval in principle**. The article published comments from both myself and Mr Warren supporting the concept. [p55]
- 16 On 18 October 1999 Mr Neville Brown, Nanima Progress Association (Aboriginal Corporation) wrote a letter of support for the Project. [p56-57]
- 17 On 18 January 2000 Campbell Luscombe & Associates Pty Ltd produced architectural drawings for a Motel/Aged Care Development on the Nanima subdivision land. [p58-87]
- 18 On 14 August 2000, Hon Bronwyn Bishop, Minister for Aged Care, wrote to the Hon John Anderson, Deputy Prime Minister, and thanked him for making

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[Signature]
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 2/14/14

[Signature]

representations on my behalf concerning the need for additional aged care places in the Wellington area. [p88-89]

- 19 On 27 June 2001 Mr Leo Campbell, Campbell Luscombe & Associates, Architects, sent to Mr Leo Smits, my former solicitor, a set of the Riverlink Architectural Drawings prepared for the DA on the Nanima Subdivision Land. The drawings included plans for a Motel and Aged Care Development as well as sporting facilities. [p58]
- 20 On 14 August 2001 Wellington Council issued Development Application 68/2001 that granted subdivision in two blocks of the Nanima property. [p84-87]
- 21 In 2003 I instructed Jack C Dalton Pty Ltd to provide professional advice under the Commonwealth Government's "Farm Enterprise Viability Assessment Scheme" (Centrelink Customer Referral Number 289 529 569 C/Q582/10J/EMS/WMB) to assess the viability of a proposed development that would be constructed on a parcel of land subdivided from the "Nanima" property. [p62-83]

MACQUARIE DEVELOPMENTS PTY LTD

- 22 On 6 February 2004 Macquarie Developments Pty Ltd signed an Option Deed to purchase the Nanima Subdivision Land for \$750,000.00 and registered Caveat No AA439288 on the Nanima Land Title. [p84-90]
- 23 On 10 March 2005 in accordance with Clause 3 of the Option Deed Macquarie Developments Pty Ltd extended the option to purchase the Nanima Subdivision Land for a further 12 months and during the period of the Option Deed, Macquarie Developments obtained approval from Wellington Council to further subdivide the land from 12 blocks into 15 blocks. [p91]
- 24 On 23 February 2006 I had a meeting with Mr Garry McGraw, Director Macquarie Developments, in Wellington who said :-

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a. that he wished to extend the Option and put down \$50,000.00 as he was not in a position to settle the purchase,

b. one of his associates had plans drawn for 18 blocks as 12 blocks were not economical,

c. underground power was required for more than 18 blocks

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[Signature]

d. I said that I was not happy with this arrangement as I had legal fees to pay but I would consult with Mr Smits. [p92-95]

25 On 24 February 2006 I emailed a report on the meeting to Leo Smits.[p96]

26 On 21 March 2006 Garry McGraw faxed me a hand written note of the proposed terms of the extension to the Option Deed. I copied it to Mr Smits for his approval as a mortgagee.[p97]

27 On 10 April 2006, Mr John Roberts, Brian Muir & Company, wrote to me and confirmed that the Option Deed had now lapsed and the Purchaser (Macquarie Developments) will assign to the vendor all documents relative to re-subdivision of the Lot but the Vendor is then responsible for payment of the fees to that date.[p98]

28 On 14 June 2006 Mr Duncan Towat, Planning Protection & Connection Officer, North West Region, Country Energy wrote to me and advised that a backbone power supply is not available to the proposed lots in the subdivision.[p99]

29 On 20 June 2006 I wrote to Mr Eric Smith, Doherty Smith & Associates, Surveyors, and said that the Option Deed has lapsed and I own the property and Macquarie Developments has no future interest in the matter and it is absurd to suggest otherwise.[p100]

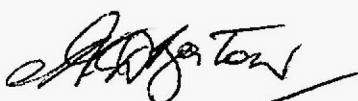
30 On 21 June 2006 Mr Eric Smith, Doherty Smith wrote to me and said that he cannot perform work on the same job for two different clients.[p101]

31 On 22 June 2006 I wrote to Garry McGraw and said I cannot be expected to wait indefinitely and have no control over your commercial affairs, but I am certain you could arrange bank finance to buy the development site if you are committed to do that and your offer should be more favourable given the substantial temporal over-run.[p102]

32 On 19 July 2006 Mr Owen Johns, Director Technical Services, Wellington Council provided a Quotation and Estimates for road works on the Nanima Subdivision land.[p103-105]

33 On 11 September 2006 Wellington Council issued Development Approval 2006/36 for an additional three additional lots on the Nanima Subdivision land.[p106-114]

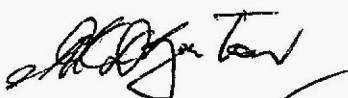
34 On 20 September 2006 Doherty Smith drew plans for pegging the Nanima Subdivision Fence Lines.[p115]




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- 35 On 9 October 2006 Doherty Smith drew an Existing Site Plan & Road Design Plans for DA 57/90 & DA 2006/36. [p116-123]
- 36 On 20 January 2011 Doherty Smith drew an Erosion & Sediment Control Plan.[p124]
- 37 On 3 April 2014 I downloaded a Transaction Report Summary of my costs and income from the Nanima Subdivision Land from 2 August 1996 to 3 January 2007 [p125]
- 38 On 12 October 2006 Mr Jeff Fardell, Active Energy, Orange sent a quote of \$89,517.00 to supply electricity to 15 blocks on the site.[p126-127]
- 39 On 9 June 2011 Mr Jeff Temesvary, Managing Director, Country Powerline Constructions sent me a quote of \$123,247.00 for underground power connections to 15 blocks. [p128-129]
- 40 On 29 July 2011 Ashley Albury, Manager Planning & Development Services, Wellington Council sent to Doherty Smith a letter confirming substantial commencement of DA 68/2001.[p130]
- 41 On 1 August 2011 Doherty Smith wrote to me and included the Substantial Commencement letter dated 29 July 2011 from Wellington Council and also advised that in order to proceed with the subdivision the survey fieldwork for final pegging and plan preparation must be finalised and the plan submitted to Wellington Council for their endorsement. [p131-132]
- 42 On 8 August 2011 Mr Malcolm Johns, Malcolm Johns & Company, my solicitor, sent me a letter from Wellington Council confirming substantial commencement of DA 57/90 and 2006/36 and an updated s149(5) Certificate. [p133-135]
- 43 On 22 June 2009 I signed a **Costs Agreement with Malcolm Johns & Company YOU AND MACQUARIE DEVELOPMENTS PTY LIMITED** that states at B. The work we have been instructed to do is to assist in removing the caveat by Macquarie Developments Pty Ltd against your property Nanima at Mudgee Road, Wellington. [p136-148]
- 44 On 29 June 2009 **Malcolm Johns & Company** wrote "I certify this to be a true and correct copy of the original document shown and reported to me as the original." Tax Invoice No. 33560 (Lapsing Notice preparation) - \$422.00 [p149-152]



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- 45 On 3 August 2009 **Malcolm Johns & Company** wrote Tax Invoice No.33585 – **YOU AND MACQUARIE DEVELOPMENTS PTY LTD** for work done from 29 June 2009 until 28 July 2009 - **\$470.40 [153-156]**
- 46 On 27 July 2009 Malcolm Johns & Company removed the Macquarie Developments Caveat to purchase the Nanima Subdivision land for \$750,000.00 from the Nanima Land Title **[p157-158]**

ERM POWER LIMITED

- 47 Sometime towards the end of 2005 ERM Power Ltd made a decision to commence planning for a proposed \$200m Gas Fired Peaking Power Station project ("The Project") adjacent to the Transgrid operated Electricity Sub Station and within 700m of the Nanima Homestead.
- 48 In late 2005 or early 2006, M/s Rosemary Turner from Mediate Today and Mr Andy Pittlik, ERM Power met with me at Nanima and informed me that ERM Power proposed to build a Peaking Power Station near the Transgrid owned Sub Station that would have minimal affect on my property. The proposed project would create a "humming noise" that would be barely audible and would be operating for only short periods.
- 49 On 25 November 2006, the Minister for Planning formed the opinion pursuant to Clause 6 of *State Environmental Planning Policy (Major Projects) 2005* that the proposal is for the purpose of development described in Schedule 1 to that Policy (clause 24(a) "Development for the purpose of an electricity generation facility that has capital investment value of more than \$30million for coal-fired generation). The proposal is thus declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") applies."
- 50 On 10 June 2007 Mr Andy Pittlik wrote to me by email and enclosed a copy of a Newsletter that was distributed to all landowners within the Wellington Local Government area and others affected by either the proposed Power Station or Gas Pipeline. **[p159-163]**
- 51 On 13 June 2007 Mr Paul Greenhalgh, Principal Environmental Planner, Parsons Brinkeroff Australia Pty Ltd, wrote a letter to me that thanked me for allowing PB to place a noise logger on my property and disclosed the measured ambient noise levels at my property. **[p164-165]**
- I certify this to be a true and correct copy of the original document shown and reported to me as the original."

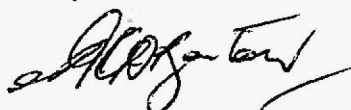



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a. Attended monitoring	8.12am	35dB(A)
b. Unattended Monitoring	7.00 am to 6.00pm	30dB(A)
c.	6.00pm to 10pm	26dB(A)
d.	10pm to 7.00am	25dB(A)

- 52 Sometime before 29 June 2007 M/s Tracey Richards, Registered Valuer No. 10022, Herron Todd White, Dubbo received instructions from ERM Power Ltd to produce a valuation of Nanima. ("The HTW Valuation"). [p166-204]
- 53 On 20 December 2007 Mr Paul Greenhalgh wrote a letter to me that said among other things, "You should be aware, however, that due to new advice from one of our potential technology suppliers for the project we propose to re-run the exercise for a 35 metre stack height to ensure that worse case scenarios are considered." Enclosed was a copy of the latest newsletter. [p205-209]
- 54 The project is declared to be a critical infrastructure project under 75C of the EP&A Act by virtue of an Order made by the Minister for Planning on 26 February 2008 with respect to certain developments for the purpose of electricity generation facilities with capacity to generate at least 250MW.
- 55 ERM subsequently prepared and submitted a detailed Environmental Assessment in relation to the Project Application.
- 56 In May 2008 Mr Paul Greenhalgh from Parsons Brinkeroff Australia Pty Ltd prepared a Summary of the Environmental Assessment [p210-222] that stated ;-
- a. At S.3 – A visit to ERM Power's Oakey Power Station with key community and stakeholders had been undertaken.
 - b. at S.4 - "any increase in the environmental impact on the final design will be assessed, and mitigation measures developed accordingly, prior to the commencement of construction".
 - c. Table S-3 acknowledges that Nanima House is on the Register of the National Estate
- 57 Nanima House is the closest residence to the proposed Power Station and was not invited to go on the trip to Oakey Power Station with community leaders and key stakeholders.

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Charmaine Joy Cubillo 1/4/14

- 58 There is no mention of the Noise Impact on Nanima House and no mitigation measures have been developed to date despite the Project Approval lapsing on 4 March 2014.
- 59 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.
- 60 On 3 June 2008 **Varanus Island gas explosion cut 30% of WA's domestic gas supply**. The disaster was sparked when the main pipeline to Apache Energy's gas plant erupted, causing an explosion, on June 3, 2008 cutting 30% of WA's domestic gas supply. (Ref: 29 March 2012 - WAtoday.com.au) [p223]
- 61 The Environmental Assessment predicts that the Power Station is likely to result in a noise impact at all of the buildings at Nanima.
- 62 On 13 June 2008 the Dubbo Liberal ran a front story titled "**Powering up: \$350m new power plant for region? 300 JOBS UP FOR GRABS**". [p224-226]
- 63 On 13 June 2008 the Wellington Times reported **Power Station plans divide community**. [p227-228] The story went on to say :-

- a. **What the assessment says – THE CASE FOR. – 1. Noise** The noise impact assessment identified that operation of the power station would result in some increase in received noise levels at some sensitive receptors. Implementation of mitigation measures would effectively minimise the impact. Noise studies had been done at Keston Rose Garden Café, Nanima House, Mt Nanima and Cadonia Estate. **Other issues were 2. Air Quality** In the context of comparable coal fired generation, the proposed power station provides a low greenhouse intensity alternative, less than half that of coal fired generation. **3. Visual Impact**, Endemic species and neutral colours would be used. **4. Historical Heritage** A total of four Aboriginal heritage sites were identified and there are no further specific cultural significances attached to the site **5. Site Selection**. ERM conducted a comparative assessment of three potential sites.

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The assessment considered criteria such as physical space constraints, potential interruptibility to existing operations, existing network connection restraints and benefits and environmental sensitivity.

JP...
Charmaine Joy Cubillo 150783
7/4/14

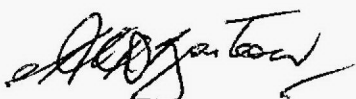
What the resident says – CASE AGAINST. 1. Noise The project is non compliant with noise at neighbouring properties. **2. Air Quality** The project is

[Handwritten signature]

non compliant with air quality benchmarks at start up phase, The EA does not show the impact of air emissions over the Macquarie River or the town of Wellington which is within 2km of the proposed site. No detailed background air quality data or site specific monitoring was undertaken during the assessment period. The computer model used to model air quality does not simulate calm conditions. Given that Wellington has calm conditions 25% of the year, and primarily in winter, the model is not appropriate. **3. Visual Impact** The visual impact assessment is not compliant with the DG request for information to be included in the EA. **4. Historical Heritage** The EA ignored the impact of construction and operation on Nanima House which is noted on the Wellington LEP. **5. Site selection** –Site 2 is the preferred site as p107 of the EA states it has fewer residences in proximity to the project and is 7km away from town.

- 64 On 18 June 2008 Mr Chris Thompson, Senior Town Planner, Wellington Council wrote to me [p229-231] and detailed some of the shortcomings of the Environmental Assessment and concluded;-
- a. The EIS is inadequate with respect to the research, analysis and recommendations in relation to the heritage impact of the Power Station.
 - b. 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.
- 65 On 20 June 2008 the Wellington Times published a letter I wrote to the Editor that raised concerns I had about the proposal as nearby residents of Wellington were exposed to real risk. [p232]
- 66 On 27 June 2008 the Wellington Times carried a front page story **Family home's future at risk.** [p233-234]
- 67 On 7 July 2008 Mr Colin Poyner, Veterinary Surgeon, Wellington wrote a letter to the Editor objecting to the proposal and concluded "I believe the ongoing pollution effects of this power station is a high price to pay for the long term benefit of half a dozen full time jobs." [p235]
- 68 On 20 August 2008 Andrew St Baker, Chief Commercial Officer, ERM Power, rang me and said :-

copy of the original document shown and reported to me as the original."



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Charmaine Jov Cubillo 7/4/14

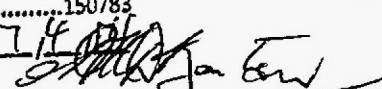
- a. Could I send you an Option Deed ?
- b. I said "Don't bother. I have had enough of Option Deeds. Macquarie Developments still hasn't settled. I still have outstanding legal matters to settle. Nanima has been tied up for years and I have nothing to show for it. If you wish to discuss compensation do so after the Project is approved."
- c. He said "The project is of State Significance and Just Terms apply."
- d. I said "I did not know that and what does it mean? Nanima is a family home and is on the Register of the National Estate and is on the Wellington LEP as an historic item. I don't even know where the proposed Project is to be located"

69 On 21 August 2008 Andrew St Baker called in to Nanima and said:-

- a. "I have come to show you where the Project is to be located ."
- b. We went for a drive down through "Cadia" towards the Transgrid Sub Station.
- c. When we reached the Sub Station I said "Now where precisely are you saying it will be built."
- d. He said "I cannot say precisely because the construction work studies are not complete but in this general area."
- e. I said "That's not good enough Andrew, it may be built within 100 metres of my home and will be huge fire risk."
- f. He said "No it will be built near the windmill."
- g. I said "But you do not know that. It is premature to discuss any compensation until the Noise Pollution, Air Quality and Hazard Strategies are resolved."

70 On 9 September 2008 Mr Owen Johns, Director Technical Services, Wellington Council confirmed to ERM Power that it can provide 20Mgl/year of treated town water at a rate of 2500 litres/hr. Mr Johns went on to say that Wellington was put on restrictions by the State Government limiting Council to 70% of its allocation. This restriction was only for a limited period and highly unusual being the first time restrictions have been implemented since 1992. Council's water treatment plant has a production capacity of 14Mg/day and the maximum demand on the plant is approximately 8 Mg/day). [p236]

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- 71 On 10 September 2008 Mr Andy Pittlik called in and we looked at a position for the proposed sound barrier and I agreed to seek further independent information from Mr David Scobie, Wellington Councils Heritage Advisor

OFFER AND COUNTER OFFER

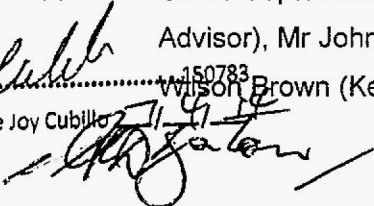
- 72 On 12 September 2008 M/s Anne Hyde called me from Wellington Council and advised that Mr David Scobie, Wellington Council's Heritage advisor would be in Wellington and would be available to discuss with me the impact of the proposed wall on Nanima House and Outbuildings and the most appropriate construction material, height, width and effectiveness. Mr Scobie would also be available to discuss sound proofing measures on Nanima House and Outbuildings. [p237]
- 73 On 16 September 2008 Mr Andrew St Baker, Chief Commercial Officer, ERM sent me by email a letter outlining some options for me to consider prior to determination by the Government in relation to the development application. Attached to the letter was a copy of the 2007 HTW Valuation that valued Nanima at \$1,030,000.00 that is some \$70,000.00 less than the 1999 Shane Trethewey valuation and a NSW LPI Search that identified the ongoing Court proceedings and the Caveat by Macquarie Developments. [p238-242]
- 74 On 17 September 2008 I responded to the letter sent by Andrew St Baker on 16 September 2008 pointing out that the valuation was woefully inadequate as it did not compare like properties and the property had 15 DA approved blocks on it rather than 12. Also that I had arranged a meeting with Mr David Scobie, Wellington Council's Heritage Advisor on 29 September 2013 to seek independent advice as to the likely impacts on Nanima. [p243-244]
- 75 On 22 September 2008 Mr Shane Harris, Parsons Brinkeroff Australia Pty Ltd compiled a Noise Barrier Investigation for ERM Power. [p245-258]
- 76 On 25 September 2008 Andrew St Baker wrote to me and said that he didn't intend to make any further offers however ERM is ready and able to consider any firm offers I may choose to put forward prior to determination of the development application and that ERM was prepared to pay for another valuation by a suitably qualified and experienced valuer selected by me. [p259-260]

- 77 On 29 September 2008 I met with Mr David Scobie (Wellington Council's Heritage Advisor), Mr John Claque, (Wellington Council) & Margaretta (Secretary), John Wilson Brown (Keston), Andy Pittlik (ERM), Leisl Garrett, Shane Harris and Jenni

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Lindberg (all consultants of ERM). The purpose of the meeting was to discuss noise conceptual options. Andy Pittlik agreed to send the ERM Conceptual Noise Options Report to me. [p261]

78 David Scobie felt the wall a waste of time as it was unsuccessful at Mascot and on expressways but considered a new roof with batts above the bedrooms, double glazing on all windows leading to the verandah and skylight and air conditioning under the floor would be in compliance with Wellington Council's Heritage requirements.

79 On 4 October 2008 the Wellington Times carried a front page story by Natalie Holmes **"Will wall stop the power plant noise ? – Nat Barton may soon have a power station like the plant at Oakey, Qld in his backyard"**. [p262-263]

80 On 10 October 2008 M/s Jennie Lindberg, Senior Project Manager, Australian Museum sent a letter to M/s Leisl Garrett, Parsons Brinkerhoff that provided advice on the proposed Noise Barrier and Sound proofing measures to the house. [p264-267]

81 On 13 October 2008 **Mr Andy Pittlik, NSW Director, ERM Power & NewGen Power** wrote to me and sent a copy of the Noise Report describing various options to mitigate noise at Nanima House. I trust this advice now provides you with the confidence to proceed with the acceptance of our offer. [p268-292]

82 On 17 October 2008 Mr Andrew St Baker wrote to me and reiterated that ERM was ready and willing to consider any firm counter offers in writing and would elevate it within ERM for executive consideration and response. [p293-295]

83 On 17 October 2008 I wrote to ERM formally rejecting their offer of 16 September 2008 and made a counter offer in writing. I noted that not only would there need to be construction of a wall there would also need to be substantive sound proofing measures to the house. [p296-298]

84 No response to this letter was received by me from ERM Power either prior to the approval of the Power Station Project or subsequently.

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85 On 18 October 2008 M/s Jeanine Woods, Mount Nanima, Wellington sent me photos of a **Gas Explosion in an unnamed country NSW location**. Not natural gas or ethane but concerning nevertheless. Every gas fired power plant needs a

JP 150783 feeder line. The email also included correspondence between M/s Cheryle Davis

Charmaine Joy Cubillo

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[Signature]

and Scott Jefferies, NSW Planning Department, about the Planning Process.
[p299-303]

THE PLANNING APPROVAL PROCESS

- 86 On 13 June 2008 I wrote to Major Infrastructure Assessments, Department of Planning objecting to the location of the proposed Power Station.[p3014-306]
- 87 On 23 June 2008 I wrote to Mr Scott Jefferies, Major Infrastructure Assessments, Department of Planning and said "Please find letter received from Mr Chris Thompson, Senior Town Planner, Wellington Council dated 18 June 2008. Could you please take into consideration the matters raised in the letter as part of the assessment process." [p307-310]
- 88 On 30 September 2008 Parsons Brinkeroff Pty Ltd prepared Wellington Gas-Fired Power Station, Environmental Assessment Submissions Report that is Condition 1(c) of the Project Approval dated 4 March 2009.
- 89 On 21 October 2008 ERM donated \$7,000.00 to attend a dinner with Premier Nathan Rees in attendance (see ABC TV story 6 August 2009) [p311]
- 90 On 27 October 2008 I wrote to Mr Scott Jefferies, NSW Department of Planning and said " I refer to my objections dated 13 June 2008 and 23 June 2008 particularly adverse noise, visual impact and air quality and wish to state that there has been no agreed resolution of these matters to date." [p312]
- 91 On 1 December 2008 I had a meeting with Mr David Scobie, Council's Heritage Advisor who commented among other things that the Noise Report was contradictory and vague.[p313]
- 92 On 17 December 2008 I wrote to Mr Scott Jefferies, NSW Department of Planning and said that there has been no resolution of the issues raised in my email dated 27 October 2008. [p314]
- 93 In February 2009 Major Project Assessment, Wellington Gas-Fired Power Station, Director –General's Environmental Assessment Report under s751 of the EP&A Act was prepared.
- 94 On 4 March 2009 the Hon Kristina Keneally MP, Minister for Planning approved ERM Power's Application No.06_0315 to construct and operate a gas-fired peaking power station as shown and reported to me as the original."



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power station at Wellington which was deemed to be a Major Project and Critical Infrastructure Development.[p315-348]

- 95 At no time have ERM Power or the Department of Planning provided me with a copy of the Approval, the Submissions Report or the Director Generals Report despite making copies available to other parties.
- 96 On 17 March 2008 at about 8 pm I was informed that ERM had approval for the Project by Andy Pittlik and that a formal announcement would be made the next day. No details of the approval were made available to me.
- 97 On 18 March 2009 the Hon Kristina Keneally, NSW Planning Minister, announced **Government secures power supply to Central West**. The Minister went on to state that "two nearby properties, Nanima House and Keston Rose Garden Café have specific provisions relating to noise mitigation and management" and Mr Andy Pittlik said "Having the support of our new neighbours, is just as important as having the support of government . We are not just investing in the power station, we are investing in the future of the local community. " [p349-350]


WELLINGTON COUNCIL

- 98 On 18 March 2009 ABC News posted a News story headed **Green light for \$700m Wellington power station**. Councillor Anne Jones, Wellington Mayoress, made statements on TV and radio that "We have had a number of people that were not that happy about it, but I've actually seen the approval and very **stringent conditions** have been placed on the developer" despite Nanima House and Outbuildings;- [p351]

- a. being non compliant with NSW Industrial Noise Policy by some 8dB(A) and no Conditions to rectify the problem until after the Power Station was up and running,
- b. no Statement of Heritage Impact or requirement to do one,
- c. no visual impact statement or visual impact condition on Nanima House or any of the historic outbuildings that are much closer to the Project site, and
- d. no date or requirement to construct the much publicised wall, and

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- e. no binding condition for ERM to enter into a negotiated agreement pre operation as stated at N12 in the Statement of Commitments and s4.23 of the Submissions Report, and
- f. none of the work had been done by ERM Power that is detailed in the Chris Thompson, Senior Town Planner, Wellington Council letter of 18 June 2008 to me and copied to the Department of Planning Assessor, Mr Scott Jefferies on 23 June 2008.

99 The statements made by the Mayoress of Wellington Council on 18 March 2009 on behalf of Wellington Council made any objection to the Project Approval to the Department of Planning by me, or the other adversely affected property owners, futile.

100 In March and August 2013 both Mid West Council and Warrumbungle Council made numerous complaints/submissions to the Department of Planning over the Cobbora Coal Mine Approval. [p352-353] Included in the Submissions are :-

- a. Concerns about water usage, and
- b. Traffic, and
- c. The loss of a retirement village at Dunedoo.

101 Wellington has paid a high price already for this development including:-

- a. The loss of the Aged Care/Motel development on Nanima,
- b. The loss of any other development on the Nanima Subdivision land,
- c. A complete stop to the upgrading of Nanima,
- d. The closure of Keston Rose Garden Café – a tourist attraction,
- e. The stalling of any investment in the Farm Stay business on Mt Nanima, and
- f. The sale of the subdivision land on Peppercorn Farm

102 On 18 March 2009 the Dubbo Liberal ran a front page story titled **"WHAT CRISIS : government approves gas power station \$700m PLANT, 300 JOBS COMING**

.Andy Pittlik said that ERM has already had 20 to 30 local companies register their interest in the construction. [p354-356]

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103 On 21 March 2009 the Wellington Times ran a front story which among other things states that **Wellington will be the home of a \$700m Gas Fired Power Plant by 2012**. Andy Pittlik, NSW Director, ERM Power, said We are really chuffed, its good news, the project is a positive for Wellington, and predicts the local economy will boom as a result. It will create more than 400 jobs and an estimated 10 employees will be permanently located at the site. Mr Pittlik said he understood the plight of those closest to the project site but believes the benefits would outweigh any negative impacts. [p357-359]

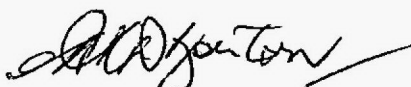
104 On 8 August 2009 Mr John Wilson Brown, Keston Rose Garden Café, copied me an email he had received from Mr Andrew St Baker in April 2009 [p360] that said;


- a. We remain prepared to acquire Barton, Wilson Brown and Woods properties once a final commitment is made to proceed with the development,
- b. In terms of value we will be prepared generally to pay market value plus an amount to notionally cover relocation costs, and statutory costs associated with a replacement acquisition. I believe this would be in the order of 1.2 x an independent determination of the current market value of the land.
- c. You will have to weigh up the benefit of the 20% premium from waiting with the benefit from certainty that you would get from selling in the open market today.
- d. I doubt that ERM would participate in an open market sale today given the demands on our capital elsewhere, however this may change in six months.
- e. I don't believe it will help anyone to guild the Lilly, so I, as always have been frank about what we can do and cannot do.

105 On 20 June 2009 Mr Chris Thompson, Senior Town Planner, Wellington Council wrote to me and reported on the visit of Mr David Scobie, Council's Heritage Advisor, to Nanima and reported that the progress with the undercoat painting was good and mentioned some other work needed to be done and provided a checklist. [p362-363]

106 On 22 June 2009- I signed a **Costs Agreement with Malcolm Johns & Company YOU AND ERM POWER LIMITED** that states at B "The work you have instructed us to do is negotiate compensation for disturbance and for the granting of a lease option over Nanima. [p364-377]"

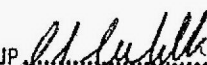
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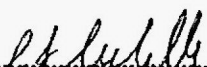
- 107 On 29 June 2009 **Malcolm Johns & Company** wrote Tax Invoice No 33555 – **YOU AND ERM POWER LIMITED** for work done on 23 June 2009 that included a Teleconference with Andrew St Baker - **\$2341.35 [p378-381]**
- 108 On 1 July 2009 Mr Malcolm Johns, Malcolm Johns & Company, advised me by letter that ERM Power had now made known its position and it had substantially changed. Negotiations were now governed by the clauses in the Project Approval. **[p382-383]**
- 109 On 3 July 2009 I responded to Mr Johns' letter pointing out the vague nature of the conditions when read with the Submissions Report (s4.23) and the Director Generals Report. Also that in my opinion it may well be prudent to lay the groundwork for acquisition with a properly evaluated valuation noting the disturbance factor, the costs of relocation and the partially completed renovations. **[p384-385]**
- 110 On 7 July 2009 Mr Phillip St Baker, ERM Power Pty Ltd completed a Political Donations Disclosure Statement to Minister or Director General that shows from 7 August 2007 until 18 June 2009 ERM donated \$66,600.00 to the Australian Labor Party and \$2,000.00 to the Liberal Party of Australia. **[p386-387]**
- 111 On 8 July 2009 I wrote to Mr Johns **[p388]** and said among other things that a fair deal would be :-
- a. Deposit of \$1,000,000.00 paid immediately,
 - b. Settlement to be completed say 18 months after the Project is built,
 - c. Interest to be paid on a quarterly basis. Rate to be negotiated but not below current bank rates for Primary Producers.
 - d. I could not see any future in a Caveat by ERM over Nanima as in my view it could only lead to further disputes and incompetent valuations.
- 112 On 14 July 2009 ABC Western Plains Radio reported that **Credit crunch slows power station plans**. Mr Andy Pittlik said "he had written to the Treasurer and had written to others in Government to encourage them to support our project." **[p389]**
- 113 On 15 July 2009 the Daily Liberal reported "**Coulton offers to meet company behind project. Power station failing to fire up investors.**" **[p390]** I verified this to be true and correct of the original document shown and reported to me as the original."



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 Checked and reported to me as the original."

- 114 On 18 July 2009 Mr Malcolm Johns wrote to me and said that Mr Andrew St Baker has now returned to his office and in an email to Mr Johns at the end of last week stated that he was still having his legal department draft the terms of the attenuation barrier and first refusal right. [p391-392]
- 115 On 29 July 2009 I, Mr John Wilson Brown (Keston), Mrs Sharon Crowhurst (Keston), and Mr Tim Woods (Mt Nanima) met with the Honourable Mark Coulton, Federal Member for Parkes, at Nanima to discuss the power station project with him.
- 116 On 29 July 2009 I wrote to the Honourable Mark Coulton and expressed the view that the project approval was unfairly weighted in ERM's favour and that acquisition of the affected properties should be put back on the agenda. [p393-394]
- 117 On 30 July 2009 ABC News reported **ERM lobbies Treasury over stalled gas project**. ERM Power's plans for the plant were approved by the Department of Planning in March but the company has not started construction because it says financiers are only interested in projects guaranteed by governments. [p395]
- 118 On 31 July 2009 I wrote to Malcolm Johns advising him of ERM's proposed changes to the operating times of the power station, gas pipeline route and Government underwriting of the Project. I asked Mr Johns to take these matters into consideration with negotiations with ERM on my behalf. [p396]
- 119 On 3 August 2009 **Malcolm Johns & Company** wrote Tax Invoice No 33584 – **YOU AND ERM POWER LIMITED** for work done on 30 June and 1 July 2009 – \$2961.20 [p397-399]
- 120 On 6 August 2009 the NSW Premier, Nathan Rees says he will consider banning his MP's from attending Labor functions with business donors and ABC News reported that ERM donated \$7,000.00 to the Australian Labor Party for Mr Trevor St Baker, founder and Director of ERM to attend a dinner on 21 October 2008 with Premier Rees. [p400]
- 121 On 9 August 2009 I copied the ERM Power letter of April 2009 I received from Mr John Wilson Brown to Mr Malcolm Johns and said that "this letter seems to be at odds with the information Andrew St Baker gave you." [p401-404]
- 122 On 9 August 2009 Mr Andy Pittlik rang me and said that I had run up the ABC over the story aired on Thursday 6 August 2009 over the ALP collecting sizeable
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donations from developers. I agreed and said that it was reported that Trevor St Baker had attended a dinner with Premier Nathan Rees and donated \$7,000.00. I requested that Pittlik resolve the outstanding issues now and for Andrew St Baker to stop changing the rules – ie from a stated position in April 2009 to a no acquisition policy now [p405-406]

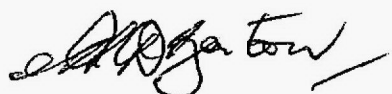
- 123 On 10 August 2009 I gave an interview with Dugald Saunders, ABC Western Plains Radio. **Power plant questioned** . I suggested that there was a deal done as the Project Approval is heavily weighted in ERM's favour. [p408-409]
- 124 On 11 August 2009 I wrote to the Hon Mark Coulton, Member for Parkes, [p407] and among other things said that:-

- a. I note that ERM has denied that anything improper occurred when Trevor St Baker attended a Dinner attended by Premier Rees and gave a \$5000.00 donation to the ALP.
- b. I am aware that ERM gave \$10,0000.00 to Wellington Jail when Tony Kelly was Minister for Correctional Services. As you are aware Minister Kelly was born in Wellington and is a former Shire Clerk of Wellington Council and played a pivotal role in not only getting the jail built at Wellington but also played a key role in assisting ERM with this Project. In fact ERM does not deny Kelly's involvement in the EA.
- c. In my mind there should be a clear separation between Government and Business to not only avoid corruption but also smells of corruption during the Approval Process.

- 125 On 11 August 2009 I received an email from Mr Colin Poyner about the \$10,000.00 ERM donated to the "Puppies in Prison" programme on the recommendation of the Wellington Mayoress, Councillor Anne Jones. [p410]

- 126 On 13 August 2009 Malcolm Johns wrote to Andrew St Baker and confirmed that I was interested in a firm sale providing the terms could be agreed without too much delay. [p411]

- 127 On 25 August 2009 Andrew St Baker wrote to Malcolm Johns and said "I have been on leave for the past 9 days. I intend to examine this during the balance of the week. How quickly do we have to move? Yes, you are correct that we may be restricted from purchasing without a committed project however if the price was
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close to the reflective of market value I may be able to build a case for the Board.”
[p412]

- 128 On 31 August 2009 ABC News reported that a new \$500 million interstate gas pipeline could soon be built from Young, in southern NSW to Qld by ERM Power – **Cross Border Pipeline promises 300 jobs.** [p413]
- 129 On 21 October 2009 M/s Lisa Drought, Origin Energy Community Liason Officer, Uranquinty Power Station returned my phone call and confirmed that she was dealing with a small number of properties on a case by case basis that were adversely affected by noise from the power station.[p414-416]
- 130 ERM Power sold its interest in the Uranquinty Power Station to Origin Energy in July 2008. Uranquinty Power Station was the fourth power station to be constructed by NewGen Power which was jointly owned by ERM Power and Babcock & Brown Power (“BBP”) at a cost of \$500m.[p417]
- 131 On 5 March 2007 NewGen Power director Trevor St Baker said that the Uranquinty power station would have minimal environmental impact.[p418]
- 132 On 4 July 2008 the ASX announced BBP sold its 100% interest in the Uranquinty Power Station for \$700m.[p419-420]
- 133 In December 2009 the Daily Advertiser reported that the NSW Department of Planning issued a public notice in the Weekend Advertiser to notify the community of the approval of a request by Origin Energy to modify the Uranquinty power station development consent. **As stated in the notice, the modification prevents residents who have negotiated a prior noise agreement with Origin, or those wishing to build new homes near the near the power station, from seeking operational noise limits and associated monitoring and mitigation measures. However, the individual listed for those wishing to enquire about the modification printed on the December 19 and 20, is currently on leave.** [p421]
- 134 On 2 July 2012 the Goulburn Post reported, the Member for Burrinjuck, Hon Katrina Hodgkinson MP, Minister for Agriculture, criticised the NSW Department of Planning for recommending approval of AGL’s proposed \$1.5billion Dalton Gas Fired Power Station. [p422-424] In a speech to the NSW Planning Assessment Commission (“PAC”) M/s Hodgkinson said ;

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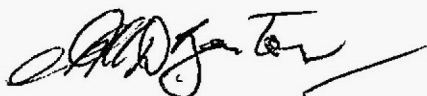


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- a. Uranquinty Power Station has never been able to meet the noise restrictions set by the State Government, despite what the company said during the application process.
- b. Origin Energy reportedly paid millions of dollars in litigation to the plant's neighbours and forced up to 10 families to leave their properties,
- c. The only major difference between Uranquinty and Dalton is that the township of Uranquinty is located 2.4km from the power station whilst the centre of the village of Dalton is 4km removed from the project site.
- d. The Department of Planning recommended the approval of Uranquinty stating that it would meet the requirements of the NSW Industrial Noise Policy.
- e. The Director General's MPA for Dalton, page 23 states "A number of submissions cited the example of the Uranquinty Power Station where the actual operating noise is well above predicted noise levels and expressed concern that the same situation could arise with the Dalton Project .
- f. Once the money is spent no reasonable person would expect this infrastructure would lie idle if, like Uranquinty, it were not able to meet the consent conditions.

- 135 On 7 April 2011 in a jointly signed letter Origin Energy confirmed that they had purchased Country Energy. [p425-426]
- 136 On 1 April 2014 Mr Tim Abbott, solicitor Walsh & Blair Lawyers, sent me a letter that said, "Unfortunately, it seems to me that your financial position is such that I would not be prepared to act on your behalf. ...It may have been different if I had received instructions from you at the beginning as I have had some success in these matters." [p427]
- 137 On 18 November 2009 **Malcolm Johns & Company** sent me an invoice on work done on the **ERM Power** matter on 30 June 2009 and 1 July 2009 for **\$2,961.20**. [p428-431]
- 138 On 18 November 2009 **Malcolm Johns & Company** sent me an invoice for work done on the **Macquarie Developments** matter for **\$470.40**. [p432-435]
- 139 On 8 December 2009 I met with Mr Andy Pittlik from ERM and among other things he said he was hopeful ERM would commence work on the power station in 2011

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but it would be 3 rather than 4 stacks. I sent a summary of our meeting to Malcolm Johns. [p436-438]

140 On 28 January 2010 **Malcolm Johns & Company** sent me Invoice No 33784 - **\$1587.30** for collation of material for expert valuer **YOU AND ERM POWER LIMITED**. [p439-442]

141 On 3 February 2010 the Wellington Times reported that the planned power station for Wellington may become a world first integrated gas and solar project if funding becomes available under the Federal Government's Solar Flagship Program. [p443]

142 On 8 February 2010 ABC News reported a **Huge explosion at US power plant. At least five people are confirmed dead**. Locals say the blast was like an earthquake, with a shockwave that damaged nearby homes. The power plant was under construction and there are unconfirmed reports that workers were testing a gas line before the explosion. [p444]

143 On 10 February 2010 Colin Poyner, Veterinary Surgeon copied me an email he had sent to Dugald Saunders, Western Plains ABC Radio, about the interview conducted with ERM. Mr Poyner said "For ERM this site is their cheapest option (right next to Transgrid's Sub Station). They are in the business of making money and from what I have written I don't believe they care too much about the health effects of the people of Wellington or the adverse impact on near neighbours. [p445]

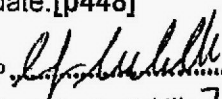
144 On 16 March 2010 Mr Peter Jans, Company Secretary, ERM Power Pty Ltd (ABN 28 122259 223) completed a Political Donations Disclosure Statement to Minister or Director General under s147(3) of the Environmental Planning & Assessment Act 1979 which stated that ERM donated \$65,650.00 to the Australian Labor Party, \$12,650.00 to the Liberal Party and \$1,000.00 to the National Party between 17 March 2008 and 3 December 2009. [p446-447]

145 The political donations of \$79,300.00 were disclosed as part of the approvals process.

146 On 24 March 2010 Mr Andrew St Baker wrote to Malcolm Johns and requested an update on the status of the matter. Last I recall you were tiding up the title with regard to encumbrances and Nat had a valuation that he was to share with us. Not sure if it has been received? Anyway, we would appreciate an update. [p448]



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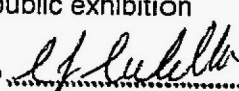
- 147 On 24 March 2010 I instructed Mr Malcolm Johns from Malcolm Johns & Company, solicitors, to send to ERM Power a copy of a valuation done by Mr Alan Hyam OAM, Barrister at Law, Registered Valuer No 1546 from Higgins Valuers. The valuation assessed just compensation for the property at \$2,900,000.00 ("The Higgins Valuation") and ERM were given three months to adopt the quantum of just compensation. [p449-501]
- 148 ERM did not raise any concerns with the Higgins Valuation until 26 October 2011 – less than 3 days prior to the proposed Auction Sale of Nanima and some 19 months after receiving it.
- 149 Sometime prior to 5 March 2010 Parsons Brinkerhoff produced a Noise Assessment Report which showed at Table 4.2 that Nanima was non compliant and in exceedance of the receiver specific 35dB(A) maximum allowable noise contribution. [p523-535]
- 150 On 5 March 2010 Mr Andy Pittlik wrote to Mr Scott Jefferies, NSW Department of Planning and in Section 4.1 said that the modifications were compliant [p520] with relevant Planning and Environmental Legislation. [p515-581]
- 151 On 12 March 2010 Higgins Valuers prepared a Tax Invoice "To inspection of subject and sale properties over a period of three days, travel, accommodation, research, enquiries and valuation report - \$12,500.00 [p502]
- 152 On 7 June 2012 Mr Andy Pittlik advised that payment has now been transferred to my account. [p503]

MODIFICATION 1 TO APPROVAL

- 153 On 23 March 2010 Mr Andy Pittlik completed a Request to modify a major project .[p506-514]
- 154 On 23 March 2010 Mr Andy Pittlik wrote to Mr Neville Osborne, NSW Department of Planning and said "as discussed, I am pleased to confirm that the purpose of the modification is to permit the proponent to install either 4 x 150MW units or alternatively 2 x 255MW units and allow the station to operate as an intermediate plant with an annual capacity factor of 40%. "[p506]
- 155 On 7 April 2010 the Department of Planning published a Notice in the Wellington Times stating that ERM Power is seeking a modification to Project Approval 06_0315 of 40% capacity. The modification application will be on public exhibition



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at Wellington Council from 7 April 2010 until 22 April 2010 and invited written submissions. [p582].

- 156 On 19 April 2010 I wrote a letter to the Department of Planning objecting to the proposed Modifications [p583-585] on the following grounds :-
- a. Nanima is too close to the proposed site,
 - b. I cannot sell any of my town water approved building blocks,
 - c. DA57/90 will lapse on 31 August 2011 if substantial commencement cannot be demonstrated,
 - d. The proposal is to have fewer stacks running for longer periods and Nanima is still non compliant with NSW Noise Policy,
 - e. No Health or Hazard Study done,
 - f. No orders to maintain Nanima's Heritage and no statement of Heritage Impact (s4.23.5 of Submissions),
 - g. No negotiated agreement (N12 of the Statement of Commitments)
- 157 On 19 May 2010 ABC Western Plains Radio posted a story – **Hybrid power funds bid fails**. Mr Pittlik said "It is disappointing and the firm will have to consider whether to reapply". "We have the development approval in place, we now have a gas arrangement in place with Eastern Star Gas and we have a connection agreement in place with the owners of the grid, Transgrid". "We're looking next year – the end of next year – as the end of our financial close and once we get financial close we will begin construction." "The deal is worth \$1.6 billion if it all comes to fruition." [p586]
- 158 On 22 May 2010 Mr Andrew St Baker sent Mr John Wilson Brown an email that states "The expected Final Investment Decision date is Q1 2011, but could be as late as Q4 2011. So no real big change. An MOU is a stepping stone and a good indicator for you that things are still moving forward." I copied the email to Malcolm Johns on 24 May 2010. [p587-588]
- 159 On 2 August 2010 ABC Western Plains posted a story – **ERM considers gas pipe fears**. [p589]

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- 160 On 7 September 2010 Mr Daniel Keary, Director, Infrastructure Projects granted approval under Section 75W of the Environmental Planning & Assessment Act 1979 for Modification of Minister's Approval which effectively changed the Power Station from a Peaking Power Station to an Intermediate or Base Load Station despite Nanima being non compliant with the Noise Test. [p590-592]
- 161 On 15 September 2010 Mr Andrew St Baker wrote to Mr John Wilson Brown and said "We now have two configurations to offer the market." And " This would mean the earliest project start would be early CY12 with financial and a Final Investment Decision (FID) late CY11." I copied the email to Malcolm Johns.[p593]
- 162 On 16 September 2010 ABC Western Plains Radio reported – **Minister approves power station changes.** Mr Pittlik said the power station can operate for longer periods" and "it is expected to generate 5% of the State's electricity". [p594]
- 163 On 30 September 2010 **Malcolm Johns & Company** sent me Invoice No 34417 for reviewing further material including modifications to major projects, application, media release and other information **YOU AND ERM POWER LIMITED** - \$980.10 .[p595-598]
- 164 On 9 October 2010 ABC News reported – **Farmers oppose gas pipeline.** More than 80 farmers from Tambar Springs to Boggabri are banding together to urge Eastern Star Gas to change the course of the Narrabri to Wellington pipeline. [p599-600]

LISTING ON ASX.

- 165 Sometime prior to 14 December 2010 ERM Power Ltd (EPW) was listed on the Australian Stock Exchange.[p601-606]
- 166 On 14 December 2009 the Sydney Morning Herald reported that **ERM Power eyes NSW power privatisation** – " ERM's first NSW power station is under construction near Wellington" and "That the Wellington development was to be our major entry into the NSW trade" said Mr Phillip St Baker.[p607-608]
- 167 The Wellington Gas Fired Power Station is not under construction and in February/March 2014 ERM requested another 5 years to commence construction.

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MODIFICATION 2 REQUEST – FEB – MAR 2014

- 168 On 23 December 2013 Parsons Brinkerhoff sent to ERM Power a Memo that showed that the Nanima House was non compliant with NSW Noise Policy in Table 1. [p609-611]
- 169 On 28 February 2014 I received a letter from M/s Diane Sarkies, Senior Planner, Department of Planning & Infrastructure advising that ERM had submitted another request to modify the Project and it will be on public exhibition on the Department of Planning website from 26 February 2014 to 13 March 2014. [p612]
- 170 On 28 February 2014 I accessed the Department of Planning website and found that the Modifications [p612A – 612B] were ; -
- a. An extension of the lapse date of the Project Approval by five years to March 2019 (Condition 1.4)
 - b. The power station can be configured with either two or four gas turbine units. The proponent commits to adopting only the two unit configuration that would significantly reduce noise at the nearest residences (Condition 2.7)
- 171 On 28 February 2014 ERM Power had exhibited Supplementary Information for MP06_0315 MOD 2 that said that the assessment **concluded that with the exception of Nanima House [p617]** operational noise impacts under neutral and adverse meteorological conditions at the nearest residences were compliant with project maximum allowable noise objectives specified in the *NSW Industrial Noise Policy*. [p613-619].
- 172 On 11 & 12 March 2014 I wrote Submissions to the Department of Planning that in effect supported the Modifications with certain conditions but nevertheless objected to the Project because it was too close to Nanima and the town of Wellington. Further, a number of studies contained in the Project Approval had not been publicly released such as Hazard & Risk (2.21), Soil & Water Quality Impacts (2.14 to 2.20), Building & Spill Management (2.22), Pre Construction Hazards Studies (2.23(a),(b),(c) & (d), Pre Commissioning Hazards Studies (2.24(a) & (b)), Traffic & Transport Impacts (2.25 & 2.26), Ecological Impacts (2.27 & 2.28), Visual Amenity Impacts (2.29 to 2.32), Heritage Impacts (2.33 to 2.35), Waste Generation & Management (2.36 to 2.39), Land Use Interactions & Resource Implications (2.40 to 2.41), Community Information, Consultation & Involvement (5.1 to 5.3), Environmental Management (All Clause 6). [p620-636]
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- 173 On 20 March 2014 Mr Michael Tolhurst, General Manager, Wellington Council wrote a Submission to the Department of Planning that in essence supported the Modifications subject to conditions of noise abatement at Nanima House to reduce the impact on the occupants of Nanima House. [p637-638]

ATTEMPTED AUCTION SALE

- 174 On or about 14 December 2010 I spoke to Mr Andrew St Baker and he confirmed that he had a copy of my Higgins Valuation.
- 175 On 8 March 2011 I wrote to Mr Andrew St Baker advising that I proposed marketing Nanima and in my view the best option was for ERM to acquire the property and negotiate a price based on the Higgins Valuation Also the DA on the subdivision land was approaching a lapsing date on 31 August 2011 if nothing was done. [p639-640]
- 176 On 8 March 2011 Mr Andrew St Baker acknowledged my email but said that "ERM's position remains static" I copied the email correspondence to Malcolm Johns. [p639]
- 177 On 10 March 2011 the Young to Wellington Gas Pipeline was approved by the NSW Department of Planning.
- 178 On 28 March 2011 Mr Frank Sartor, former NSW Planning & Cabinet Minister gave an interview on ABC's Lateline –and says **Labor got addicted to marketing and lost the plot and suffered a comprehensive loss at the NSW Election** Mr Sartor said "But the rot was setting in there I think when Roozendaal was general secretary, the addition to big donations from the business sector, donations that were obscenely large in some cases and taken at a time when the Government was dealing with their projects was just stupid, totally stupid [p642] Electricity failed, even though there were a couple of compromises that had been agreed to [p643].....Well our stupidity with the solar bonus scheme where we followed the Greens [p646].....What got rid of me as Planning Minister were the developers. They were angry because they weren't obviously getting what they thought in their heads they were going to get. [p647] The developers were my real enemies." [p641-647].
- 179 On 28 March 2011 ABC News reported **LGA will meet with new government to discuss Part 3A.** "The Local Government and Shires Association says making and reported to me as the original."



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sure the Coalition commits to revoking the contentious Part 3A Legislation is at the top of the list." [p648]

180 On 7 April 2011 Origin Energy sent me a letter confirming that they had purchased Country Energy effective from 1 March 2011.

181 On 30 May 2011 I wrote to Mr Andrew St Baker and said "If you should wish to acquire Nanima as intimated in the Approval process could you please let me know as soon as possible. [p649]

182 On 7 June 2011 I signed a **Costs Agreement with Malcolm Johns & Company -- SALE OF NANIMA. (B)** The work you have instructed us to do is to act on your behalf on the sale of Nanima. [p650-663]

183 On 22 August 2011 I downloaded from the ERM website a project overview of the Wellington Power Station that says that initial construction is planned to commence in 2012 [p665] with commissioning and commercial operations expected to start by the summer of 2014. The project will create 400 jobs during construction and 10 permanent jobs once operational. [p664-667]

184 On 29 August 2011 ABC News reported **Carcinogens found in coal seam gas project**. The report went on to state "They are very toxic, the regulatory authorities usually prescribe one part per billion as the maximum allowable content. These compounds have been found at 15 and 16 billion parts per billion". [p668]

185 ERM Power have not stated what type of gas they propose to use in the latest Modification Request however, there is a high likelihood that they will use the cheapest available which may well be coal seam gas.

186 On 31 August 2011 The Land Newspaper reported **Solar does NSW a power of good**. The report stated "The boom in solar panel installation coupled with higher electricity prices and energy efficiency measures has pushed back the likely need for new baseload electricity generation capacity in NSW until near the end of the decade." [p669]

187 On 14 September 2011 I signed a **Sales Inspection Report and Exclusive Sales Agreement (Residential)** with Mr Rex Turner, LJ Hooker, Wellington. [p670-671]

188 On 28 September 2011 the Wellington Times ran a front page story - **Slice of history goes under hammer**. [p672]

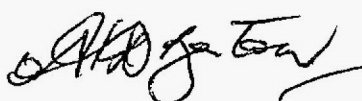
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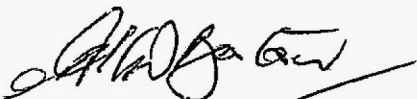
- 189 On 4 October 2011 I sent Mr Malcolm Johns an email copying the Modifications Approval to him for inclusion in the Contract For Sale. [p673]
- 190 On 4 October 2011 I sent Mr Malcolm Johns a further email advising that the Auction sign was put up outside the front gate of Nanima today, that I had done an Interview with Prime TV last Friday, a video of which I believe is on the internet and the internet advertisements are also up. [p674]
- 191 On 10 October 2011 I sent Andrew St Baker a copy of an advertisement for the Auction Sale of Nanima on the National Trust Property Guide website and also reminded him that my offer to settle all matters still stands. [p675-679]
- 192 On 10 October 2011 I copied the email sent to Andrew St Baker to Malcolm Johns and advised that we have another property inspection. [p680]
- 193 On 12 October 2011 I travelled to Gunnedah with Mr Rex Turner (Real Estate Agent, LJ Hooker, Wellington) and attended Alan Jones, Food Security Forum. Whilst at the Forum I met M/s Kirsty Ruddock, principal solicitor from The Environmental Defenders Office ("EDO").
- 194 On 13 October 2011 I followed up my meeting with M/s Ruddock and sent her an email outlining a background to the problems I had encountered with ERM and the Project Approval and stating that if the EDO can assist that would be greatly appreciated.. [p681]
- 195 On 14 October 2011 I wrote a letter to the Honourable Brad Hazzard MP, Minister for Planning, requesting that he intervene and request that ERM settle all outstanding matters now. [p682-683]
- 196 On 17 October 2011 I had a very long telephone conversation with Mr Andrew St Baker about the huge gap between the Higgins Valuation and the HTW Valuation and Mr St Baker undertook to request advice from ERM's valuation advisors on the merits of the Higgins Valuation. I sent to Mr St Baker via email [p684] :-
- a. Letter Wellington Council to NB dated 18 June 2008,
 - b. ERM Power Offer,
 - c. My offer and email correspondence
 - d. Rushtons Insurance Valuation

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- 197 On 17 October 2011 I sent Andrew St Baker a further email [p685] that attached :-
- a. Substantial Commencement (Certificate last page of attachments),
 - b. Construction Certificate
 - c. Report on Study for Possible Development,
 - d. Council letter of approval in principle.
- 198 On 24 October 2011 M/s Kirsty Ruddock from the EDO stated that the EDO may have been able to assist had I let them know within the three month time limit for objections. [p686]
- 199 At no point did Malcolm Johns let me know about the work of the EDO.
- 200 On 25 October 2011 Andrew St Baker sent me a "Without Prejudice" email concerning the advice he had received from HTW, ERM's valuation experts that was attached in good faith and without prejudice. Mr St Baker advised that ERM would not bid at the Public Auction.
- 201 On 26 October 2011 I wrote to Andrew St Baker and said "It would seem sensible and responsible and in the best interests of all parties that these matters are resolved now." And "A commercial outcome could be achieved by acting in good faith, but all I can see at the moment is none of that and that I have been misled so ERM can adopt an opportunistic or predatory policy." [p687-688]
- 202 On 26 October 2011 Andrew St Baker said "Nat, I acknowledge your response and we will consider what you have written. I see you have included Kirsty Ruddock in this correspondence. It would be appreciated if you could advise the relationship in this matter. [p689]
- 203 On 26 October 2011 I wrote to Andrew St Baker and said "Kirsty Ruddock is the principal solicitor from the EDO. They are most concerned as to what has happened at Nanima. I agreed to keep her informed." [p689]
- 204 On 27 October 2011 I wrote to Andrew St Baker and said "I wish to clarify my position with Kirsty Ruddock from the EDO and confirm that this is a privileged relationship and communication. Suffice it to say at this point in time that if ERM is going to treat others the way I have been treated, it is going to invite a close action and governmental reviews of the way ERM deals with others. There comes a point



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in time when everyone becomes accountable for their conduct. That point is rapidly approaching on a public scale. I look forward to your considered response. [p689]

205 On 27 October 2011 M/s Kirsty Ruddock wrote to me and said "I was surprised at their concern ! And you are correct to say that any advice from our office is confidential legal advice that is covered by client privilege." [p690]

206 On 27 October 2011 I had a very lengthy telephone conversation with Andrew St Baker and he confirmed in writing that he would examine within ERM management if ERM would put a value on and pay a fee for an option to acquire the property under similar conditions detailed in the development approval that give you an option to require us to acquire the property. I hope to revert next week in this regard".[p691]

207 On 28 October 2011 I wrote to Andrew St Baker and said "Thanks Andrew however I note that ERM Management has had a couple of years to sort itself out and the Auction is today. There are of course costs involved as a consequence of ERM's presence next to Nanima for example :-

- a. The non settlement of the Option Deed with Macquarie Developments,
- b. The subsequent extortionately high legal fees and charges,
- c. The declarations that I must make in the Auction Contract For Sale and the uncertainty attached to the sale,
- d. The limitations placed upon me with development and sale of the subdivision land.


No doubt your "pay fee" will address all of these matters." [p691]

208 ERM did not bid at a Public Auction of the property on 28 October 2011 – there were no bids.

209 On 31 October 2011 the Wellington Times reported on the Auction with a front page story – **HIGH DRAMA** There were no bids at the Auction and the Times said "there were over 50 people at the Auction, including Mr Malcolm Johns (pictured) and Mr John Valmas, Osbornes Lawyers and reported it was not clear whether or not negotiations with ERM would produce results and the property was still on the market." [p692].

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SUBSEQUENT NEGOTIATIONS FOR PRIVATE SALE

210 On 1 November 2011 Andrew St Baker wrote to me and said "ERM Power, subject to its board approval and without prejudice, is prepared to acquire Nanima on the following terms [p693 -694] :-

- a. Purchase Price of \$1,000,000.00,
- b. Settlement 12 months from the date of contract or earlier at 2 months notice by the sellor,
- c. Deposit \$100,000.00. Released from trust in favour of the sellor prior to settlement once there is clear title.
- d. ERM requires a caveat over the land securing their contractual interest.
- e. Purchase Price Premium of \$500,000.00 by ERM Power in the event that a power station project proceeds on [relevant lot] near to Nanima within 10 years of the date of contract."

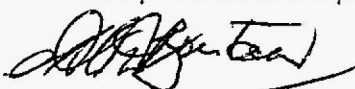
Mr St Baker than went on to make statements to put the offer in context.

211 On 2 November 2011 I responded to Andrew St Baker's email and stated In principle I am prepared to negotiate in good faith upon the conditions that are listed in A to G of my email and that ERM settle the other matters listed from 1 to 9. [p696]

AUSTRALIAN PROPERTY INSTITUTE ("API")

212 On 2 November 2011 Andrew St Baker responded to my email and rejected my offer and went on to say "The only path I feel is prudent is for us to jointly request (at ERM's expense however) the President of the NSW division of the Property Council of Australia("API") to appoint a valuer to advise what the compensation should be in accordance with the criteria set out in the Project Approval." [p695]


213 On 3 November 2011 I wrote to Andrew St Baker and said "I agree the valuation issue needs to be resolved and if the Property Council were willing to appoint a valuer with appropriate expertiseI would consent subject to the formulation of an agreed set of instructions to the valuer. However, this is only one part of the story regarding compensation and it appears to me the first step is to examine the legal principles involved in the assessment of compensation, in particular the interpretation of the provisions contained in the legislation and the development



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consent.....I am prepared to brief an expert barrister along those lines provided you agree to pay him up to a reasonable amount." [p695]

- 214 On 8 November 2011 I wrote to the President of the NSW Division of the Australian Property Institute ("API"). [p699 -700]
- 215 On 8 November 2011 Andrew St Baker wrote to me and said " I was not aware that you were going to write to the API without further communication. Nevertheless, I am comfortable provided that it is noted by the API that the intent is to simulate the process that may occur in the future." [p701]
- 216 On 8 November 2011 I wrote to Mr Andrew St Baker and said "As far as I am aware the next step is for you to complete the form and pay the \$550.00 service fee. Perhaps you should phone the API (Georgina Turner) on 02 9299 1811 for clarification. [p701]
- 217 On 8 November 2011 Andrew St Baker wrote to me and said "I will await communication from the API." [p701]
- 218 On 9 November 2011 M/s Gail Sanders, Executive Officer of the API wrote to both myself and Mr Andrew St Baker and said "It is not appropriate for the President to make an appointment of a valuer until the legal matters are concluded and a set of instructions for the valuer are agreed by the parties. [p702]
- 219 On 11 November 2011 Andrew St Baker wrote to M/s Georgina Turner, API and said "As per my email on 8 November 2011 we (the land owner and ERM Power) have agreed that the basis for this valuation be as per the criteria set out in Clause 2.11 (a), (b) and (c) of the Project Approval (attached)".[p703]
- 220 On 15 November 2011 M/s Gail Sanders, API, wrote to both myself and Mr Andrew St Baker and said she was not aware of Clause 2.11 of the Project Approval, a dispute resolution clause, and given the clause, the API would need a request from the Director –General in relation to the President's appointment under the Project Approval. [p705]
- 221 On 17 November 2011 ABC News reported **Santos announces CSG pipe re-route**. Mr James Baulderstone recognised that there was community concern about Eastern Star Gas proposed 272 km Mullaley pipeline from Narabon to Wellington and said "As an act of good faith we are committing today to withdraw Eastern Star's application for the current Mullaley pipeline route.



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- 222 On 21 November 2011 Mr Richard Pearson, Deputy Director General, Development Assessment and Systems Performance wrote to me on behalf of the Minister for Planning and said "Whilst both parties can proceed with acquisition discussions, the Department is unable to request the API to undertake the valuation process, given the current process is occurring outside of the requirements of the project approval" [p706]
- 223 On 23 November 2011 I wrote to Mr Glenn Snow, NSW Department of Planning and asked him to specify precisely why the appointment of a valuer by the Director General was considered to be outside the process. [p707-709]
- 224 On 25 November 2011 I contacted Mr Alan Hyam, Barrister and requested that he contact Andrew St Baker about a proposed draft letter to the API.
- 225 On 25 November 2011 Mr Hyam provided advice to Andrew St Baker on my behalf to draft a joint letter to the API. [p711]
- 226 On 25 November 2011 Andrew St Baker replied to Mr Hyam and said that he was happy for Mr Hyam to draft a letter for review provided that it does not extend any further than the process that has been set out in the Project Approval. [p710]
- 227 On 28 November 2011 I gave instructions for Mr Hyam to draft the joint letter to the API. [p712]
- 228 On 20 December 2011 ERM and I signed a joint letter to the API requesting the appointment of a valuer by the API that was sent to the API by Phil Davis, General Counsel, ERM Power Ltd. [p713-715]
- 229 On 20 December 2011 M/s Gail Sanders wrote "Unfortunately, it is a condition of the President making an appointment that the parties shall accept the appointment of the President as final and that the parties shall accept the valuation of the appointed valuer as a binding and final valuation." [p716]
- 230 On 21 December 2011 I received a letter dated 16 December 2011 from Mr Glenn Snow A/Director, Infrastructure Projects that said that the process requirements of the conditions in relation to noise treatments/acquisition do not apply to these negotiations. [p717]
- 231 On 10 January 2012 I received an email from Andrew St Baker stating that he was on extended leave through 2012. [p718]

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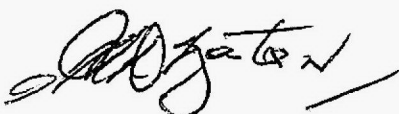
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- 232 On 21 November 2011 Mr Richard Pearson, Deputy Director General, Development Assessment and Systems Performance, NSW Planning and Infrastructure wrote to me on behalf of the Minister for Planning and advised that there is no role for the Department at this stage. [p719]

OPTION DEED

- 233 On 7 March 2012 **Malcolm Johns & Company** sent me Tax Invoice No 35058 – **YOU AND ERM POWER - \$980.10.** [p720-723]
- 234 On 15 March 2012 Mr Andy Pittlik sent me a draft option deed for my review. [p724-748]
- 235 On 15 March 2012 I copied the draft option deed to Malcolm Johns & Company and Mr Leo Smits [p749].
- 236 On 18 March 2012 Mr Smits responded and said that the biggest problem I will have is to get consent from all of the mortgagees as well as a number of other concerns. [p750]
- 237 On 27 March 2012 I wrote to Mr Pittlik and said "I sought advice, and I have been told that the draft Option Deed is not in my interests, as the provisions of the Deed are very much weighted in favour of ERM, with little discretion or control given to me.. I seek your urgent advice, within 14 days, as to what urgent action ERM proposes to take to alleviate me from the burdens which currently afflict my home and only real asset." [p751-752]
- 238 On 26 March 2012 Mr Richard Pearson, Department of Planning wrote to me on behalf of Minister Hazzard and said "The Minister has asked me to write to ERM Power on his behalf, requesting that the company honours its commitment on this matter. I have now written to ERM Power, and a copy of my letter is enclosed for your information. [p753]
- 239 On 26 March 2012 Mr Richard Pearson wrote to ERM Power and said "I understand that there have been some discussions with Mr Nat Barton, owner of Nanima House, but no agreement has been reached. I would encourage you to continue to negotiate with Mr Barton, with the aim of securing a mutually acceptable outcome, at an early date. I would also appreciate receiving your advice on progress of this matter." [p754]

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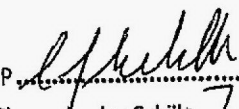


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- 240 On 29 March 2012 WAtoday reported **State drops lawsuit over Varanus Island gas explosion**. " Mr Moore said with circumstances so unique he did not believe yesterday's events would send a dangerous message about non compliance to Western Australia's growing gas sector." [p755-757]
- 241 On 30 March 2012 **Malcolm Johns & Company** sent me Invoice No. 35075 — **YOU AND ERM POWER LIMITED - \$326.70.** [p758-761]
- 242 On 11 April 2012 I reported on a telephone call I had with Andy Pittlik to Alan Hyam, Malcolm Johns, Rex Turner, Hon Brad Hazzard whereby Mr Pittlik suggested that I should propose a way forward to resolve the outstanding matters pertaining to Nanima given that I and my advisors were not happy with the proposed Option Deed Mr Pittlik had sent me as it was too heavily weighted in ERM's favour. [p762]
- 243 On 12 April 2012 I wrote to Andy Pittlik and said " ERM were well aware that proceedings were unresolved between myself and Atlantic 3 Financial (Aust) Pty Ltd and that an ORDER OF COURT and two mortgages were registered on the Nanima Property Title Search attached to the HTW valuation. " Further ERM were aware that the Subdivision Land Sale had collapsed and I was now placed in a position where I had to refinance. These are costs that have been caused by ERM's actions that have disturbed and blighted Nanima and are still been borne by me. I would suggest to you the quicker these matters are resolved the better for all of us." [p763-764]
- 244 On 17 April 2012 Andy Pittlik wrote to me and said "I'm sorry that you now find our latest proposal unacceptable." [p765-767]
- 245 On 23 April 2012 I wrote to Andy Pittlik and said that "ERM had placed me in a position of extreme personal hardship through it's actions over the last several years. I cannot sell Nanima. I cannot develop that part of the land for which I have obtained consents from Wellington Council. I cannot carry out improvements to my valuable property in order to maintain and embellish it, and my ability to raise further moneys on the security of a further mortgage has been extinguished. Where do I go and what do I do ? I cannot wait until the power station is constructed in 2014 or later. I must take action now to ensure my future enjoyment of the valuable property rights which I previously enjoyed through the ownership of Nanima are retained.-"



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My predicament is exemplified in the remarks of Kirby J in the hallmark High Court decision **Newcrest Mining (WA) Pty Ltd v The Commonwealth (1997) 190 CLR 513** who said at 640.-

"Pause for a moment to reflect upon the result of the impugned legislation, if valid. It is one thing to expand the National Park for the benefit of everyone who will enjoy it's facility. It is another to do so as an economic cost to the owners of valuable property interests in sections of the Park whose rights are effectively confiscated to achieve that end. Ordinarily in a civilised society, where private rights are protected by law, the government, it's agencies or those acting under the authority of the law may not deprive a person of such rights without a legal process which includes provisions for just compensation." [p768-769]

246 On 27 April 2012 Mr Sam Haddad, Director General, Department of Planning & Infrastructure wrote to me and said that the Department of Planning & Infrastructure has further discussed your issues with ERM Power and ERM Power has indicated that they will further negotiate. [p770]

247 On 30 April 2012 Andy Pittlik wrote to me and emphatically rejected my assertion that ERM has behaved in a "misleading, opportunistic, predatory and deceptive manner. Mr Pittlik says ERM acted "lawfully and is otherwise compliant with LP&A Act and associated regulations and wished to discuss the matter further" [p771]

MEETING WITH MINISTER HAZZARD & PAYMENT OF HIGGINS VALUATION FEE

248 On 1 May 2012 I wrote to Minister Hazzard and requested a meeting. [p772-777]

249 On 1 May 2012 I wrote to Andy Pittlik and answered the assertions made in his email and enclosed a copy of an Invoice form Higgins Valuers for \$12,500.00. [p778-780]

250 On 3 May 2012 Andy Pittlik wrote to me and said "I suspect that you were looking at the version of condition 2.9 that was deleted from the DA in September 2010 (which did not include Nanima House). This was replaced with a new condition 2.9 in the instrument of Approval Modification 1 dated 7 September 2010 (see attached).[p781]

251 On 14 May 2012 I wrote to Andy Pittlik and requested him to advise me how ERM had complied with Project Approval conditions 2.12, 2.23 (a) (b) (c) & (d), 2.24 (a) & (b), 2.25, 2.26, 2.28(a) (b) (c) & (d), 2.13, 2.32, 2.33, 2.34, 2.35, 3.6, 4.1 (a) (b) (c) and reported to me as the original."



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(d) (e) (f) & (g), 5.1 (a),(b),(c),(d),(e), & (f), 5.2 (a) (b) & (c) 5.3 (a) (b) (c) (d) (e) & (f) 6.1 (a), (b) (c) & (d) 6.2 (a) (b) (c) (d) (e) & (f) 6.3, 6.4 (a) (b) (c) , 6.5 (a) (b) (c) (d) (e) (f) & (g), 6.6 (a) (b) (c), 7.1, 7.2, 7.3 (a) (b) (c) (d) & (e). Also, could he please advise when he proposed to reimburse me for the cost of the Higgins Valuation.
[p782]

- 252 On 15 May 2012 I downloaded from the ERM Website information about the Wellington Power Station. I noted that ERM omitted to dedicate a page to the **Project Approval Conditions –Section 5 – COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT.**
- 253 On 18 May 2012 I received an email from Andy Pittlik that said "The majority of the conditions referenced in your email dated 14 May 2012 relate to the construction and operational phases of the Project. The balance of the conditions in your email are "pre construction" or "pre commencement" requirements and will be addressed when a decision is made to proceed with the Project. As previously discussed with you (and advised to the market), ERM Power expects to make a financial investment decision in relation to the Wellington project in 2014. Thankyou for drawing to my attention that the development approval is not accessible on our website . I will ensure that this is remedied." [p783-784]
- 254 On 21 May 2012 I wrote to ERM Power and reminded ERM of its previous commitments and said "I would have thought the FID would have been made at this time (before you obtained a Project Approval or Modified it) or are you now saying that this whole proposal is simply a speculative proposal over ruling long held property rights and you have no intention of rectifying the blight.....ERM acknowledges they have not complied with any of the conditions of the approval to date." [p785—787]
- 255 On 21 May 2012 the Wellington Times reported **Consultation continues over power station.** [p788]
- 256 On 25 May 2012 the Wellington Times reported **Landowner shows concern over proposed power station.** I said "I am concerned the project is in trouble. It is true ERM have until March 2014 to physically commence the project but there has been no real attempt at any time to enter into a "negotiated agreement" with me. I am concerned our properties are either valueless or heavily discounted. Our town needs real job opportunities and NSW needs certainty as to how future electricity needs of the state are to be met." [p789]



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257 On 30 May 2012 **Malcolm Johns & Company** sent me Tax Invoice No 35127 – **YOU AND ERM POWER LIMITED - \$707.85. [p790-793]**

258 On 1 June 2012 I prepared and sent Submissions and Recommendations to Minister Hazzard **[p794-800]** :-

The Project Approval be suspended for a fixed period during which :-

- a. ERM must show cause why the Project Approval should not be rescinded or terminated for any designated or alleged breaches or defaults ; or
- b. ERM proves compliance with the existing Conditions of Approval; and
- c. ERM undertakes absolutely to comply strictly with any supplementary conditions in the light of any breaches of conditions, undertakings and assurances given in order or contained in the Approval.

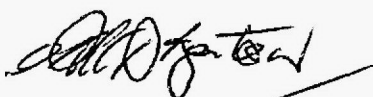
259 On 4 June 2012 I wrote to Andy Pittlik and said "I refer to our telephone conversation on 29 May 2012 when you advised that you were seeking advice as to whether or not the invoice for the work done for the Higgins Valuation fell within the scope of "reasonable fees". As stated to you I believe the invoice was very reasonable and fell within the scope of the term "reasonable fees" when all factors were taken into account." **[p801]**

260 On 4 June 2012 Andy Pittlik wrote to me and said "Thank you for providing a copy of the invoice from Higgins Valuers for our consideration. As discussed, the amount appears to be very high to us based on our experience in this area, however, we have agreed on this occasion to reimburse you in full. Please note that going forward ERM will not be responsible for any further expenses incurred by you unless they are agreed with us in advance or if they are otherwise payable in accordance with our obligations under the development consent. I will arrange payment to your nominated bank account by the end of the week. **[p802]**

261 On 7 June 2012 Andy Pittlik wrote to me and said "I'm advised that payment has now been transferred to your account and that the funds are cleared." **[p802]**

MEETING WITH MINISTER HAZZARD

262 On 5 June 2012 Lee Dixon, Deputy Chief of Staff, Office of the Hon **Bred Hazzard** MP wrote to me and said "I regret that the Minister is unable to meet with you in the short term due to his heavy schedule. I understand that you have been liaising with



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the Department of Planning and Infrastructure in an effort to resolve the issues at hand. As the Department is best place to assist in this area, I would advise you to continue this communication. [p805]

263 On 6 June 2012 I wrote to Mr Andrew Gee MP, Member for Orange and said "I would be most grateful if you could organise a meeting with Minister Hazzard in the near future." [p806]

264 On 27 June 2012 I wrote to Mr Phillip St Baker, CEO, ERM Power imploring him to settle the outstanding matters and stated in part "The costs of the proposed Power Station to me personally and financially have been enormous. I cannot sell the property, evidenced by the aborted sale held on 28 October 2011, which did not attract one bid despite wide interest, a well attended sale, the efforts of a very good agent, and extensive media coverage." [p807]

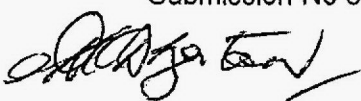
265 On 27 June 2012 I copied the letter I had sent to Phillip St Baker to Andy Pittlik and urged ERM to put their mind to settling these matters and to seriously re-consider my offer to settle. [p807]

266 On 28 June 2012 Mr Richard Pearson, Deputy Director General, Development Assistance, Department of Planning wrote to me and said among other things "As previously advised however, ERM Power has indicated to the Department that it will continue to negotiate with you on the basis of its Statement of Commitment, and I would encourage you to continue with your discussions, with the aim of trying to achieve a mutually acceptable outcome." [p810]

267 On 5 July 2012 Andy Pittlik wrote to me and said "Phillip St Baker is currently overseas and has asked me to respond on his behalf. ...Notwithstanding the above and as discussed with you, we would be prepared to formalise a "put" arrangement if you felt that would assist the current sale process. In this context, we would be prepared to enter into a put option which would obligate us to purchase Nanima from the owner of Nanima at a 20% premium to the agreed valuation (premium capped at \$500K). The owner would be able to put the purchase of the property to us in the event that our project proceeds and the owner will have 5 years to do so following our decision to proceed. The option will terminate if we decide not to proceed with the project or when the current Project Approval expires (currently March 2014). [p811]

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268 On 11 July 2012 I wrote a Submission to Mr Andrew Gee MP, Member for Orange. Submission No 8 – "The public announcement of the consent, including the non



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compliance with the noise controls, have blighted Nanima to the extent that it is unsaleable on the open market, the subdivision on part of the land for rural/residential allotments has been aborted, and lenders will not enter into mortgage arrangements on security of "Nanima". There were a total of 13 Submissions. [p812]

269 On 17 July 2012 Mr Chris Wilson, Executive Director, Major Projects Assessment wrote to me on behalf of Minister Hazzard and said "I note that you have requested that the Minister grant his approval to the Department initiating action against the proponent to enforce compliance with the approval conditions. The Department previously wrote to you on 28th June 2012, advising that it did not consider there is any breach of the approval conditions. As such, the Department does not propose to take any action on this matter, unless further evidence comes to light suggesting there could be a breach." [p813]

270 On 24 July 2012 I met with Mr Andrew Gee MP, Member for Orange who drafted a letter to Minister Hazzard in my presence. [p814]

271 On 25 July 2012 I sent Andy Pittlik legal fee tax invoices issued by Malcolm Johns & Company totalling \$9,884.50 for work done between 29 June 2009 and 30 May 2012. [p815-843]

272 On 27 July 2012 Mr Andrew Gee MP wrote to Minister Hazzard and said "Mr Barton wishes to meet with you for the purpose of discussing this project, and any powers the NSW Government has with respect to resolving issues surrounding this project, including the deficiencies outlined in Wellington Council's 18th June 2008 letter. Any assistance you can provide with regard to this matter would be gratefully appreciated."

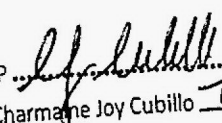
273 On 8 August 2012 Andy Pittlik responded to my request for payment of legal fees and said "It appears that much of the work done is unrelated to your discussions with ERM regarding a negotiated agreement." [p847]

274 On 9 August 2012 I wrote to Andy Pittlik and said that "All of the invoices related to work done during the negotiation process." [p848]

275 On 14 August 2012 Andy Pittlik wrote to me and said "I refer to your letter of 9 August below and respectfully disagree with your assessment." [p847]

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- 276 On 23 August 2012 Andy Pittlik wrote to me and said "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. [p846]
- 277 On 27 September 2012 I completed a General Meeting Request Disclosure Form from the Office of the Hon Brad Hazzard MP. [p852]
- 278 On 28 September 2012 I wrote to Mr Andrew Gee MP thanking him for organising a meeting with Minister Hazzard and posting him the Meeting Request Disclosure Form. [p851]
- 279 On 20 November 2012 I, Mr Alan Hyam and Mr Andrew Gee MP met with Minister Hazzard at Parliament House in Sydney who agreed to write to ERM Power reminding them of their commitments contained within the Project Approval.
- 280 On 22 November 2012 I wrote to Minister Hazzard and thanked him for meeting with us and agreeing to write to ERM Power reminding them of their commitments. [p853]
- 281 On 22 November 2012 I wrote to Hon Andrew Gee and thanked him for the work he had done in organising the meeting. [p853]
- 282 On 22 November 2012 I wrote to Alan Hyam and thanked him for his part in contributing to the meeting. [p854]
- 283 On 22 November 2012 Mr Alan Hyam wrote to me and said that we must give some thought as to how we negotiate with ERM. [p854]
- 284 On 8 January 2013 Minister Hazzard wrote to me and said that he had now written to ERM Power emphasising the need for them to continue and try and resolve the issues relating to Nanima House at an early date. The Minister had also asked the Department of Planning to meet with the proponent and impress upon them the need for this matter to be resolved at the earliest opportunity. [p855-856]

GRAY NOMAD COMMUNITY TITLE DEVELOPMENT ("GNCTD")

- 285 On 26 April 2012 Malcolm Johns & Company sent me Invoice No. 35113 – **YOU –**
ats – JOHN DIXON & ORS (APPLICANTS) - \$980.10 for telephone attendances
 on R Roberts and A Forrest and perusing emails. [p857-859]
- 286 On 27 April 2012 Malcolm Johns (Malcolm Johns & Company), Rod Roberts
 (Roberts Fund Pty Ltd) and partner Jill (who I mistakenly thought was Sue) Arthur
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Forrest (Jaciac Pty Ltd, a potential investor) and Rex Turner (Real Estate Agent, LJ Hooker, Wellington) came up to Nanima after attending a meeting with Wellington Council. [p860-861]

287 Whilst at Nanima I asked Rod Roberts whether or not he had seen the ERM Option Deed.

288 Mr Roberts replied "That he had discussed it with Mr Johns and that he was advised by Mr Johns that there was no benefit in it for him."

289 On 3 May 2012 Malcolm Johns wrote to Mr Eric Smith, Doherty Smith and said "The Nanima stakeholders wish to explore further the matters discussed at Council last Friday. As recommended by Rex Turner and discussed at the meeting with Council (at which the Mayor was present) the most value added use of the Nanima Land between the homestead and the river would be what I might call a Gray Nomad Community Title Development ("GNCTD") on part of the land". [p862]

290 On 8 May 2012 Doherty Smith & Associates sent Malcolm Johns a Consultancy Brief and said "Please find enclosed our fee estimate for the GNCTD proposal as requested. Please note carefully the terms and conditions set out and note that we require the Terms of Engagement Form to be completed and signed prior to any work taking place." [p863]

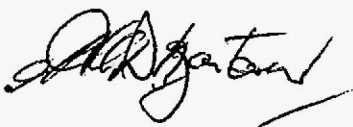
291 On 9 May 2012 Malcolm Johns sent all the stakeholders a copy of the Doherty Smith Fee Agreement and commented it "seems very reasonable. The next matter is to decide on funding it and then accepting it. I await hearing from all stakeholders." [p863-868]

292 On 30 May 2012 **Malcolm Johns & Company** sent me Invoice No 35127 – **YOU AND ERM POWER LIMITED** that included Drafting instructions to Doherty Smith - \$707.85. [p869-872]

293 On 31 May 2012 **Malcolm Johns & Company** sent me Tax Invoice No 35139 – **REMOVAL OF CAVEATS – \$7,346.47** The Invoice included a bill for \$4,950.00 for the Wellington trip as well as other bills related to it. [p873-877]

294 On 3 July 2012 **Malcolm Johns & Company** sent me Tax Invoice No 35170 – **REMOVAL OF CAVEATS - \$10,327.33** The Invoice included further bills associated with GNCTD proposal. [p878-883]

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295 On 21 August 2012 I signed a Costs Agreement with Malcolm Johns & Company – **REVISED SUBDIVISION OF NANIMA – GRAY NOMADS COMMUNITY TITLE PROJECT (“GNCTD”)**. The work we have been instructed to do is to act on your behalf in relation to the revised subdivision of Nanima for the purposes of the GNCTD. [p884-897]

296 On 4 September 2012 **Malcolm Johns & Company** sent me Invoice No.35248 – **REVISED SUBDIVISION OF NANIMA - \$3,103.65.** [p898-901]

297 On 4 September 2012 **Malcolm Johns & Company** sent me Tax Invoice No 35249 – **SALE OF NANIMA, WELLINGTON - \$398.31** [p902-905]

298 On 3 October 2012 **Malcolm Johns & Company** sent me Invoice No.35274 – **REVISED SUBDIVISION OF NANIMA - \$1851.30** for conferences with J Parker & R Roberts and telephone attendances with Rex Turner. [p906-908]

299 On 18 October 2012 I drove to Sydney to the office of Malcolm Johns & Company to attend a meeting that was organised by Malcolm Johns between Rod Roberts, Arthur Forrest and myself.

- a. Malcolm Johns opened the meeting and gave a brief overview of my position.
- b. Mr Johns explained that there had been no settlement arrangement with ERM Power.
- c. Mr Johns explained that the promises made by Mr Smits in a Deed signed on 25 January 2011 between myself and Mr Smits (“Smits Deed”) had not been honoured by Mr Smits. The Deed covenanted Mr Smits to organise funding of approximately \$1,500,000.00 to pay or settle the following debts :-

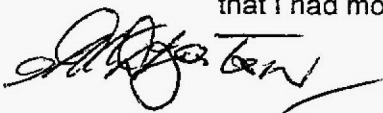
(a) \$450,000.00 to the assignees of the former first mortgagee over Nanima within approximately two months,

(b) \$480,000.00 to Malcolm Johns & Company, solicitors,

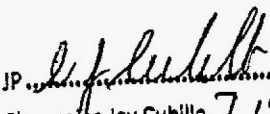
(c) \$400,000.00 to Smits, and

(d) an amount to the funder for one years interest in advance and costs

- d. Mr Johns was asked by me about the progress of the Appeal to the Judgment of Ward J and said that “the matter was making slow and steady progress and that I had more than reasonable chances of success.”




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- e. Mr Johns than left the meeting.
- f. Immediately after Mr Johns had left the meeting Mr Arthur Forrest said "I am not happy with the GNCTD proposal. Only a small number of sites may be sold. I am not convinced there is sufficient demand for these types of blocks."
- g. Mr Forrest said "I see a bright future for Wellington and the Cobbora Coal Project has the potential to employ a large number of people over a long period of time."
- h. Mr Roberts agreed with these comments.
- i. Mr Forrest began explaining his Jaclac proposal and said "Mr Roberts, the Lardner Smiths and the Estate of Welsh would have to accept less than they hoped for out of my matter."
- j. I said "ERM Power maintained a severe blight over Nanima as a consequence of Project Approval 06_0315 and in its present state it was valueless. I had a meeting with Minister Hazzard on 20 November 2012 to try and get the Minister to resolve the outstanding issues."
- k. At this point there was some discussion about the usefulness of politicians between Mr Forrest and Mr Roberts and myself.
- l. I said "I am sure they do their job to the best of their ability and act in the best interests of the people they represent."
- m. I said "There already is a development proposal that has been assessed as being viable and is still do able."
- n. Mr Forrest and Mr Roberts wanted to know more about the proposal and I showed them the Jack Dalton Report on Proposed Subdivision of Lot 2 DP 806578 and the status of the DA.
- o. Both Mr Roberts and Mr Forrest asked if they could copy the Jack Dalton Report. I consented to that.
- p. Mr Johns then poked his head in the door and Mr Forrest said "I am withdrawing my offer to proceed with my proposal."
- q. The meeting closed.

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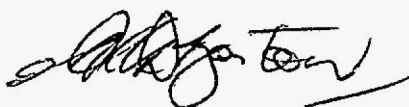
- 300 On 1 November 2012 **Malcolm Johns & Company** issued Invoice No35310 – **REVISED SUBDIVISION OF NANIMA** – preparation for summit and attendance with Barton, Roberts and Forrest and telephone attendances on A Forrest and R Roberts - **\$871.20. [p909-911]**
- 301 On 25 January 2013 I sent to Arthur Forrest **[p912-925]** :-
- a. Sec 4.23 of the Submissions Report included in the Project Approval 06_0315,
 - b. N12 of the Statement of Commitments,
 - c. Excerpt from the Director Generals Report,
 - d. Letter Wtn Council to NB dated 18 June 2008.
- 302 On 25 January 2013 Mr Arthur Forrest wrote to me and said "After my visit to Nanima last year and on the suggestion of Malcolm Johns I looked at whether a short term investment would be suitable to my client Jaciac 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 is now closed." **[p926]**
- 303 On 28 February 2013 Malcolm Johns & Company sent Tax Invoice No.35490 – **REVISED SUBDIVISION OF NANIMA - \$108.90** A total of **\$5935.05** is alleged to be outstanding on this account. **[p927-930]**

HARDSHIP, FARM DEBT MEDIATION AND FURTHER ATTEMPTED NEGOTIATION

- 304 At no time since the Project was approved has ERM offered to acquire the property unconditionally and all the offers have been based on a valuation that is less than Mr Shane Trethewey's 1999 valuation.

A. SMITS DEED

- 305 On 30 November 2010 **Malcolm Johns & Company** sent me **Top Invoice No 34506 – YOU v LEONARDUS GERARDUS SMITS - \$1197.90 [p931-934]**



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- 306 On 22 December 2010 I received Invoice No.34541 from **Malcolm Johns & Company – YOU v LEONARDUS GERARDUS SMITS - \$217.80 [p935-938]**
- 307 On 20 December 2010 **Malcolm Johns & Company** sent me Tax Invoice No. 34540 – **LITIGATION FUNDING - \$1781.42 (total Outstanding Balance - \$3264.32) [p939-942]**
- 308 On 21 December 2010 Mr Smits sent me an email stating that two loan parcels had been negotiated by him with a Malaysian funder and this would be a once opportunity to put my loan through. **[p943]**
- 309 On 24 January 2011 Mr Malcolm Johns sent me an email that attached the Deed Mr Smits had sent him with the advice that Mr Smits believes he has a private lender who will do the funding for me. Mr Johns goes on to say, Quite frankly, if you can't get the money via Leo (and supported by his guarantee if required) I have no idea where you will get it and it is very probable that it would be all over for you. This cannot be allowed to happen." **[p944]**
- 310 On 28 January 2011 **Malcolm Johns & Company** sent me Tax Invoice No.34571 – **YOU v LEONARDUS GERARDUS SMITS - \$272.25. [p945-948]**
- 311 On 27 January 2011 Mr Malcolm Johns said "After some persuasion, Leo eventually settled for \$400,000K and executed the Deed. Copy attached. **[p948,953,954]**
- 312 On 25 January 2011 I signed the Deed ("the Smits Deed") and sent it by platinum post back to Mr Johns.**[p949-952]**
- 313 On 15 February 2011 I signed a **COSTS AGREEMENT with Malcolm Johns & Company**. The work I had instructed them to do was to assist with the **FUNDING APPLICATION [p955-965]**
- 314 On 18 February 2011 Mr Johns attached a letter and enclosure to La Trobe Financial Services that said the amount of \$1,330,000.00 is for business purposes and is therefore required to pay out the liabilities plus say 12 months interest up front and an amount to cover brokerage and costs. The enclosure was a LPI search dated 17 January 2011 that showed two caveats by Roberts Fund Pty Ltd and the R1M and R2M to the A3F Investors. **[p966-970]**
- 315 On 20 February 2011 Mr Johns wrote to Mr Samways and said "I thought I made it plain in my letter which accompanied Nat's application that there are NO loan

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statements because of the reasons I set out. There was no loan in the conventional sense as you seem to be suggesting. [p971]

- 316 On 7 March 2011 **Malcolm Johns & Company** sent me Tax Invoice No.34616 – **FUNDING APPLICATION - \$925.65 [p972-974]**
- 317 On 14 March 2011 Mr Johns sent a Summary of my affairs to Mr Charles Samways, the finance broker acting on behalf of Mr Smits. The summary concluded "Settlement of the litigation has now been achieved and the funding is sought to pay out the settlement sum to the Investors of \$450,000.00, the Litigation Caveat lenders and other costs and expenses. In respect of none of the loans has a loan payment ledger or statement been kept. [p975-977]
- 318 On 4 April 2011 **Malcolm Johns & Company** sent me Tax Invoice No.34650 – **FUNDING APPLICATION \$3154.80 PLUS Previous Outstanding Balance \$2575.65 – TOTAL \$5730.45- ACCOUNT PAID [p978-981]**
- 319 On 4 April 2011 **Malcolm Johns & Company** sent me Tax Invoice No.34626 – **FUNDING APPLICATION – ESTATE E.P.WELSH SECOND TRANCHE - \$80,000.00 - \$1650.00 – ACCOUNT PAID [p982-984]**
- 320 On 4 April 2011 **Malcolm Johns & Company** sent me Tax Invoice No.34653 – **FUNDING APPLICATION – T & K LARDNER SMITH – FIRST TRANCHE - \$150,000.00 - \$1650.00 – ACCOUNT PAID [p985-987]**
- 321 On 4 April 2011 Malcolm Johns sent me an email that attached a **Direction As To Payment Authority** for me to sign and a statement that he would pay **\$50,000.00 back to the Welsh Estate out of the \$52,080.48 held in trust. [p988-990]**
- 322 I signed the Direction As To Payment Authority but to the best of my knowledge and belief the Welsh Estate were not repaid \$50,000.00
- 323 On 14 December 2011 Mr Leo Smits wrote to me and said "Three brokers and a specialist banker could not get you finance." [p991]
- 324 On 6 March 2013 I sent to Mr Smits a letter of demand and concluded that if I did not receive the details and documents set out in the letter within 28 days then the only conclusion that can 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).

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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. [p992]

325 On 6 March 2013 Mr Smits responded to my letter and said "I am not obliged to respond to your request for particulars and went on to say that he had the relevant particulars and they would be used when it became necessary, but he expected that I would be bankrupt before that time. [p993]

326 On 2 May 2013 **Malcolm Johns & Company** sent me Tax Invoice No. 35595 – **YOU ats LEONARDUS GERARDUS SMITS - \$108.90** for a telephone call. A total of \$707.85 was alleged to be outstanding on this account. [p994-997]

327 Mr Smits alleges I owe him \$400,000.00 pursuant to the Smits Deed which I deny. However, I do acknowledge that I owed him some money for the legal work he did for me between 2000 and 2003 prior to the signing of the Smits Deed. [p998-1000]

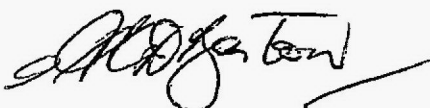
328 Had the Subdivision Land sale proceeded for \$750,000.00 to Macquarie Developments in 2006 I could have paid out Mr Valmas's clients (R1M & R2M) and Mr Smits and ended all litigation that had been on foot since 2000.

C. FURTHER ATTEMPTED NEGOTIATIONS WITH ERM POWER

329 On 19 February 2013 ABC News reported that **ERM were still confident that the Power Plant will be built** and Andy Pittlik is reported to have said "It's a slow process, slower than perhaps we would like, but there's an optimisation process going on." [p1013-1014]

330 On 2 May 2013 **Malcolm Johns & Company** sent me Invoice No.35594 –**YOU AND ERM POWER LTD - \$108.90** for telephone attendance on 22 March 2013. [p1015-1018]

331 On 25 March 2013 I met with Mr Andy Pittlik, NSW Director ERM Power and Mr John Jones, Rural Financial Counselling Service, Dubbo. – **The Negotiated Agreement Meeting.** I prepared an agenda prior to the meeting and all of the matters on the agenda were discussed. I emphasised to Mr Pittlik that I couldn't sell, mortgage, develop, maintain or upgrade Nanima due to the blight incurred by the proposal to construct the power station, and that to date ERM had failed to enter into any meaningful negotiations. I produced the supporting documentation written by Mr Pittlik, of ERM's Request to Modify the Project in 2010, (MP06-315 MOD 1) that showed that the Noise Studies pertaining to Nanima ^{"I certify this to be a true and correct copy of the original document shown and reproduced to be the original."} and proposed to be the original.



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still not compliant with NSW Industrial Noise Policy. Mr Pittlik called the meeting to a halt saying "there was nothing further to discuss" but he would make sure my proposition for settlement reached the ERM Board. [p1021-1026]

332 I sent a Report on the meeting to Mr John Jones, and Mr Malcolm Johns .I asked Mr Jones to let me know if I had missed anything. [p1019-1020]

333 On 26 March 2013 I wrote to Andy Pittlik and pointed out to him that the Submissions he had made to the Department of Planning on 4 March 2010 were misleading because Nanima was still non compliant with NSW Industrial Noise Policy and that ERM had committed to do a Statement of Heritage Impact on Nanima. I went on to say that "It beggars belief that ERM could possibly think this was to be done after physical work had begun." Finally, I note that you have not reimbursed me for any of my legal expenses. [p1027-1028]

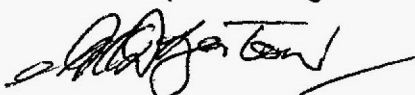
334 On 10 May 2013 I wrote to Andy Pittlik and said that I had not heard back from him and could he please advise asap. [p1027]

335 On 17 May 2013 I wrote to Andy Pittlik and said that I had discussed my desperate situation with my Barrister, Mr Alan Hyam and that Mr Hyam had offered to meet with you and other decision makers from ERM to see if the present situation can be resolved. Could you please advise a suitable date and venue. [p1027]

336 On 20 May 2013 Mr Andy Pittlik wrote to me and said " As discussed, we see little value in further discussions with you, or your legal representatives, unless you are willing to consider an agreement which is consistent with the principles set out in the DA. [p1029]

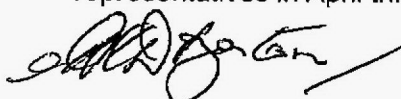
337 On 22 May 2013 I wrote to Andy Pittlik and said "Further to your email dated 20 May 2013, I am dismayed that you have rejected out of hand my offer to meet with you and other ERM representatives to discuss an outcome in this long standing dispute. This is contrary to the wishes of the Minister that every avenue be examined in order to effect an early and equitable outcome of this matter. The purpose of the proposed meeting is to discuss the differences between the parties so that each party can better understand the other's circumstance. Having resolved the differences between the parties, then, avenues can be explored with a view to reaching an agreement acceptable to both parties. For my part I am totally committed to such a process and to achieving an outcome acceptable to both parties. I trust that my genuine endeavours in this regard will meet with a genuine response and goodwill on the part of ERM. [p1032]

I certify this to be a true and correct copy of the original document shown and reported to me as the original."

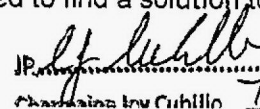


 JP150783

- 338 On 28 May 2013 Mr Michael Tolhurst, General Manager, Wellington Council wrote to Minister Hazzard and said "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." [p1035-1036]
- 339 On 4 June 2013 **Malcolm Johns & Company** sent me Invoice No 35634 – **YOU AND ERM POWER LIMITED** - \$326.70 – telephone attendances. [p1037-1040]
- 340 On 17 June 2013 Andy Pittlik wrote to me and said "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." [p1041]
- 341 On 18 June 2013 I wrote to Mr Andy Pittlik and said "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. [p1042]
- 342 On 26 June 2013 I wrote to Minister Hazzard and copied the letter to Mr Andrew Gee and Mr Alan Hyam as I had not received a response from Mr Pittlik. [p1043]
- 343 On 3 July 2013 I wrote to Mr Andrew Gee MP requesting that he do what he can to get the ERM matters resolved. [p1046]
- 344 On 17 July 2013 Mr Nuray Duran, A/Executive Assistant, NSW Planning & Infrastructure wrote to me and copied me a letter Mr Chris Wilson, Executive Director, Development Assessment Systems & Approvals, NSW Department of Planning, had sent to him that stated that the Minister had met with ERM representatives in April this year and had emphasised the need to find a solution to



"I certify this to be a true and correct copy of the original document shown and referred to me as the original."

 150783
 J. P. Cubillo 7/4/14

my concerns. The Minister is advised that ERM are considering options and will respond to the Department in due course. [p1047-1048]..

345 On 22 October 2013 I received a telephone call from Andy Pittlik who requested to meet with me on 23 October 2013. I said to him " I was just finishing off my Third Cross Claim that proposed to join ERM Power Ltd to the Roberts Fund Pty Ltd matters and you are welcome to come and get it after I had executed it in front of a JP." I also said. "I am not happy to meet with you without Mr Hyam being present and I had sent many emails on that subject to you."

346 Mr Pittlik did not collect the Third Cross Claim so I posted it to the Registry for filing and serving and emailed him a copy on 23 October 2013.

#SWORN #AFFIRMED at WELLINGTON

Signature of deponent

Name of witness

Address of witness

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):


- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)[†]

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

"I certify this to be a true and correct copy of the original document shown and reported to me as the original."

JP  150783
Charmaine Joy Cubillo 7/4/14

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[[†] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.]



The Sydney Morning Herald

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Metgasco project referred to ICAC as links to Obeid family emerge

Sean Nicholls, Nicole Hasham, Kate McClymont
Published: May 15, 2014 - 5:56PM

- [Protesters celebrate as drilling suspended](#)
- [More NSW news](#)

Resources company Metgasco's gas drilling operation on the NSW north coast was referred to corruption authorities as links emerged between its largest shareholder and the family of disgraced former Labor powerbroker Eddie Obeid, and controversial businessman Nick Di Girolamo.

On Thursday, NSW Energy Minister Anthony Roberts announced he had suspended Metgasco's exploration licence at Bentley, near Lismore, due to a lack of community consultation.

Mr Roberts also said he had referred the project to the Independent Commission Against Corruption "following receipt of information concerning shareholdings and interests in Metgasco Limited".

The chairman of Metgasco's largest shareholder, ERM Power, is Tony Bellas, who is in business with Eddie Obeid's nephew, Dennis Jabour. Both are shareholders in the Queensland company Gasfields Waste Water and Services, of which Mr Jabour is the sole director.

Until March last year, Mr Bellas was also a director of Australian Water Queensland, a subsidiary of infrastructure company Australian Water Holdings, whose activities are the subject of current ICAC investigations.

Eddie Obeid jnr, the son of Mr Obeid, worked for Australian Water Queensland. The ICAC has heard that from 2009 Mr Obeid jnr led AWH's push into the Queensland market.

Among Mr Bellas's fellow directors on the Australian Water Queensland board were Mr Di Girolamo, a former lobbyist and Liberal party fundraiser who was chief executive of AWH.

Mr Di Girolamo's gift of a \$3000 bottle of Penfolds Grange Hermitage to former NSW premier Barry O'Farrell led to his resignation after Mr O'Farrell gave false evidence about it to the ICAC.

Australian Water Queensland was shut down due to negative publicity about the involvement on the board of a Queensland lobbyist, Wayne Myers. A new company, Gasfields Waste Water and Services, was set up early last year.

Former Gasfields shareholders include Mr Obeid jnr, Mr Di Girolamo and the current director-general of the Queensland department of premier and cabinet, Jon Grayson, who only ceased to have an interest two weeks ago.

On Thursday, Mr Bellas said he was "incredulous" about the referral to the ICAC if it was due to his links with Mr Di Girolamo and Mr Obeid jnr.

"We have nothing to do with Metgasco's operation, we're just a shareholder," Mr Bellas said.

Asked about the nature of his association with Mr Di Girolamo and Mr Obeid jnr, Mr Bellas replied: "I'd prefer not to comment on either, because they are before the ICAC."

Metgasco's license to explore for coal seam and conventional gas resources in northern NSW was first granted to Carlita Holdings in November 1996, when the Carr Labor government was in power.

Peter Gray, a high-profile stockbroker, was a director and secretary of Carlita Holdings and was later revealed as an investor in Cascade Coal, a company at the centre of an ICAC inquiry involving Mr Obeid snr and another former Labor resources minister, Ian Macdonald, last year.

The ICAC found Cascade Coal paid \$30 million to the family of Mr Obeid to buy out part of their stake in a mining joint venture over the Obeids' Bylong Valley farm.

ICAC found Mr Macdonald acted corruptly in creating a mining tenement at Mount Penny in the Bylong Valley over land owned by the Obeid family.

In his final report, the ICAC found Mr Macdonald expressly reopened a tender to enable Cascade Coal to put in a bid, which it subsequently won.

Mr Gray was not accused of any wrongdoing.

In August 1999, the north coast exploration license, known as PEL 16, was transferred from Carlita Holdings to Metgasco, when Mr Obeid snr was Minister for Mineral Resources. Mr Obeid renewed the licence in 2000 and it was again renewed by Mr Macdonald in 2006.

The licence was most recently renewed last year, under former Liberal resources minister Chris Hartcher. Mr Hartcher is currently the subject of an ICAC inquiry involving Australian Water Holdings.

He and fellow state MPs Chris Spence and Darren Webber are accused of soliciting donations to an alleged slush fund, including from AWH, in return for political favours.

Metgasco shares went into a trading halt on Thursday morning. In a statement, the company said it was "confident that it is in compliance with the PEL 16 licence conditions and is seeking to demonstrate this to government".

The chief executive, Peter Henderson, declined to comment further.

This story was found at: <http://www.smh.com.au/nsw/metgasco-project-referred-to-icac-as-links-to-obeid-family-emerge-20140515-zrdfz.html>

2013/00218863 Roberts Fund Pty Ltd v Nathaniel Barton

SHORT MINUTES OF ORDER



The Court:

1. Orders under Uniform Civil Procedure Rules 2006 r 7.36 to refer Mr Nathaniel Barton (1st Defendant) to the Registrar in Equity for assistance under that rule.
2. Makes no costs order in respect of that application.
3. Releases to the sixteenth defendant a copy of the Second Cross Claim filed on 20 September 2013 by Mr Nathaniel Barton. Note the acknowledgment by the sixteenth defendant that the receipt of that document will be accepted as sufficient for all obligation of service.

Date: 3 October 2013

A handwritten signature in black ink, appearing to be "Nathaniel Barton", is written over a horizontal line. Below the signature is a long, diagonal stroke.

*Received
6/12/10*

Mr N Barton
"Namina"
Mudgee Road
WELLINGTON
NSW 2820

Our ref: E10/1863
Contact: Linda Madgwick
Telephone: 8281 5712

2 December 2010

IN CONFIDENCE

Dear Mr Barton

I refer to your emails dated 15 October and 18 October 2010, to our telephone discussion on 19 October 2010 and to our letter to you dated 20 October 2010 regarding the Approval and Modification of the Approval for the Wellington power station.

Your concerns

You raised concerns about matters surrounding the Approval and Modification of the Approval which you considered indicated that corrupt conduct may have occurred. They included (a) the fact that ERM Power Pty Ltd, the Applicant, made substantial political donations to the ALP during this period – not all of which was disclosed in the relevant disclosure statements; (b) that the Applicant's representative/s attended an ALP fundraising dinner during this period at which he spoke to the then Premier; (c) that Minister Kelly lives in Wellington; (c) that the project will breach acceptable noise limits; (d) that the consent conditions 'overruled' the Applicant's submissions; (e) that any acquisition of your property may be delayed until after the station is operational and (f) that the MOU with Eastern Star Gas meant that its donations to the ALP should have been disclosed with the Modification application was considered.

What we do

The *Independent Commission Against Corruption Act 1988* sets out our functions, which include investigating corrupt conduct in the NSW public sector and educating the sector and the community about combating and preventing corruption. We can only deal with corrupt conduct as defined in our Act.

Enquiries made

In finalising the report for consideration by the Commission's Assessment Panel comprising senior officers of the Commission, we undertook some research. No enquiries were made of any agency.

Our decision

The Panel has determined that the Commission will not be investigating the matter as the information available does not indicate that corrupt conduct is likely to have occurred.

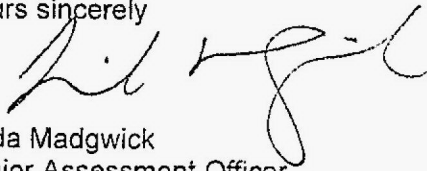
In reaching its decision, the Panel took into account a number of factors, including:

- (a) the mere fact that an applicant has made donations to the political party in Government, close to, or in the lead up to the application being determined does not of itself indicate that corrupt conduct is likely to have occurred;
- (b) the discrepancy of \$33,000 between the statement and the Electoral Funding Authority records appears to be accounted for by the fact that a donation of \$33,000 was made on 7 August 2006 (see the breakdown available on the EFA website). This did not have to be included in the statement as it was outside the reporting period.
- (c) the MOU between the Applicant and Eastern Star Gas does not appear to have been entered into May 2010 and, in any event, it could be argued that the nature of and terms of the MOU would not trigger the disclosure requirement.
- (d) An ABC news report of 11 August 2009 reported the Chairman as attending the dinner. He said he spoke to the Premier about proposals for a carbon pollution reduction scheme and not the project. There is no information to the contrary.
- (e) It is ultimately a matter for the Government to determine what consent conditions it applies.

I enclose a fact sheet which provides more details of the assessment process.

Although we are not taking any investigative action, thank you for bringing this matter to the Commission's attention.

Yours sincerely



Linda Madgwick
Senior Assessment Officer

encl.

The Daily Advertiser - 22 DEC 2009.

Power firm says no to expansion

/ MICHELLE WEBSTER

c. 22, 2009, 12:32 a.m.

ANXIETY is rife throughout Uranquinty over Origin Energy's plans for its controversial power station after the company yesterday confirmed it was buying large parcels of land surrounding the facility. The move coincides with modification of criteria outlining which of the power station's neighbours can still seek operational noise limits and monitoring measures. The Daily Advertiser understands Uranquinty residents who have been approached by Origin Energy with offers to buy their properties have been gagged from speaking out the deal, with strict confidentiality agreements in place. However one local resident, who did not wish to be named, yesterday indicated Uranquinty habitants were well aware of the purchases, with the vast majority viewing the arrangement in an unfavourable light. The resident said the loss of families from the small village would be felt deeply, with businesses and schools suffering as a result. With the facility heavily criticised for the levels of noise produced since it became fully operational in January this year, Uranquinty residents have debated whether this latest move is designed to remove those affected most by noise pollution or whether, in fact, Origin may be planning to expand the site, however a spokesperson for Origin Energy yesterday denied plans for expansion were on the table. "There are no current plans to expand the Uranquinty Power Station, or to use the farming land Origin now owns for purposes other than farming," she said. The NSW Department of Planning issued a public notice in the Weekend Advertiser to notify the community of the approval of a request by Origin Energy to modify the Uranquinty power station development consent. As stated in the notice, the modification prevents residents who have negotiated a prior noise agreement with Origin, or those wishing to build new homes near the power station, from seeking operational noise limits and associated monitoring and mitigation measures. However, the individual listed for those wishing to enquire about the modification, printed on the December 19 and 20, is currently on leave.

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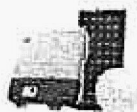
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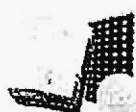
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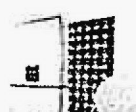
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Goulburn Post

2 July 2012


Proposal gone to the PAC

by TOM SEBO

July 2, 2012, 12:23 a.m.



MEMBER for Burrinjuck Katrina Hodgkinson has criticised the NSW Department of Planning for recommending approval for AGL's proposed \$1.5billion Dalton Gas Fired Power Station.

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MEMBER for Burrinjuck Katrina Hodgkinson has criticised the NSW Department of Planning for recommending approval for AGL's proposed \$1.5billion Dalton Gas Fired Power Station.

In an address to the NSW Planning Assessment Commission (PAC) – who will make the final decision on whether or not the development will go ahead – Ms Hodgkinson said the conditions of consent were not stringent enough.

She said serious question marks still loomed and if approval was granted unamended it would be an example of the department getting it wrong "again".

When the PAC held a public consultation meeting in Gunning on Thursday, Minister Hodgkinson told representatives she had done an enormous amount of research into the state's existing gas-fired power stations and that the numbers were not glowing.

The information I have obtained leads me to the conclusion if this project is approved in its current form there will be little, if any, protection for the community if it eventuates that the Department of Planning and Infrastructure has got it wrong, again," she said.

The reality of life is that once this project is constructed it will be used. It is very important that the PAC make the right decision for the right reasons. If you approve this proposal then it is incumbent on you to make sure the development consent conditions will not have a severe adverse effect on the local community."

There are five gas turbine power stations in the state and the most comparable to AGL's, Uranquinty Gas Fired Power Station, has never been able to meet the noise restrictions set by the State Government, despite what the company said during the application process.

According to Minister Hodgkinson, the proponents, Origin Energy, reportedly paid millions of dollars in litigation to the plant's neighbours and forced up to 10 families to leave their properties.

The only major difference between Uranquinty and Dalton is that the township of Uranquinty is located 2.4km from the power station whilst the centre of the village of Dalton is 4km removed from the proposed site," she said.

Note there will be some additional attenuation of noise due to the increased distance, but this will vary significantly with different atmospheric conditions.

The Director-General's MPA for Dalton, page 23, states: 'A number of submissions cited the example of the Uranquinty power station where the actual operating noise is well above predicted noise levels and expressed concern that the same situation could arise with the Dalton Power Project'. "Having acknowledged these concerns, the Department of Planning makes no further mention of Uranquinty in the rest of the 73 page document. This concerns me.

The Department of Planning recommended the approval of Uranquinty stating that it would meet the requirements of the New South Wales Industrial Noise Policy. It is obvious they got it wrong then.

The Department of Planning is making the same statement here, and even though they note the Uranquinty experience, the omission of any further mention of Uranquinty from the MPA rings serious alarm bells.

People who choose to live in a country area do so in the knowledge that their lifestyle is a trade-off between positive and negative factors. Mobile phone reception is pretty crook, sometimes they don't have a dependable water supply - as everybody in Gunning and Dalton knows, the roads are not as good as those in the city, power failures are more frequent, and you have further to travel to get to a doctor, shops and hospitals.

But we all love living in a rural setting because of the sense of community, the relaxed attitude, fresh air and peace and quiet. A large part of this is the ability to be outside and still experience fresh air and peace and quiet...

I am concerned at the possibility that this project has the potential to affect the character of this local community. I am even more concerned that the Department of Planning appears not to consider this possibility to be very important.

I would ask that you give this factor significant consideration when you are considering this proposal."

Minister Hodgkinson also pointed out that Delta Electricity's Colongra Power Station also hadn't met its requirements. She said the consequences were not severe enough and wanted to see a commitment that the plant would be shut down immediately if it failed to comply with any of the restrictions placed upon it.

The AGL project is an investment of approximately \$1.5b in infrastructure within NSW," Minister Hodgkinson said.

Nat Barton

From: "Maryanov, Elisabeth" <Elisabeth.Maryanov@hsf.com>
To: <nba43079@bigpond.net.au>
Cc: "Cobb-Clark, Matthew" <Matthew.Cobb-Clark@hsf.com>
Sent: Tuesday, 8 April 2014 7:56 PM
Subject: Roberts Fund Pty Ltd & 2 Ors v Barton & 15 Ors - 8 April 2014 directions
Dear Mr Barton

Further to the parties' discussions in court earlier today, set out below is a list of the orders made at today's directions hearing by Registrar Musgrave. As you can appreciate, this is not an official copy of the orders. As was indicated to you today, you may obtain an official copy of the orders from the Court.

The orders are as follows:

- 1 The first defendant to serve on Wellington Council all affidavits on which he intends to rely by 11 April 2014;
- 2 The plaintiff to serve on Wellington Council and ERM Power Ltd a copy of all of the pleadings by 11 April 2014;
- 3 The first defendant to serve on all parties a list of all of the affidavits on which he intends to rely in support of his motion dated 10 March 2014, by 11 April 2014;
- 4 If any party requests a copy of any affidavit on the list served by the first defendant, the first defendant is to provide it within 14 days;
- 5 The nineteenth cross defendant to file and serve an amended notice of motion by 15 April 2014;
- 6 All parties to serve any affidavit upon which they wish to rely on the first defendant's motion dated 10 March 2014 by 12 May 2014;
- 7 The following motions are listed for hearing on 12 and 13 June 2014 before Young AJ:
 - (a) first defendant's motion dated 10 March 2014;
 - (b) sixteenth defendant's motion dated 24 March 2014;
 - (c) fourth - seventeenth and twenty first cross defendants' motion dated 6 March 2014;
 - (d) the sixteenth defendant's motion dated 24 March 2014;
 - (e) the nineteenth cross defendant's amended motion; and
 - (f) the sixteenth defendant's motion dated 31 March 2014;
- 8 Noted that the parties have completed service of their evidence in respect of the motions in Orders 7(b) – (f) above;
- 9 Each party to file and serve written submissions within 3 days of the hearing date;
- 10 The usual order for hearing is made;
- 11 The first defendant to serve any evidence in reply in respect of his motion of 10 March 2014 by 30 May 2014.

Furthermore, we confirm receipt of the following documents, which you provided to us at court today:

1. Affidavit of NKD Barton dated 7 April 2014;
2. Folder labelled 'Affidavit NKDB 7 April 2014 p 1-303 Folder 1';
3. Folder labelled 'Affidavit NKDB 7 April 2014 p 304-608 Folder 2';
4. Folder labelled 'Affidavit NKDB 7 April 2014 p 605-854 Folder 3'; and
5. Folder labelled 'Affidavit NKDB 7 April 2014 Folder 4'.

Kind Regards

Elisabeth Maryanov
Special Counsel
Herbert Smith Freehills

18/05/2014

nce this money is spent, no reasonable person would expect this infrastructure would lie idle if, like Uranquinty, it were not able to meet the consent conditions. Based on the question mark hanging over the need for additional power generation capability in the future; omission of any reassurance from the Department of Planning about a repeat of the Uranquinty situation; and the failings of AGL's public consultation it is my personal view that this project should not be approved."

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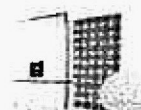
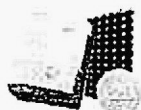
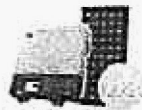
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