

13 November 2008

Dear MLA

Proposed Power Station and Data Warehouses development on Tuggeranong Block 1671

We are writing to you directly to express the growing concern voiced by many members of the community due to the lack of a definitive timetable and plan for the fulfilment of the pre-election promise to cancel this proposal. This promise was made by 10 of the sitting 17 members of the Legislative Assembly (MLA's) as well as a number of Labor MLA's who have, independently of Mr Stanhope, voiced their concerns with this proposal progressing.

It may assist if we remind all MLA's why the majority of their colleagues have considered this proposal and come to the conclusion that it should not proceed. For this purpose we have attached a short summary of the most relevant events to this letter. Whilst much of this information has been précised, we are more than happy to furnish you with copies of the documents which evidence the facts set out here.

A recent key concern are the "threats" made by Minister Barr and Mr Stanhope alluding to the need for the Territory to be liable to pay compensation to the proponents should this development not go ahead. The community is concerned that these threats are being made in what it considers yet another attempt by the Labor government to blame the community for the loss of this development. This is not the first time Mr Stanhope has unjustly sought to blame the community for financial loss in this project. We refer you to Mr Stanhope's press release of 27 May 2008 which is explained in the attached précis.

In this matter the community cannot see how these proponents would consider they require compensation for this development not proceeding. In order for this to occur, the government must have promised something to these proponents for which they believe they could be compensated for, should the government not be able to deliver on this promise. This would fly in the face of Mr Stanhope's claim there has been no political interference in this process.

To our knowledge the Option on the Crown Lease, remained unsigned as late as September 2008. Given the majority of MLA's have made the firm stance that this proposal should not advance, and the continued intense community and media interest in this matter, it would be a matter of concern should Mr Stanhope consider he was able to sign the lease. In the event of this happening the community would be likely to draw the conclusion that Mr Stanhope deliberately intended for the Territory to pay compensation to the proponents.

We are concerned that Mr Stanhope and Mr Barr continue to assert that it is only the results of the Environmental Impact Study (EIS) which will be used to determine whether this development should or should not advance. We are further concerned that Mr Stanhope is placing undue pressure on the ACT Greens by stating the EIS was

called for in response to the demands of the ACT Greens and the community and the results should therefore be respected regardless of what debacle went before.

We refer you to the attached précis in this matter and again point out that this EIS was ordered by the government as a reaction to the publication of ACTPLA's very damning evaluation of the applications Preliminary Assessment, the growing vocal discontent of the Health Impact Assessment Steering Group (HIASG) and the approaching election. The EIS which had been called for by the ACT Greens and the community bears no relation to the small, tightly timetabled EIS called for by Minister Barr.

We would like to remind Mr Stanhope, Mr Barr and the proponents that apart from the results of the EIS there are many other things of relevance to consider whether this matter should proceed or not. These include, but are not limited to:

- Over 600 submissions from the community which have yet to be addressed;
- a petition of over 4,500 Canberrans against the development;
- the 21 flaws found in the ACTPLA evaluation;
- an interim report from the health experts rather than Golders consultancy; and,
- the results of the Auditor General,
- not to mention the flawed and mismanaged way this matter has stumbled along so far.

As a final issue the community remains reliant on the legal opinion filed in August 2008 which sets out that this proposal does not meet the definition of a communications facility under the Territory Plan. To allow this development to be built on Broadacre is a misuse of the Territory Plan and flies in the face of good planning practice and represents the most obvious example of high level political interference.

We now look to those MLA's who took the time to consider this matter in a balanced unpartisan way and who prior to the election declared this proposal should not advance on this site. We consider the obvious way forward would be for the majority of the Assembly to stop this proposal from advancing further and therefore restore some dignity to the planning process which has suffered as a consequence of the high level political interference found in this project.

There are several mechanisms in which to achieve this aim, legislation being one of them. The community looks to both the Liberal Party and the ACT Greens and to those members of the Labor Party who act on behalf of the community rather than the will of their leader, to display leadership and commitment to the community by whom and for whom they were elected. We look to them to actively fulfil their election promises and present the community with a timetable and plan to cease this proposal on this site.

We finally ask you as an elected MLA to require Mr Stanhope to listen to the community rather than scapegoat the community for his mistakes. We ask that he considers the damage he will do to not only the community and the planning process but to the potential business developers who are considering investing in Canberra, if he allows this proposal to proceed on this site.

These potential business developers are watching with interest how he manages this situation. It must occur to them that they are not likely to be given the access to central government, the advantages of cheap land, access to internal government documents, lenient ACTPLA planning decisions and the vocal support that has been afforded by this government to these proponents. They will draw the conclusion, as the community has, this proposal illuminates a system capable of bias to such an extreme they would be foolhardy to try and compete with proponents who have these connections.

We, the community, look forward to hearing how the elected representatives of this Assembly will now fulfil their promises and their duty to the community and cease this development on this site.

Yours sincerely

Bill Reid
President of CPR inc

Summary of events.

Mr Stanhope has been adamant that he did not select this site in July 2007. The community has documentation which suggests very clearly Mr Stanhope directly selected this site in order to ease the path for ACTEWAGL to build a second power source gas fired power station for Canberra. The Data Warehouses were, at this time merely the financial enabler for this project. Tuggeranong block 1610, it appears, was picked as it was cheaper than the Industrial zoned land block previously settled upon Hume 1823.

Previously there had been no site specific studies conducted on Block 1610 as it had been set aside for 10 years for the potential use by TAMS for a Cemetery.

Between August 2007 and February 2008, a mere 6 months, Technical Real Estate (TRE) a company which incorporated in August 2007, and ACTEWAGL set about commissioning surveys and studies on the premise this project would provide a much needed second power source for Canberra.

In February 2008, with most of the reports and supporting documentation already complete, it became apparent to ACTEWAGL that it was not economically viable for them to provide a second power source on this site.

Mr Stanhope was informed that it would now no longer be possible to provide the second power source on this site but that the project should still go ahead with ACTEWAGL providing a smaller power station solely for the use of the Data Warehouses.

In order to ensure their project was filed prior to the new Land and Planning Act which came into force on 1 April 2008, the proponents filed their plans for a 210 MW Power Station and Data Warehouses on 26 March 2008.

Throughout this time, the community was not informed about this project.

It was not accurately or widely advertised. No letters were written to nearest neighbours and no attempt was made by the government or the proponents to discuss these plans with the community.

This silence extended to the residents, the care workers and the advocates for the residents living at the nearby health facility which had recently been refurbished at a cost of \$1.3 million.

When the proposal finally came to the notice of the community in mid April 2008, it was discussed by the proponents and the government as being a second power source for Canberra and the community should therefore recognise the benefits for all in allowing this proposal to go ahead. Indeed Mr Stanhope and Mr Barr recommended this proposal to the Assembly in these terms.

The community called for a full independent Environmental Impact Statement. The community expectation of this would have been to consider the full impact on all aspects of the community and environment including a cost/benefit analysis.

On 5 May 2008, some 22 days before they actually announced the “downscaling”, ACTEWAGL filed with ACTPLA their application for an “alteration” to their plans. They had known since February 2008 they would need to make this alteration, but it was not made public until 27 May - the last day for the community to file their responses to this application.

This was released in a joint statement made by Mr Stanhope and Mr Costello. In his statement to the press, Mr Stanhope said this down scaling was made because

- they listened to the concerns of the community;
- it showed what good corporate citizens the proponents were; and,
- because of the down scaling, Canberra had now lost \$1billion of investment.

He therefore blamed the community for the “loss” of \$1billion investment which had not been progressed since February 2008 because of the lack of financial viability – three months before the community even heard of the proposal.

Despite the configuration of the warehouses being altered, the number of warehouses, the size of the block used and the size and position of the power station all being different and the core business case had now completely changed - ACTPLA accepted this new plan as an alteration, thus allowing this proposal to remain under the old Act.

A Health Impact Assessment Steering Group was convened comprising of three senior health professionals and a government appointed “community advocate”. Golders Consultancy was appointed to assist the health experts although they were keen to tell the community they did not have health expertise themselves. Before the HIASG had concluded their studies they were dismissed. The government “reassured” the community that their work would be completed by non-health experts Golders.

At the same time as the HIASG was sacked ACTPLA released its Evaluation of the Preliminary Assessment. This report was damning with over 21 flaws found, the most fundamental of these was ACTPLA stated it could not consider any benefits as a cost/benefit analysis had not been filed.

Despite this ACTPLA did not reject the application.

Facing these damning reports, 600+ submissions of objection from the community, a petition of over 4500 signatures and an impending election, Minister Barr ordered a very narrow EIS covering three issues Health, Flora and Fauna, and Heritage. Whilst requesting the EIS, Minister Barr reminded the proponents they had around 5 months in order to complete the EIS in order to remain within the one year time frame.

On 25 August 2008 the community filed a legal opinion stating this proposal did not fit the definition or intention of a communications facility as defined in the Territory Plan. Although the proponents have claimed they have a contradicting legal opinion – to date they have not released it.

From as late as September 2008 the Option for the Crown Lease over Block 1671 had not been signed off and amendments were still being made to the details of the draft lease.

Both the Liberal Party and the ACT Greens declared prior to the election that they would not be supporting the advancement of this proposal on this site not only because of the high level political interference but because this private development would impinge on the wildlife corridor and spew 4.7 million tonnes of exhaust gases per year into the atmosphere for the benefits of a private industry.

Evidenced above is the way this project has been mismanaged, subjected to high level political interference and been allowed unprecedented government support. It is because of this and the plainly unsuitable site for a private power station that has led the majority of MLA's to conclude this project cannot go ahead on this site.