

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Application by Mighty River Power Co Limited to the Northland Regional Council and the Whangarei District Council for Resource Consent in respect of the Marsden B Power Station re-Powering Project

SUMMARY OF DECISION OF COMMISSIONERS

DATED: 22ND SEPTEMBER 2005

Mighty River Power Co Limited is a state owned enterprise under the State Owned Enterprises Act 1986. It owns the land on which the Marsden B Power Station stands. It wishes to utilize the existing Power Station and related infrastructure. To this end it proposes to construct a new boiler house and to utilize coal as a fuel.

The Company made a number of applications to the Northland Regional Council to take and use sea water; to discharge water into the sea; to discharge contaminants to air; and various other take, divert and discharge applications associated with the development and ash disposal sites. An application for Land Use Resource Consent was made to the Whangarei District Council.

The project involves the delivery of coal to Northport and a conveyor to take that coal to the Power Station site. At the site the coal is stockpiled, it is processed for use in the boiler with the resulting steam used for the generation of electricity. Particulates, sulphur dioxide and other contaminants are to be removed from the flue gas. The desulphurisation process is to employ either sea water or wet limestone technology with final discharge to Bream Bay of contaminants removed from the flue gas, along with other contaminants from the site. The ash is taken to a site owned by the Company where it is proposed to be the subject of a landfill operation.

There were a large number of submissions in relation to the application. Of these 76 were in support and 3,231 were opposed. 129 submitters made oral submissions to the Commissioners. Principal concerns of those opposed related to the discharges to sea and air, the use of the ash disposal site and concerns relating to effluent from it, noise and dust.

The land affected by the application, with the exception of a small piece of land owned by the Department of Conservation and places where the coal conveyor crosses the road, has a zoning which permits a very wide range of activities. Electricity generation is one of these permitted activities.

DEVELOPMENT OF THE SITE

The Commissioners have concluded that given the zoning and the various mitigation measures proposed by the applicant, the development proposals, that is to say, the various buildings and the coal conveyor were entitled to resource consent. In reaching this conclusion the Commissioners considered issues including dust, coal dust, ash dust, spontaneous combustion, the conveyor and transfer towers, the coal stockpile, odour, noise, visual amenity, traffic, hazardous substances and archaeology. Given the heavy industrial zoning of the Power Station site and the provisions of the District Plan together with the evidence adduced by the applicant the Commissioners concluded that the various effects of the proposal could be kept within acceptable limits.

As to the ash disposal site the Commissioners concluded on the basis of the engineering evidence that the control of leachate was feasible and, given that fact, the application was entitled to approval. The Commissioners gave extensive consideration to the ash landfill proposal and considered carefully the applicant's proposal designed to ensure the stability of the landfill and the avoidance of problems from leachate. The applicant's proposals were reviewed by an engineering consultant employed by the Council who concluded that those proposals were feasible and that the engineering was sound. There was no evidence given which could properly lead to a different conclusion. The Commissioners

decided that those proposals should be approved after carefully considering submissions made by various persons and groups including the Whangarei Heads Citizen Association, Ms Tolley, Mr Rose and others. The Commissioners note that the landfill site is to be developed progressively over a long period of time and there will be opportunity to modify designs as performance and site conditions dictate, or to align landfill design with changes in design practice or any future landfill regulations that may apply.

SEA WATER TAKE

The applicant has applied for resource consent to take and use up to 13 m³ per second of sea water from Bream Bay for cooling and ancillary purposes. Existing intake and discharge structures are proposed to be used. The Commissioners accepted evidence that there will be adverse effects associated with the take, particularly in relation to the entrainment of planktonic organisms and fish. However given the provisions of the regional plan the Commissioners concluded that they had no power to refuse the application or to subject it to conditions other than those which the applicant had invited the Commissioners to impose.

DISCHARGE TO BREAM BAY

The Commissioners and many submitters had serious concerns relating to the discharge of contaminants to Bream Bay. The Commissioners considered the extent of evidence on this issue in considerable detail and were particularly concerned to ensure that the quality of the water in Bream Bay would be maintained and that there would be no adverse effect on marine life as a result of the discharges. The Commissioners were impressed with the evidence they heard concerning the uses to which Bream Bay and the Whangarei Harbour are put, and the diversity and profusion of marine life in these areas. Very stringent conditions have been imposed on discharges from both the Power Station and the ash disposal site. In particular the mercury mass discharge limit has been set at 0.0082 kg per day, a level at which the Commissioners are satisfied there will be no adverse effect on marine life, nor on humans taking and using fish and shellfish for food. A similar approach has been taken to other contaminants. The Commissioners have concluded that, on the basis of those conditions, it was appropriate for the discharge application to be granted.

DISCHARGES TO AIR

The application seeks to discharge contaminants to air via a 120 metre tall chimney. The applicant's proposal involves filter systems for the removal of particulates and a flue gas desulphurisation plant to remove sulphur dioxide. The Commissioners received extensive evidence relating to existing air quality, wind patterns, and the existing and possible future effects on local communities. The Commissioners concluded that the applicant's modelling was appropriately conservative and that the proposal would be able to meet all relevant standards and guidelines. The guidelines have been developed in order to protect human health including the more sensitive members of the community. Once again stringent conditions will ensure that the application meets the assessment criteria for air discharge permit applications set out in the regional plans.

OTHER MATTERS

A number of submitters raised considerations relating to alternative proposals and sites and issues of global warming. The Commissioners concluded that they had no jurisdiction to consider alternative proposals and sites and that section 104E of the Resource Management Act specifically prohibited them from considering the effects of the discharge of greenhouse gases on climate change.

CONCLUSION

In conclusion the Commissioners considered the proposal against the principles contained in Part 2 of the Resource Management Act. It took into account the strategic importance of the Marsden Power Station site including its location north of the Auckland isthmus and the lack of security of power supply in Northland. The Commissioners also took into account the distance of Northland from other sources of power generation resulting in inefficiencies created by the losses associated with a lengthy supply route. The Commissioners also took into account the current need for further sources of power generation and the relative efficiency, given the existing infrastructure, of the Marsden B proposal. The Commissioners concluded that, subject to the extensive conditions imposed, the proposal would promote the sustainable management of natural and physical resources and as a consequence of this and their other findings granted the application. The Commissioners determined that the consent should have a term of 35 years.