

BEFORE THE BOARD OF INQUIRY

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of applications for
resource consent and
notices of requirement
by Transpower
New Zealand Limited
for the North Island Grid
Upgrade Project

**STATEMENT OF EVIDENCE OF BUDDY MIKAERE IN REBUTTAL
ON BEHALF OF TRANSPOWER NEW ZEALAND LIMITED
(Tangata whenua consultation and cultural issues)**

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Introduction

1. **MY** name is Buddy Mikaere. I wish to present rebuttal evidence to the statements of evidence of:
 - (a) Mr David Robson on behalf of New Zealand Historic Places Trust (**HPT**);
 - (b) Mr Julian Williams on behalf of Waikato Raupatu Trustee Company Ltd (**WRTCL**); and
 - (c) Mr James Bernard Mylchreest on behalf of Maungatautari Ecological Island Trust (**Trust**).
2. I address the evidence of each submitter below.

New Zealand Historic Places Trust (HPT) (Submission number 0992)

3. I have considered the neutral submission made by HPT. The main thrust of that submission insofar as my specialist expertise is concerned, is contained in the statement of evidence of Mr David Robson.
4. **THE** matters raised by Mr Robson were largely considered by me in my evidence in chief and I note were one of the subjects discussed at a meeting between Transpower staff and advisers, and HPT staff on 10 October 2007. It is apparent from the statement of evidence however that some further comment is needed for clarification purposes.
5. **AT** paragraph 16 of his evidence, Mr Robson describes the consultation as being "*comprehensive with face to face meetings*", but at paragraph 17, the comment is made that "*...information sharing was incomplete. The location of access roads, substations, towers, and other supportive ancillary structures had not been provided at the time and hence, kaitiaki could not properly assess those places*".

6. I believe this latter comment is illustrative of a misunderstanding about the consultation programme. The early rounds of consultation were designed to identify a preferred route through which the proposed line would pass. The intent was to identify potential issues within that route so that these could be taken into account in determining such matters as tower placements and access for servicing purposes. Having determined those matters, the next consultation stage (Easement stage) was more specific with tower placements for example being identified, and in a number of cases having their positioning adjusted as result of the identification of pa sites and similar.
7. **HAVING** moved from the general to the specific in the consultation phase, it was expected that those consulted would raise concerns and issues but as I mentioned in my evidence in chief, this rarely happened.
8. **IN** that consultation is a two way process, it seems to me reasonable to assume that having provided the forum, explained the project, and given a very strong indication of what the implications were for those being consulted, that any issues whether that be in terms of consultation, sites of significance, or Maori heritage values and resources, would have been raised.
9. **THE** fact is that these issues very rarely were. A full list of the cultural issues/concerns and heritage values related issues that were raised during the consultation phases is given in my evidence in chief at paragraph 61 on pages 15-17 inclusive.
10. **THE** view of the HPT is that the project corridor "*has the potential to contain substantial Maori heritage resources that have important Maori values to iwi/hapu*" (paragraph 19). That is not denied, but as already explained, information about such matters was not forthcoming from individuals, whanau and marae communities, let alone iwi and hapu. In fact the reverse was true. In some cases information about recorded archaeological sites, for example, was able to be made available to the consultees. That is a process that is continuing at the time of the preparation of this rebuttal evidence.
11. **WHERE** necessary, site visits did take place, but where these did not take place, there is no evidence to suggest that the process was flawed. It simply meant that there was nothing to see or be shown. Similarly, it was expected

that Maori values, where any impact was perceived, would also be raised with Transpower. Except for a very few occasions, again this was not the case.

- 12. AT** paragraphs 31 and 32, Mr Robson concludes that:
- (a) the applicant undertakes further study to identify the location, nature and significance of any sites of significance to Maori within the project area, so that they are avoided where possible or appropriate means to remedy or mitigate adverse effects proposed; and
 - (b) the proposed protocol for dealing with koiwi or taonga, sites of significance, wahi tapu, heritage sites and archaeologocial sites is amended as detailed in HPT's original submission and included as a condition in each notice of requirement for designation and resource consent decision notice.
- 13. THE** difficulty I have with the HPT requirements is that there is a failure to appreciate the scale of the preparation work prior to consultation with tangata whenua, the scale of the consultation itself, and how the outcomes of that consultation were very quickly incorporated into the route planning and infrastructure placement. This was because the Transpower consultation hui team included not only cultural and planning advisers, but also Transpower engineering staff.
- 14. MR** Robson's criticism of the consultation process and outcomes without identifying specific instances or, as far as I can determine, without any discussion with those who were consulted to confirm his conclusions, is unreasonable.
- 15. TO** expect that Transpower now embark on a further consultation process to satisfy perceived HPT concerns rather than actual tangata whenua concerns as gathered from Transpower's on-going consultation process, is equally unreasonable.
- 16. THE** proposed protocol for dealing with koiwi or taonga and similar and which is mentioned in my evidence in chief was subject to consultation with tangata whenua groups and which was found to be acceptable. My belief is that it

largely incorporates the intent of the HPT suggested condition and no further action is required.

17. **HOWEVER**, in addition and to satisfy both protocol observation and implementation as well as archaeological requirements, training for project contractors and staff is to be given and will be incorporated appropriately into project management plans. Machine operators will be required to carry an appropriate "what to do" instruction sheet in their vehicles.
18. **THE** 25 February 2008 "executive summary" of HPT, by Sherry Reynolds, HPT General Manager – Northern Region, which accompanied Mr Robson's evidence set out a number of associated concerns. However, I consider that having explained how Mr Robson's concerns have been dealt with, that the "Reynolds" concerns have also been addressed.

Waikato Raupatu Trustee Company Limited (WRTCL) (Submission number 1088)

19. **MR** Julian Williams on behalf of WRTCL, has provided a statement of evidence to the Board. At paragraph 19(a) – (d), he lists a number of issues that are largely addressed in my evidence in chief at paragraphs 105-110 inclusive. Those issues are:
 - (a) Urupa;
 - (b) Marae Zones;
 - (c) Discovery of koiwi and artefacts; and
 - (d) Areas of cultural significance.
20. **AS** far as urupa, burial grounds, are concerned, Transpower is asked to avoid urupa and their immediate surroundings. This has been done.
21. **AT** paragraph 27 of his evidence, Mr Williams seeks a condition that "Transpower develop no closer than existing power line proximity to all Marae." The following table shows the distance of the proposed 400kV capable line, and the ARI-PAK A line from Marae:

Marae	ARI-PAK A distance	Proposed 400KV line distance	400kV line closer than ARI-PAK line?	Distance 400kV closer by?
Umupuia	10297.79	10355.75	No	
Mangatangi	1017.10	994.94	Yes	22.15
Okarea	4007.18	3875.27	Yes	131.92
Taniwha-Tangoao	641.75	574.09	Yes	67.66
Waiti	10551.16	10505.69	Yes	45.47
Hoe-o-Tainui	7768.27	7606.42	Yes	161.85
Tauhei	656.56	651.49	Yes	5.07
Kai-a-te-Mata	2952.75	2930.41	Yes	22.34
Rukumoana	3061.73	3111.55	No	
Pohara	875.90	1998.22	No	
Maungatautari	4743.34	4803.10	No	

- 22. AS** the above table shows, the proposed 400kV line ranges in distance of 574m to more than 10 kilometres from the marae. While the proposed line is closer to 7 marae than the ARI-PAK A line, I do not consider that the differences are material. Accordingly, I consider that marae zones are avoided and a protocol will be put in place for discovery of koiwi and artefacts as previously discussed.
- 23. WORKING** through the marae consultation process, sites of cultural significance, where these have been identified as part of the project mapping phase, or as pointed out by tangata whenua, are also avoided.
- 24. THE** WRTCL request at paragraph 23 that its Environment Unit be involved with Transpower to provide assurance that the historical, spiritual, economic and cultural concerns of tribal beneficiaries be protected is acknowledged. These matters are incorporated into a confidential Memorandum of Understanding that is still subject to negotiation but which should be agreed shortly.

25. **WRTCL** has also expressed concern about the impact of the project on its Treaty Claim to the Waikato River and has recommended the insertion of the following as a resource consent condition:

"Within 12 months of the Crown settling any claim made under the provisions of the Treaty of Waitangi Act (1975) WRC may, following service of notice on the consent holder, commence a review of the conditions of this consent pursuant to section 128(1)(a) of the RMA, for the purpose of ensuring that this consent is in alignment with the provisions of any such settled claim."

26. **AT** paragraph 112 of my evidence in chief, I set out Transpower's position in respect of this recommendation and point out that there are some difficulties in providing for a review of the designation by the consent authority. Those difficulties still remain and prevent the WRTCL request from being met.
27. **TO** overcome this impasse, at the time of the preparation of this rebuttal statement, negotiations are underway between WRTCL and Transpower with a view to further considering this issue within the framework of the Memorandum of Understanding between WRTCL and Transpower as discussed above.

Maungatautari Ecological Island Trust (Trust) (Submission number 1077)

28. **AT** paragraph 4.1 of his evidence, Mr Mylchreest refers to the community desire to restore the ecosystem function (life force, mauri) of the indigenous forest on the upper slopes of Maungatautari.
29. I note that special care has been taken to ensure that the proposed alignment avoids intrusion onto the "island" and in that sense the mauri or life force is not affected.
30. **AT** paragraph 4.2, references are also made to "*protecting the mana of the maunga*" which is said to extend beyond the fence and includes the lower slopes down to the Waikato River and Lake Karapiro. Mention is also made of the reliance placed by Maori on the "*total maunga for spiritual and physical sustenance*".

31. **THESE** matters have been taken into account in determining the proposed alignment from the very early stages of the Upgrade Project where the importance of maunga in cultural terms was an important consideration.
32. **WHILE** the lower slopes of Maungatautari cannot be entirely avoided, it is noted that the area is already compromised culturally by the existing lines (one of which is to be removed) and the use of the land for farming.

Recent consultation / hui

33. **AT** the time of preparation of my evidence in chief, and as indicated in it, a number of matters in respect of consultation and addressing tangata whenua issues remained unresolved. I wish to update the Board of Inquiry on these matters.

Rukumoana marae

34. **RUKUMOANA** marae requested an update meeting on the project towards the end of March 2007. Unfortunately, the technical experts needed to attend that hui were not available and attempts to reschedule the hui have not been successful. Efforts to find a mutually convenient date continue. However, I note that this meeting is viewed as an information sharing exercise rather than consultation on issues.

Taniwha marae

35. **AS** discussed at paragraphs 46 and 75 of my evidence in chief, the initial consultation hui programmed for Taniwha marae was cancelled as a result of a perceived breach of tikanga by Transpower. Attempts to reschedule those hui have been unsuccessful until very recently, when a consultation hui was arranged at the marae on Tuesday 11 March 2008.
36. **AS** a result of this latest hui, Jacquie Colliar, who had earlier lodged a submission thought to be on behalf of the marae, has now made it clear that her submission is in fact personal. I refer to these matters at paragraphs 119-126 inclusive of my evidence in chief.

37. **ISSUES** raised at the marae on 11 March 2008 were in respect of the visual effects of the line, which separate the marae from a nearby pa site and the closeness of the line, some 600m, from the marae itself. The visual effect was previously advised by the marae in an earlier submission and was therefore able to be taken into account when siting the line. Mitigation planting has been put forward as an option for meeting this concern.
38. **NO** cultural issues, additional to those identified and discussed in my evidence in chief at paragraphs 127-132 inclusive, were disclosed at the latest consultation hui.

Pohara marae

39. **AS** set out in my evidence in chief at paragraphs 133-150 inclusive, consultation with Pohara marae has also been difficult. However, on Thursday 13 March 2008, a hui with marae representatives, including a site visit to places of significance and to view potential project issues took place.
40. **THOSE** issues are now clearly identified and a process is being established to jointly work through those matters. Given effort and goodwill on both sides, I am confident that the matters remaining unresolved can be worked through and need not be matters of concern for this inquiry.

Underground section

41. **AS** set out in paragraph 195 of my evidence in chief, responsibility for consultation with affected iwi groups (Ngai Tai, Ngati Paoa, Te Aki Tai (Pukaki Marae), Ngati Tamaoho, and Ngati Te Ahi Waru (Makaurau Marae)), was delegated to a Mr James Brown who undertook to represent the groups concerned.
42. **IT** became apparent to me that the project information given to Mr Brown and the detail of discussions with him had not in fact been passed on. This matter has subsequently been redressed with contact made with the groups to check whether they had any issues of concern to them, but apart from those discussed in my evidence in chief, no further matters have been raised by those groups.

- 43.** I am therefore confident that the tangata whenua consultation for the project has been satisfactorily concluded or is at a stage where matters can be progressed to the extent that they will not be an impediment to the NOR process.

Buddy Mikaere

5 May 2008