

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Board of Inquiry appointed under section 146 of the Resource Management Act 1991 to consider an application by Mighty River Power Limited for resource consents to construct, operate, and maintain a wind farm at Turitea

**REPRESENTATION GIVEN BY TARARUA-AOKAUTERE GUARDIANS (INC) AND
FRIENDS OF TURITEA RESERVE SOC. (INC)**

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A INTRODUCTION

1. The TARARUA-AOKAUTERE GUARDIANS INC (“TAG”) is a group of affected residents, including residents of the wider Manawatu and Tararua regions that are concerned about various environmental issues associated with wind farms including the adverse effects of wind farms on natural landscape, and upon people and communities.
2. The TAG statement of philosophy is *“To protect the unique environment and the iconic nature of the Tararua Ranges for future generations.”*
3. TAG was formed in 2004 and has successfully represented the “community” in relation to previous wind farm applications, notably Tararua I and III developments (Trustpower), Te Rere Hau (NZ Windfarms Ltd) and most recently in 2007-08, Motorimu (Motorimu Wind Farm Ltd).
4. At the Palmerston North City Council Resource Management Act hearing for Motorimu Wind Farm in 2007, the quality of the TAG submission and expert evidence was noted in the Decision of Joint Hearings Commissioners (Sections 1.24 and 1.25). TAG was also a s274 party during the Environment Court Hearing where the appeal from Motorimu Wind Farm Ltd was heard. The decision (W 067/2008) saw the appeal being largely dismissed.
5. The FRIENDS OF TURITEA RESERVE INC (“FOTR”) is a group of affected residents, including residents of the wider Manawatu, Tararua and Horowhenua regions that are concerned about various ecological and environmental issues associated with the Turitea Reserve and surrounding environs (“the reserve”), including the adverse effects of any wind farm or other such industrialization on native ecosystems and natural landscape, and also upon people and communities including their recreational amenity values.
6. FOTR was formed as a direct result of the lack of transparency and concern of local residents with the consultation process and the legality of the Palmerston North City Council (“PNCC”) proposal to add a third purpose (generation of renewable energy) to the Local Purpose Turitea Reserve (the other two purposes being water catchment and protection of fauna & flora). This issue

was taken all the way to the High Court (CIV-2006-454-879) in Wellington (April 2006) where ultimately the application by FOTR was dismissed. However, Justice Baragwanath commented (para 159) that:

But it should be recorded that the debate between the supporters and opponents of wind turbines and the competing claims of providing clean power and altering the landscape are of great public importance both legally and factually in New Zealand as elsewhere (see Le Monde Diplomatique of February 2007 at 20-21). It is arguable that it is very much in the public interest that the difficult and important issues arising in this case should have been argued

7. The parties have engaged with a wide number of independent experts to provide evidence to this Board. Further, we have sought legal advice regarding the assessment of this application under the RMA.

The experts providing evidence at this hearing on our behalf include:

- Shannon Bray Landscape Architect: local visual assessment
- Di Lucas Landscape Architect: wider visual assessment
- Bob Thorne Acoustics Expert: Noise assessment report
- Isobel Gabites Terrestrial Ecology
- Dr Mike Joy Aquatic Ecology
- Dr Alan Palmer Soil Science
- Bryan Leyland Energy context and cost-benefit

Our case will be presented by Matthew McClelland

In the course of preparing our submissions, we have received advice from Dr. Richard Fisher. Dr. Fisher is a qualified Barrister and Solicitor of the Supreme Court of Nova Scotia, and a Barrister and Solicitor of the High Court of New Zealand. He has worked as an RMA solicitor, and has published on various aspects of the RMA, most recently a comprehensive review of wind energy in the New Zealand Journal of Environmental Law.

8. Joint representation

To assist with the efficient running of this case many submitters that wished to be heard have agreed to joint representation by TAG and/or FOTR with respect to experts providing evidence listed in para 7. However, TAG and/or FOTR are unable to jointly represent submitters with regard to adverse impacts associated with the proposal on personal amenity; hence several submitters have joint representation but will also be speaking to their submission focussing on personal amenity issues only. In order to avoid duplication and to minimize the Courts time, FOTR/TAG have coordinated a Joint brief of evidence, an approach endorsed by all submitters involved.

We also unite in joint representation with Huatau Marae who will also submit on their own behalf We defer to their evidence with regard to cultural issues.

9. Summary of our position

Overall, we submit that the tipping point for the Manawatu region has been reached by this application and that the adverse environmental effects significantly outweigh any benefit to be derived for renewable energy and climate change. Put simply, this application positions too many turbines too close to too many homes resulting in significant adverse effects on amenity, health and cultural values, which cannot be offset by the small increase in generation provided by the turbines. The parties submit that THIS wind farm should not be consented as the environmental cost is simply too high. This wind farm is simply in the wrong place to satisfy the criteria outlined in the RMA.

THE PARTICULAR PARTS OF THE APPLICATION WHICH WE OPPOSE ARE:

10. **The application in its entirety.** Based on this application for resource consent and the considerable scientific uncertainty it contains. We suggest that the court should take a precautionary approach to its consideration in this case. Furthermore, the parties are of the opinion that the Board of Inquiry

would be failing in its duty to the public and to future generations to grant resource consents in the present circumstances.

The reasons for the parties submission are set out below:

RMA AND DISTRICT PLANS

11. The application is contrary to the objectives and policies of the Manawatu-Wanganui Regional Land and Water Regional Plan, of the operative and proposed Manawatu-Wanganui Regional Plans, of the operative and proposed Tararua District Plan and of the operative Palmerston North City (PNCC) District Plan.

The application is contrary to the provisions of Sections 104, and Part II of the Resource Management Act 1991 ("RMA")

The application fails to consider adequately alternative methods to prevent or reduce adverse effects.

The application is in all respects contrary to sound resource management and town planning practice and principles, and contrary to the provisions of the RMA.

Furthermore, and without limiting the generality of the above:

Noise

12. The application fails to demonstrate ways in which unreasonable noise will be avoided, contrary to section 16 of the RMA, and fails to comply with the general duty to avoid, mitigate or remedy potential adverse effects, including noise, under section 17 of the RMA. In this context noise includes vibration.
13. The application fails to adequately protect the recreational amenity values of individuals from the adverse effects of noise. The effect of noise upon individuals and their recreational amenity values within the locality will be adverse, and will be more than minor.

Landscape and visual effects, and effects upon amenity values

14. The application will result in significant adverse landscape and visual effects, which cannot be avoided, remedied or mitigated.
15. The application is contrary to section 7(c) in terms of the adverse effects upon the maintenance and enhancement of amenity values. It will have significant adverse landscape effects, and significant adverse visual amenity effects on local residents and the wider community.

Cumulative effects

16. The wind farm will result in unacceptable cumulative effects on landscape, and is contrary to the Motorimu Environment Court decision, which called for a comprehensive cumulative effects assessment prior to any further wind farm development.
17. The wind farm will result in unacceptable cumulative effects on community amenity values, in terms of noise, visual impact and dominance.

National benefit

18. The proposed development fails to offer national or local benefits that would offset the significant adverse effects of the proposed development, in particular the benefits to be derived from the use and development of renewable energy, and the mitigation of the effects of climate change.
19. The application is premature. It should be withdrawn, pending national policy that will be confirmed in the context of the draft National Policy Statement on renewable energy, and by the overarching importance of a comprehensive cumulative effects assessment of further wind farm development in the Tararua called for by the Environment Court (Motorimu decision, 2008).
20. The application is inappropriate at this time, in light of the current international financial crisis, and the slowdown in economic activity that has been forecast.

Local benefit

21. The ecological park which has been promoted in association with this development is not part of the resource consent application, and cannot be considered as a local benefit which might somehow mitigate the adverse effects of the proposal. Creation of the park relies on third party contractual arrangements which are not enforceable against the applicant, are uncertain, and should not be considered as any form of mitigation associated with this proposal.
22. In the alternative, if the Board decides that the ecological park is a form of mitigation associated with the proposal, the parties argue that the adverse effects of turbines within the park offset any local benefit as they will cause effects that are more than minor, are contrary to provisions of the Reserves Act, and are contrary to Part II of the RMA, including sections 7(b), (c), (d), and (f), and the overarching purpose of section 5.

Social impacts on the community

23. The application is contrary to the duty-of-care the councils involved have to maintain a healthy community and preserve social well-being. The impact on community amenity is not mitigated in this application. The loss of recreation values, loss of green space, reduction of enjoyment of the environment and individual properties, and the sense of loss that comes with a lack of connection with nature and perception of the Manawatu being derided as a "wind-mill city" are likely significant impacts on the community of 100,000 people.
24. The application will produce adverse and distortional effects upon the future growth of residential and lifestyle development. Avenues for future residential growth outside of high-quality fertile land in Palmerston North are limited. A number of major subdivisions have occurred in the Turitea area, and a large number of further subdivisions are planned, to accord with Palmerston North City Council's stated desire to favour future residential development in the elevated poorer quality soils outside of flood plains. The adverse effects of the proposal, including landscape effects, amenity effects, and adverse effects

due to noise that are more than minor will prevent or impede this further development.

Ecological effects

25. The proposed development fails to adequately avoid areas that are ecologically sensitive. Mitigation strategies for loss of natural forest during the anticipated life of the wind farm fail to reproduce ecosystems that currently exist.
26. The proposed development fails to adequately assess erosion and high levels of sedimentation during earthworks exacerbated by intense rain events associated with high rainfall.
27. The application fails to consider adequately: duty to take reasonable steps to contribute to protection of source of drinking water, thereby failing to comply with section 69U(1)(a) and 69U(1)(b) of the Health (Drinking Water) Amendment Act 2007.
28. The application is contrary to section 7(d), in terms of its adverse effect upon the intrinsic values of defined ecosystems.
29. The application is contrary to section 7(f), in terms of its adverse effect upon the maintenance and enhancement of the environment.
30. The application describes no plan for decommissioning, removing the visual elements and making good the environment.

EVIDENCE STRUCTURE

31. The evidence that follows is divided into sections, related to the overarching goals of the RMA and the following concerns of our respective societies:

Section A	Introduction
Section B	Statement of evidence from Adrian Cookson, Kevin Low, Lorraine Kerrs, Leigh Dome and Richard Mikkelsen
Section C	Effects on landscape views and visual amenity
Section D	Noise and health impacts
Section E	Ecological Impacts
Section F	Recreational amenity
Section G	Traffic effects
Section H	National interest in renewable energy
Section I	Summary and recommendations