

BEFORE THE BOARD OF INQUIRY

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Board of Inquiry appointed under s146 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

**APPLICATION FOR EXTENSION OF TIME FOR MAKING COMMENTS ON DRAFT REPORT
AND DECISION OF THE BOARD OF INQUIRY INTO THE TURITEA WIND FARM
PROPOSAL**

Solicitors Acting
ChanceryGreen
11 Bacons Lane Chancery Square
P O Box 106 202
Auckland Central 1143
p +64 9 357 0600
f +64 9 357 0340

Solicitors Acting: K R Price/ HC Andrews/KM Bell

MAY IT PLEASE THE BOARD:

1. Mighty River Power Limited (*Mighty River Power*) received the draft report regarding its applications for resource consents to construct, operate, and maintain a wind farm at Turitea on Friday 11 February 2011. Pursuant to section 148(4) of the Resource Management Act 1991, parties to the application now have 20 working days from Friday 11 February 2011 in which to make comments on the draft report, meaning that all comments must be made by 5.00pm on Friday 11 March 2011.
2. In its draft report the Board has made numerous requests for further information, consideration of alternative locations for major infrastructure, and consultation and reaching agreement with other parties (including both the councils and the public) in respect of consent conditions in a large number of areas.
3. Mighty River Power considers that given the large number of work-streams it is required to co-ordinate, and the complexity and amount of work it is expected to complete, 20 working days is an altogether insufficient period of time for a project of this scale.
4. Pursuant section 37 RMA, a consent authority may extend any time period prescribed in the Act, taking into account the matters set out in section 37A. Under section 37B and 147(5) RMA, a Board of Inquiry has the same powers and duties as a local authority, and must apply section 37 as if it were a consent authority. Accordingly, Mighty River Power hereby requests pursuant to section 37A(2)(b) that the Board extends the 20 working day time period to be a 60 working day time period, with comments due on **10 May 2011**.
5. Section 37A(1) provides:
 - (1) *A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account:*
 - (a) *the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
 - (b) *the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
 - (c) *its duty under section 21 to avoid unreasonable delay.*
6. In making this request, Mighty River Power considers that the grant of the extension would provide better for the interests of other parties with whom it is required to consult, by

giving them more time to consider matters and options that will be put to them during discussions with Mighty River Power. The scope of work required to be completed by Mighty River Power requires numerous discussions with other parties, who are correspondingly put under a duty to make their own comments on the applications within the 20 working day limit, which will no doubt be reflective of the ongoing dialogue with Mighty River Power. Accordingly, other parties will similarly be put under pressure to complete their comments and discussions within the current time frame.

7. Further, Mighty River Power considers that the grant of an extension of time will better serve the interests of the wider community by ensuring that the effects of the modified proposal are adequately assessed, particularly in respect of any modifications made to the transmission route, as requested by the Board. Further, having adequate time to respond is likely to generate a better quality response that will assist the Board in both its deliberations and timing of release for the Final Report and Decision.
8. Given the 11 months that have passed between the close of the hearing and the release of the draft report, Mighty River Power does not consider that the extension of the time period for making comments by another 40 working days would be a breach of the Board's duty to avoid unreasonable delay. It is pertinent to note that Mighty River Power's applications for resource consent at Turitea are made under the RMA as it was prior to the 2009 amendments, and therefore the nine month time limit on new called-in applications does not apply. Indeed, the RMA as it stands in respect of the Mighty River Power applications provides no specific time limit by which for applications for consent must be determined and final decisions released.



KR Price

Counsel for Mighty River Power Limited

14 February 2010