

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 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

MEMORANDUM OF COUNSEL FOR MIGHTY RIVER POWER LIMITED REGARDING MS LUCAS' SUPPLEMENTARY EVIDENCE AND CROSS EXAMINATION OF MR WONG TOO

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MAY IT PLEASE THE BOARD:

- 1.1 This memorandum relates to issues arising from:
- (a) The supplementary evidence from Ms Di Lucas, filed on behalf of Tararua Aoukatere Guardians and Friends of Turitea Reserve on **21 July 2009**; and
 - (b) An issue arising from the cross-examination of Mr Wong Too on **7 July 2009**.

Ms Lucas' Supplementary Evidence

- 1.2 At the judicial telephone conference on Monday 20 July 2009, Mr McClelland was granted leave to file supplementary evidence from Ms Lucas regarding the visual and landscape report prepared for the Board by Ms Williams in accordance with section 42A RMA, outside of the timeframe originally provided for this (such supplementary evidence was otherwise required to be filed by Wednesday 15 July 2009). Mighty River Power was granted leave to file three supplementary evidence statements (from Messrs Wyatt and Pollock, and Dr Phillips) two working days after Ms Lucas' statement was received.
- 1.3 Ms Lucas' further statement was filed on Tuesday **21 July 2009**. Counsel for Mighty River Power consider that it goes well beyond supplementary evidence required to respond to Ms Williams' s42A report. As such, it is late evidence not served in accordance with the Hearing Directions.
- 1.4 However, Mighty River Power understands that the Board may decide to consider Ms Lucas' further evidence, but if so witnesses should have sufficient opportunity to respond. It is not possible to provide the necessary supplementary landscape and planning evidence within the two working day timeframe, due to witness availability issues.

Directions sought

- 1.5 Mighty River Power seeks leave to file its supplementary evidence including in respect of Ms Lucas' further statement as soon as possible in the week of 27 July 2009. No party would be unduly prejudiced, given that landscaping and planning matters (to which Ms Lucas' further evidence relates) are not scheduled to be heard until the weeks of 10 and 24 August 2009 respectively. Dr Phillips' evidence has been filed today.

Mr Wong Too's evidence under cross examination

- 1.6 Counsel for Mighty River Power refers to the cross-examination of Mr Wong Too that occurred on 7 July 2009. During presentation of his evidence, Mr Wong Too was asked

about modelled mean wind speeds for some of the proposed turbine zone locations. The evidence is at pages 91 and 92 of the hearing transcript for 7 July 2009.

- 1.7 Mr Wong Too has advised that he based his answers on the turbine numbering system he had previously been supplied by Beca, Mighty River Power's engineers for the Turitea Project, for the purposes of undertaking energy calculations.
- 1.8 That system contained two separate sets of data, one relating to the "Vestas" (or 3MW) turbines, the other relating to the "Siemens" (or 2.3MW) turbines. It is different from the "Turbine Zone" numbering system included in Mighty River Power's applications, and on which Mr Maassen's questions were (appropriately) based.
- 1.9 Mr Wong Too is overseas, due to return on 29 July 2009. It is proposed that he prepare a sworn statement for the Board and other parties at that time. In the interim, however, and for the assistance of the Board and other parties, the following table outlines the corrected information regarding the various wind speeds Mr Wong Too was asked about:

Turbine zone	Answer (Wind speed) given (m/s)	Corrected answer (m/s)
56	10.4	9.5
60	9.9	10.2
65	10.8	9.1
87	9.6	10.3
84	9.2	10
83	10.3	9.4
90	9.2	8.4
91	10.3	9.5
73	11	10.2

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23 July 2009