

BOARD OF INQUIRY

**Turitea Wind
Farm Proposal**

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

Sent by email:

MEMORANDUM TO ALL PARTIES

[1] Memorandum of Counsel, dated 7 October 2009, for Huatau Marae refers. In response the following points are made by the Board.

[2] Para [27] refers. Mr Wayne Johnson did not enter an appearance as counsel on the record at the opening of proceedings as the Marae's legal representative. The significance of this should not be lost on Mr Johnson. All other counsel and their representatives did so. Mr Johnson was on the record as Submitter 332 and communicated with the Board's Administration Team as such. Thus Mr Johnson was not included in preliminary legal memoranda, caucusing issues and teleconferencing, but as a submitter it did mean he received all information sent to others, including Huatau Marae.

[3] Mr Johnson also had every opportunity to make his position known to the Board, but did not do so until early August 2009. Communications from Huatau Marae to the Board's Project Co-ordinator, have generally been sent via Mrs Adams as its Secretary. We became aware that Mr Johnson was a lawyer when he was introduced by Mrs Adams to question Mr Henry and when he opened proceedings for Huatau Marae's presentation. Now that we are aware of this we will copy Mr Johnson in on any future legal issues that arise.

As for MRP's design refinement proposal, the Board has no more information about it than do the submitters. We are, however, expecting an update from MRP when the hearing resumes on Monday, 12 October.

[4] The submitters have already been informed that they will have the opportunity to respond to any refinement that MRP may come up with. (The Board's Memorandum of 29 September 2009 refers). If the submitters wish to challenge the Board's jurisdiction to consider that refined proposal, or any evidence in respect of it, timetabling orders to encompass that situation will be set.

[5] The hearing schedule is not manipulated by MRP. It is not uncommon in a large hearing of this kind for expert witnesses to be delayed or brought forward according to their availability or for the order for submitters to be changed around as to their availability also. In the Board's opinion, the Administration Team for the inquiry has been assiduous in its attention to such detail producing regular updated hearing schedules, often working into the night to do so. The Board and its Administration Team are always very appreciative of submitters who have agreed to be slotted in at short notice. The costs of bringing together such a large group and the daily availability of expert witnesses, submitters and residents precludes long delays in the efficient running of a hearing like this.

[6] Paras 21-24 refer. In our decision on waiver dated 29 September 2009, we noted that Huatau Marae wish to cross-examine Dr Salinger. The 'notice' date of 7 October 2009 was set in the Board's memorandum so that the Board and MRP would be notified that the submitters wished to call evidence in reply to Dr Salinger.

It was not a date given to produce evidence. Notice has now been given that they wish to call evidence. Dr Salinger's appearance will be held over and all evidence heard (including that from any submitter) together. That is clear from para [10] of the Board's Decision.

DATED at Wellington this 9th day of October 2009



S E Kenderdine
Environment Judge

Chair
Turitea Board of Inquiry