

Kotuku Consultancy Ltd

Turitea Wind Farm Board of Inquiry

Assessment of Cultural Effects

Susan Forbes

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Executive Summary

1. Mighty River Power Ltd has lodged resource consent applications to construct, maintain and operate a wind farm (with up to 122 turbines) in the Turitea Reserve and adjoining farmland near Palmerston North. The Minister for the Environment has called in the applications and referred them to an independent Board of Inquiry.
2. The landscape associated with this part of the Tararua ranges already has four wind farms in operation. The Turitea proposal would be the fifth wind farm and the largest, in terms of area, of the group.
3. The Tararua ranges are considered to be an outstanding natural landscape in the PNCC District Plan and are an important ancestral landscape for tangata whenua, Rangitane.
4. Three iwi authorities have been consulted by the applicant to ascertain likely impacts on iwi values and resources: Rangitane o Manawatu (represented by Tanenuiarangi Manawatu Inc.), Te Rangimarie Marae Trustees and Rangitane o Tamaki Nui a Rua. All three Authorities have lodged submissions on this proposal, although the one from the Te Rangimarie Marae Trustees was disallowed. Additional submissions have been received expressing concern on cultural matters from: Huatau Marae, He Kupenga Hao i te Reo Inc. and individual submitters (Shirley Mullany, Peter Te Rangi, Wikitoria Henare, Stephen Lang, and Janet Lang). All these submitters raised concerns about the adverse impacts of the proposal.
5. Cultural effects have only been dealt with summarily in the applicant's AEE. Mitigation is proposed through ongoing consultation and the development of working relationships. The evidence from Rangitane o Manawatu indicates that further agreements in principle have been reached but the details of these have not been provided in the material for this report. The applicant has also carried out an archaeological assessment and proposes specific conditions for the protection of certain historic features and protocols for accidental discovery of unrecorded evidence.
6. The URS s. 42a report notes that the statutory context relevant to the proposal has been covered in the AEE. I do not agree. The URS Report also notes that, in terms of information gaps, a Cultural Impacts Assessment has not been prepared. I would go further than this and state that a whole range of iwi concerns have not been addressed in the AEE and that a more robust assessment of iwi values is required.
7. This report concludes with a brief discussion of what might constitute "cultural values", comments on information gaps and recommendations for the Board of Inquiry.

Statement of Qualifications

1. I am the Director of the archaeological and heritage research company - Kotuku Consultancy Limited. I have a Masters degree in archaeological field techniques and have twenty seven years of experience in carrying out archaeological assessments and investigations, with particular reference to heritage landscape approaches and indigenous methodologies.
2. I am a member of the New Zealand Archaeological Association and the World Archaeological Congress. I am also a member of the World Archaeological Congress International Steering Committee for repatriation of human remains.
3. My range of relevant experience includes work on:
 - 3.1 Preparation of training modules for contractors on developments such as wind farms (Apiti) and telecommunications installation
 - 3.2 Archaeological assessments on large-scale developments such as subdivisions, roading projects, and airport developments
 - 3.3 Archaeological assessments and investigations focussing in the Horowhenua, Kapiti, Wairarapa and Wellington areas
 - 3.4 A peer review of archaeological assessments carried out for the Makara wind farm (Project West Wind, 2005) and peer reviews of cultural and archaeological assessments for the Transmission Gully Motorway proposal (1996)
 - 3.5 Archaeological Survey Manawatu River catchment, prepared for Rangitane (1996)
 - 3.6 Research partner on an International Research Project – Intellectual Property in Cultural Heritage : <http://www.sfu.ca/IPinCulturalHeritage>
 - 3.7 A study on “heritage asset management planning” for the Wellington Regional Council (1999)
 - 3.8 A study on Indigenous methodology for heritage recording on Rekohu, 2006-now
 - 3.9 Past membership of the MfE Environmental Legal Assistance Panel (2001-06)

Material Analysed for this Report

4. As preparation for this s. 42a report on “Cultural Impacts” all relevant reports, evidence and submissions prepared for the Mighty River Power (MRP) proposed wind farm at Turitea were read and analysed. These include:
 - 4.1 MRP Assessment of Environmental Effects
 - 4.2 Evidence of Mark Henry for MRP – consultation
 - 4.3 Evidence of Rod Clough for MRP – archaeology
 - 4.4 Evidence of Gregory Pollock for MRP – planning
 - 4.5 Evidence of William Shaw – ecology
 - 4.6 Evidence of Nevil Hegley - noise
 - 4.7 The Section 42a Report prepared by URS New Zealand Limited
 - 4.8 Evidence of Phillip Hindrup for Horizons (Manawatu-Whanganui Regional Council) – planning
 - 4.9 Evidence of Jeffrey Baker for the Palmerston North City Council (PNCC) – planning
 - 4.10 Evidence of James Baines for the PNCC– social impacts
 - 4.11 Submission (322) and Evidence of Rangitane o Manawatu (represented by Tanenuiarangi Manawatu Inc) prepared by P. Horton
 - 4.12 Submission from Rangitane o Tamaki Nui a Rua (578)
 - 4.13 Submission and evidence from Huatau Marae (9)
 - 4.14 Submission from He Kupenga Hao i te Reo Inc. (544)
 - 4.15 Submission from Shirley Mullany (306)
 - 4.16 Submission from Peter Te Rangi (457)
 - 4.17 Submission from Wikitoria Henare (613)
 - 4.18 Submission from Stephen Lang (502)
 - 4.19 Submission from Janet Lang (293)
 - 4.20 Submission from the Department of Conservation (492)
5. Within these submissions and statements of evidence are references to a number of other documents which appear to be relevant. These have not been made available. The

submission from Te Rangimarie Trustees was not available due to being disallowed. Documents not reviewed, but which could be relevant, are:

- 5.1 Tanenuiarangi Manawatu Inc Cultural Impact Statement 2006 and revised statement 2008
- 5.2 Preliminary Archaeological Assessment and Report prepared by Archaeology North (2007)
- 5.3 Rangitane o Tamaki Nui a Rua Cultural Values Assessment
- 5.4 Draft MoU between Mighty River Power (MRP) and Rangitane o Manawatu (ROM)
- 5.5 Cultural Monitoring Plan developed by Rangitane o Manawatu.

Section 42a Analysis

6. I have considered the submissions, evidence and reports available, summarised the relevant sections and noted areas where I believe there are information gaps or omissions. This analysis follows the sequence that information was developed and received for this proposal:

- A. MRP Assessment of Effects (AEE)
- B. Submissions
- C. MRP Evidence
- D. Submitters' Evidence
- E. URS Section 42a Report

A. MRP Assessment of Effects

7. The relevant sections of the AEE for this report are section 6 (Assessment of Effects), 7 (Statutory Considerations) and 8 (Consultation).
8. In Section 6 (6.6) the AEE sets out the effects on historic and archaeological sites and features. The AEE report notes that the full assessment is in Appendix G (Report of Dr R. Clough) and that Dr Clough's report says that no "*pre-European archaeological sites have been recorded in the vicinity of the wind farm*", but three heritage site have been (cairn/stone wall and two quarry sites, one of which is associated with a barrow/cart track). Disturbance of these three heritage places will be avoided. The AEE does not comment on tangata whenua evidence, which notes other heritage places, including signal fires, tracks, taonga find places and ancestral landscapes in the area of the proposed wind farm. The AEE (pages 105-106) does acknowledge the possibility of finding unrecorded subsurface archaeological evidence (as does the report of Dr Clough) but proposes that this can be addresses through accidental discovery protocols.

9. Effects on cultural values are briefly discussed in the AEE on page 106 (6.7). It states that *“the main cultural concern of the proposal is its impact on the supply of mauri (spirit) from the Ranges and on intrinsically linked sites of significance, particularly the peaks Arawaru, Te Mata and Tirohanga.”* Mitigation is proposed through the development of a strong working relationship between MRP and ROM through ongoing consultation, and the opportunity for a representative of ROM to be present on site during earthworks in any sensitive areas. At face value this seems to be simplistic summary of the broad range of concerns raised in iwi submissions. Other matters associated with Treaty of Waitangi settlements¹, species and reserve management, iwi participation and involvement in decision making, etc² are not referred to. The section on cultural effects should reflect the careful and comprehensive submissions from iwi, esp that of ROM. The section is, for instance, shorter than the discussion of effects of the wind farm on concrete batching plants (6.13.2).
10. The difficulty with the mitigation remedy proposed is that it is reliant on goodwill and trust (which are factors often influenced by the human element and may break down if staff at MRP change). Having this relationship backed up with firmer remedies such as partnership agreements would address this matter more robustly, and be more in line with the requirement to recognise and provide for the Maori relationship (and their culture and traditions) with ancestral lands, water, sites, wahi tapu and other taonga³.
11. The AEE does not mention any Cultural Monitoring Plan, which appears to have been a more recent development⁴ and, possibly, a positive indicator that the strong working relationship proposed in the AEE is developing. However, it is not appropriate to leave these matters as assumptions.
12. RMA Part 2 (**Matters of National Importance, Other Matters and the Treaty of Waitangi**) are discussed in the AEE from page 126 ff. RMA Section 6(e) is referred to on page 131 and the statements are disturbing for their brevity and obvious inaccuracy. The dissembling nature of the statement that *“consultation with tangata whenua in this region has not identified any matters which the Turitea wind farm will impact on”* is serious. It fails to recognise and provide for the Maori relationship with the whenua and is at odds with the notion expressed earlier about strong working relationships. In the summary assessment of matters of national importance (7.11.1 page 141), the statement *“consultation suggests that there are no immediate concerns about the proposal”* is contrary to the impression created by iwi submissions stating opposition to the wind farm. Resolving this dichotomy will need confirmation from iwi submitters that their concerns have been adequately addressed since the writing of the AEE and lodging of the application.

¹ Although this is dealt with later in the AEE at page 133

² Refer to the list of recommendations in the ROM submission and evidence from other submitters in my list on page 5 of this report

³ s. 6(e) RMA

⁴ Refer to the evidence of ROM, para 33

13. The RMA Section 7 (a) – “have particular regard to kaitiakitanga” is not referred to at all in the AEE, although the ethic of stewardship (s.7 aa) is (page 133). One of the strongest and most common themes in the iwi submissions was the need to be actively involved in this project and in decision-making. This is one of the few ways in which the duty of care imposed on kaitiaki can be enacted. There is a brief reference later in the summary (7.11, page 140) to reliance on “*policies in the plans which provide guidance in relation to how the important resource management interests of iwi are to be protected, and to promote effective consultation*”. Again, this is inadequate. The AEE should set out how iwi concerns have been recognised and provided for. Carrying out consultation does not mean that an applicant for consent or a regulatory authority has necessarily had particular regard to kaitiakitanga. Relevant case law may be helpful, such as *Te Runanga o Ati Awa ki Whakarongotai Inc & Takamore Trustees & Waikanae Christian Holiday Park Inc v Kapiti Coast District Council* (W50/2003) where the High Court (Young, J.) found that consultation was just part of the recognition process (s. 6(e)) and that “*Consultation by itself without allowing the view of Māori to influence decision-making is no more than window-dressing. Section 7 requires the decision maker to have particular regard to how Māori view the way in which the land is to be used. The Court appears to have limited its consideration of this issue to consultation. This was less than required by law*”.⁵
14. RMA s. 8 – the need to take into account the principles of the Treaty of Waitangi - is addressed on page 133 (7.4.1) of the AEE. It states that “*no significant concerns have been raised by iwi. However, if issues do arise at any stage, MRP is confident that they can be dealt with within the bounds of its existing relationships with iwi*”. MRP’s confidence is encouraging but it is not an adequate demonstration of “taking into account the principles of the Treaty”. Tangata whenua have raised salient concerns about the impact of the wind farm development on future settlement and redress packages. These need to be explicitly safeguarded in order for MRP to demonstrate that it has taken into account the principles of the Treaty, which are more than simply consultation and relationship development.
15. Section 8 (page 149 ff) of the AEE deals with the subject of consultation, which is also covered in detail in the evidence of Mark Henry for MRP. The AEE sets out the principles adopted for the consultative process, the history of consultation and the parties involved. Only two of the iwi submitters are listed as being consulted: ROM (along with their mandated authority TMI) and Rangitane o Tamaki Nui a Rua. The AEE implies that consultation with the latter group is in the initial stages only. This list is shorter than the one in Mark Henry’s evidence, which also includes the Te Rangimarie Marae Trustees. Neither the AEE or Mark Henry mention consultation with Huatau Marae or He Kupenga Hao i te Reo, both of which could be considered to be iwi authorities in a RMA context. They are certainly affected parties.

⁵

para 86 in the Judgement, 2003

B. Submissions

Rangitane o Manawatu (represented by Tanenuiarangi Manawatu Inc) – submission 322

16. Rangitane o Manawatu (ROM) filed a comprehensive submission on the application through the mandated iwi Authority (Tanenuiarangi Manawatu Inc.) The submission included kaitiaki-based information on landscapes, naming traditions, ancestral connections to the landscape and cultural identity, occupation sites, resource uses and management, the position of ROM as tangata wheuna and information from the Cultural Impact Assessment prepared by the iwi in 2006 and updated in 2008. The submission is clearly advocating for a partnership relationship with MRP and better working relationships with territorial authorities. It outlines iwi concerns with regard to Resource Management Act (RMA) matters of national importance and noted particular concerns about the difficulties the iwi were facing regarding their need for a greater involvement and lack of formal recognition of ROM in the wind farm proposal and mitigation of effects. The submission states (page 3) that the proposal will inhibit the *“ROM right to develop its role of tangata tiaki and protect its kaitiaki and sites of significance.”*
17. Specific concerns include:
- 17.1 the inflation of value of the Reserve Land, which will have a deleterious effect on Treaty of Waitangi negotiations and settlement offers, and the need to have a condition which provides for a review of the wind-farm consent following Treaty settlement outcomes
 - 17.2 failure to provide for adequate management of the Reserve and inclusion of ROM concepts as active managers of their environment
 - 17.3 the need to acknowledge ROM as tangata whenua through greater involvement in decision-making and selection of names for the project and project area, as well as assurances that their mana whenua is safeguarded
 - 17.4 impact on landscapes of paramount importance to ROM and on places where ritual practices were and are undertaken. Note that this is not simply a reference to certain named peaks but to the entire range of the Paeroa Tararua⁶
 - 17.5 impact on access tracks, wahi tapu and wahi taonga, including burial places and places with strong associative values
 - 17.6 impact on resources in the ranges, including drinking water, and valuable species (and the need for better monitoring of impacts on flora and fauna [pages 16-17])
 - 17.7 impact on the visual amenity of ancestral landscapes and consequent disruption of mauri and how this will affect the mana of ROM
 - 17.8 concerns about the failure of the Palmerston North City Council (PNCC) to consult with the iwi
 - 17.9 the need to remove turbines 124D3 and 124B7 from the proposal or provide appropriate mitigation for the effects turbines will have in these areas

⁶

Tararua range

- 17.10 the need to enter into a formal MoU with MRP and the PNCC
- 17.11 the need to have a Code of Practice for protection of wahi tapu and archaeological evidence and a consent condition which provides for a Cultural Monitoring Framework

18. The submission included recommendations from their Cultural Impact Assessment (2006 and 2008), many of which were constructive suggestions for co-management approaches to decision-making, as well as recommendations for species management, monitoring for resource management and cultural heritage purposes, resource consent conditions and mitigation measures. The submission was not in opposition to the proposal but nor can it be considered to be “neutral” as categorised in the index of submissions⁷, as it raises significant concerns. The neutral label significantly downplays the important and legitimate concerns the iwi raise.

Te Rangimarie Marae – disallowed submission due to lateness

19. In his evidence for MRP, Mark Henry states that the Trustees of Te Rangimarie Marae were consulted and are supportive of the proposal. He notes that a submission to this effect was received. A check of the submissions has confirmed that it was disallowed because it arrived well out of time.

Rangitane o Tamaki Nui a Rua – submission 578

20. Their submission states that part of the proposal area is in their trial rohe (specifically, the Mangahao Block) and that their mana whenua needs to be brought to the attention of the Board of Inquiry. No further details regarding concerns are provided in the submission other than a request for a Cultural Values Assessment and a comprehensive environment report to be completed. There are no comments in the submission as to whether the MRP ecological evidence is sufficient. In his evidence for MRP, Mark Henry states that a Cultural Values Assessment has been commissioned from Rangitane o Tamaki Nui a Rua (9.20- 9.22).

Huatau Marae – submission 9

21. The Marae Trustees lodged a submission in opposition to the proposal on the grounds of negatives impacts on landscape, cultural values and impacts from noise and visual amenity. They have requested a noise management plan and a 3D (K2Vi) assessment of the project footprint, as well as deletion of 35 listed turbines from the proposal. Huatau Marae and their Hautika retreat are located very close to some of the proposed turbine locations. Their submission is not referred to in the evidence from MRP (M. Henry).

⁷ <http://www.mfe.govt.nz/rma/call-in-turitea/submissions/index.html>

He Kupenga Hao i te Reo (Inc.) – submission 544

22. He Kupenga Hao i te Reo oppose the proposal, largely because of the negative effects on the Paeroa Tararua landscape and on the mana of the Rangitane iwi. He Kupenga Hao i te Reo have a land block beneath the Te Mata Range in the Tararua mountains and were opposed to the Motorimu wind farm because of the effects it would have on their kaitiakitanga and on their land. This group is supportive of the submission lodged by ROM, which is problematic because they may be unaware of the ROM apparent shift in position. This submission is not addressed in the evidence of Mark Henry, Project Manager for MRP whose evidence outlines MRP's consultation with 'concerned iwi groups'.

Shirley Mullany – submission 306

23. Shirley Mullany's submission asks that the application be declined in its entirety and gives as one of her reasons, the impacts the proposal would have on the Tararua ranges which are of cultural significance to the local iwi. This submission is not addressed in the evidence of Mark Henry (for MRP).

Stephen Lang – submission 502

24. Stephen Lang's submission opposes the application in its entirety. Stephen's perspective is that of a Treaty partner and has concerns that the proposal has not honourably addressed Treaty of Waitangi issues and nor has the applicant adequately consulted with local iwi, Rangitane. This submission is not referred to in the evidence of Mark Henry (for MRP).

Janet Lang – submission 293

25. Janet Lang's submission opposes the application and cites one of the reasons; a lack of consultation with iwi, finding it to be *"embarrassing and a blatant example of 19th century colonialism."*

Peter Te Rangi – submission 457

26. Peter Te Rangi cites cultural and landscape reasons for his submission and opposition to the location of the wind farm. These are not elaborated on. This submission is not referred to in the evidence for MRP (Mark Henry).

Wikitoria Henare – submission 613

27. Wikitoria Henare's submission states that she does not wish to be heard but opposes the wind farm because of its negative effect on the ihi⁸ of the whenua.

⁸ Ihi = power or essential force

Department of Conservation – submission 492

28. This submission from the Director-General has been lodged by the Whanganui Conservancy of the Department. The submission notes the potential this application has to cause negative effects on the ecology and, in particular, on the contiguous habitat of native vegetation and habitats of reptiles, birds, bats and freshwater fauna. It also notes the potential for harm to archaeological and historic sites, specifically the barrow/cart track and quarry sites. In the evidence of MRP (M. Henry 9.23-9.32) the consultation and process of addressing Departmental concerns is outlined.
29. The DoC omission of its Section 4 responsibilities under the Conservation Act 1987 is of concern and only serves to increase the burden on iwi authorities to ensure that Treaty of Waitangi principles are even considered, let alone given effect to. DoC's neglect of their s4 responsibilities is, unfortunately, not the business of this Inquiry.

C. MRP Evidence**MRP Evidence of Mark Henry (Project Manager, MRP) – Consultation**

30. Mark Henry's evidence deals with the general subject of consultation. The relevant sections for this s42a report are: the consultation with tangata whenua, NZ Historic Places Trust (NZHPT), local authorities, Department of Consultation and the responses to submissions. Mr. Henry states that MRP has "*undertaken to consult with a variety of potentially concerned iwi groups in respect of Turitea wind farm*". He then lists the groups under headings: Rangimarie Marae Trustees, Tanenuiarangi Manawatu Inc, and Rangitane o Tamaki Nui a Rua. NZHPT were invited to comment but have not lodged a submission.
31. In his section on responses to submitters (page 29 ff) Mr. Henry only comments on the submissions of Stephen and Janet Lang regarding inadequacy of consultation, despite ROM raising this as a matter of importance (albeit mainly with their territorial authority PNCC).

MRP Evidence of Rod Clough – Archaeology

32. Dr Clough carried out an archaeological assessment of the land affected by the proposed wind farm. Prior to his work a Preliminary Report was carried out by 'Archaeology North'. Dr Clough reviewed the earlier report, undertook additional research and survey work and then prepared his report and evidence on archaeological values. He liaised with the author of the Preliminary Report for his assessment.
33. His findings are that there is physical archaeological evidence on the affected land in the form of a stone wall and cairn, two quarry sites and a barrow/cart track. He finds that, whilst they are on land that will be used for the wind farm, they will not be affected by the development. He also finds that there are places of cultural significance, specifically the

named peaks, one of which is also a recorded archaeological site (T24/35)⁹. As mitigation he proposes that the quarry and barrow track sites be clearly marked and excluded from development and that an “Accidental Discovery Protocol” be adopted in order to provide for the possibility of uncovering previously unrecorded evidence during earthworks.

34. Dr Clough also mentions the Kairanga track, which is known to be in this area (near Tirohanga peak) but considers that, in his view it would not constitute an archaeological site. This is probably because the track is not likely to have any physical evidence that can be analysed using archaeological techniques¹⁰. In the narrowest terms of the definition of “archaeological site” this may be correct. However, the tracks through Paeroa Tararua are important heritage landscape features known for being locations of taonga and are vital places of Maori occupation. Tracks through these mountains have been significant places associated with occupation and cultural identity since Maori first arrived in this part of the North Island. For this reason, their archaeological value should have been considered. Taonga finds are in the list of archaeological sites provided in the submissions and evidence of ROM and should have been researched more thoroughly for an assessment of values.
35. Dr Clough’s assessment has not considered a heritage landscape approach. This has resulted in an emphasis on physical evidence and “sites” which has resulted in an assessment of comparatively low value. Yet for tangata whenua this landscape is an ancestral one – named for tupuna and deeply, intrinsically part of tribal whakapapa. NZHPT Guidelines¹¹ promote the assessment of archaeological values in a landscape context and this project is an example where such an approach would have possibly led to a different assessment of value. The NZHPT National Research Framework Discussion Paper proposes the development of research themes such as “sense of place” and “the archaeology of identity” and states, “*archaeological sites do not exist in isolation and may be part of complex cultural landscapes...landscape studies and settlement pattern analysis are vital to gaining a better appreciation for the way people shape and use the landscape.*” [op cit pg 22].
36. In my view, this is exactly the point that the iwi submissions are raising about cultural identity, mauri and maintenance of landscape integrity. The criteria involved in values assessments should include aesthetic, historic, scientific, associative, social and spiritual

⁹ Signal fire site. T24 is a reference to the NZMS 260 map series for the area and 35 is the individual New Zealand Archaeological Association site number for that map

¹⁰ The Historic Places Act 1993 defines an archaeological site as being a place associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where that wreck occurred before 1900; and is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.

¹¹ The New Zealand Historic Places Trust (NZHPT) Guidelines for Preparing Archaeological Assessments, June 2006 and the NZHPT National Research Framework Discussion Paper, July 2007 (which notes, in particular, the need for the research framework in archaeological assessments to identify the information gaps and also the potential for the heritage resource to answer research questions).

attributes. Associative values include heritage landscape and relationship to settings, linkages to events and people, ongoing functions and associative meanings. Social values cover spiritual, political and cultural values and the extent to which heritage contributes to a sense of place.

37. With regard to the mitigation proposed I consider Accidental Discovery Protocols to be sound in theory but less so in practice. They rely on those working on site to have trained eyes and knowledge for detecting archaeological evidence. For some evidence, such as food preparation areas (e.g. ovens and middens) this can be straightforward. For evidence associated with garden sites, pits, terraces, even burials it is much more difficult. I note that iwi have requested representation on site during earthworks and that MRP have agreed to a representative (AEE 6.7). This should not be limited to one person and should be complemented with briefing on detection of archaeological evidence for contractors and sub-contractors on site.

MRP Evidence of Gregory Pollock - Planning

38. Mr Pollock covers planning matters in his evidence; the relevant sections of which for this report are those on culture, heritage, RMA part 2 matters and relevant sections of District and Regional Plans.

39. Cultural matters are considered on pages 27-28 of his evidence, where he states that the main concern of iwi was the impact on the mauri of the Tararua landscape as well as the specific peaks. He has recommended the deletion of turbine no. 55 should the concerns of TMI not be resolved and puts his trust in the ongoing consultation to address any remaining adverse cultural effects.

40. He refers to the relevant sections of the Regional Policy Statement (RPS) as being policies 1.1 and 2.1. The first policy, *"to actively protect the resource management interests of nga hapu and nga iwi of the Manawatu-Wanganui region in their lands and resources"* is a powerful statement, the key words of which are *"actively protect"*. Active protection can only happen when the iwi are actively involved. This is not the case when their role is as a consulted body only. His evidence has not referred to any relevant sections on culture or iwi relationships with the environment in the PNCC District Plan.

41. In his RMA Part II analysis (4.5.1 page 64 ff), Mr. Pollock states that, with the exception of the unresolved matter of turbine #55, section 6 (e) has been recognised and provided for. He does not elaborate or explain how this occurred. In terms of section 7 (a) he notes that the proposal is consistent with kaitiakitanga because MRP has consulted with iwi and *"acknowledged their concerns and values"*. He adds that s 7 (a) has been given particular regard to through conditions requiring accidental discovery protocols and the presence of iwi representatives on site during earthworks. This is not consistent with the submissions from iwi which state that the matters raised in the Cultural Impact Assessment 2006 and 2008 have yet to be incorporated into the consent conditions or planning for the wind farm. It seems as though, having considered iwi values, MRP have moved on to develop the

proposal as originally planned anyway. If there have been developments or agreements which satisfactorily address iwi concerns since lodging the submissions these need to be clarified. The divide between the iwi submissions and statements in MRP evidence is too wide to provide comfort in terms of RMA Part II considerations¹².

42.Mr. Pollock considers RMA s. 8 matters on page 67 (4.5.3). He relies on the evidence of Mark Henry (consultation) and states that the consultation undertaken so far is consistent with best practice, and therefore the principles of the Treaty of Waitangi have been taken into account. As noted in my comments on the MRP AEE (my para 14), consultation does not ensure that the principles of the Treaty have been taken into account. The proposal needs to demonstrate how the principles have been taken into account and how matters such as the principles of redress can be included.

MRP Evidence of Nevil Hegley - Noise

43.Mr. Hegley has assessed the effects of noise from the proposed wind farm but has not considered the submission from Huatau Marae and Hautika Retreat (submission 9) on noise effects. I consider this to be a significant oversight.

MRP Evidence of William Shaw - Ecology

44.Dr. Shaw has assessed the effects on the ecology of the affected area but not made any specific reference to the concerns raised by tangata whenua other than to recommend including them in any consultation on proposed species re-introductions (para 140). Iwi submissions, and notably that of ROM, raised very specific matters to do with reintroductions, recovery management plans and re-vegetation proposals. It would have been useful to have their concerns addressed in the evidence of an experienced ecologist like Dr Shaw. I consider this to be one of the problems that arises when “cultural” matters are assessed in a silo fashion as being somehow different or separate from natural or ecological matters. Clearly, from an iwi perspective they are inter-related.

D. Submitters’ Evidence

Rangitane o Manawatu – statement of evidence

45.This evidence has been prepared by Paul Horton on behalf of Tanenuiarangi Manawatu Inc.

46.The evidence notes that a draft MoU and a draft Cultural Monitoring Plan have been accepted in principle since the submission was lodged (page 2). These changes should, in theory, address some of the concerns raised in points 17.1 to 17.11 above. The evidence seems to present a shift in the ROM position and may be a reflection of some more strenuous consultation that has been undertaken since their submission was lodged. However this does pose some difficulties because the shift in position is not explicitly stated

¹² Refer also to earlier comments on relevant case law, my para 13

and nor is it explained. In a project proposal of this scale the reasons for a submitter's shift in position should be set out along with some surety that remedies agreed to will also be adhered to.

47. The evidence further notes that, whilst the **submission** focused on establishing and recognising the ROM connection to the wind farm site and relationship with that section of the Paeroa Tararua, the **evidence** focusses more on the impacts the proposed development will have on ROM cultural heritage (page 2, para 5).

48. The statement of evidence lists many of the same recommendations from the Cultural Impact Assessment which were included in the earlier submission, although they are prefaced with a comment that many of these have been agreed to in principle by MRP (page 5). This includes a reference to a consent condition initiating a review if there is a Treaty of Waitangi settlement affecting the reserve (page 8).

49. Matters to do with ongoing management of the land are set out on page 7 of the ROM evidence and appear to remain unresolved. ROM notes that these would be better addressed by an improved relationship with the PNCC and adequate consultation.

50. There are still matters of concern to ROM that have not been addressed in the MRP evidence. These relate to:

- 50.1 matters to do with visual amenity and consultation over impacts on the named peaks of the Paeroa Tararua. According to ROM, these have not been addressed adequately in the evidence of A. Wyatt¹³ (page 8);
- 50.2 impacts on fresh water ecology (page 9) and the impacts on mauri and flow regimes, in the evidence of B. Coffey;
- 50.3 absence of references to species important to ROM, the absence of ROM in the ecological planning groups listed, and iwi involvement in the replanting planning as set out in the ecological evidence of W. Shaw, and;
- 50.4 the need for ROM/TMI to be listed as a contact in any conditions related to archaeological protocols (evidence of G. Pollock).

Huatau Marae – statement of evidence

51. Huatau Marae has provided a statement of evidence (prepared by Robert Thorne of Noise Measurement Services Ltd Australia). Robert's technical evidence concerns the effects of noise from the proposed wind farm on the marae and associated Hautika retreat. He is also providing evidence for Tararua-Aokautere Guardians and Friends of the Turitea Reserve.

¹³ MRP evidence on visual and landscape assessment

Horizons Evidence of Phillip Hindrup – Planning

52. Mr. Hindrup has provided evidence with substantial sections of the RPS attached. He does not refer specifically to any planning matters associated with iwi and/or cultural matters. However, his inclusion of relevant sections of the RPS shows that there is a requirement to co-ordinate the management of natural and cultural heritage resources (Issue NCF5, pg 97). Page 112 of the RPS included in Mr. Hindrup's evidence shows that the skyline of the Tararua Ranges is an outstanding natural feature or landscape – a notion consistent with the iwi perspectives regarding the integrity of the landscape and its significance as a tupuna place.

PNCC Evidence of Jeffrey Baker – Planning

53. Mr. Baker provides an over-arching assessment of planning matters. With regard to iwi concerns he notes that much of this is covered in the evidence of James Baines (social impact assessment), who also arranged consultation with iwi (para 34). Mr. Baker has not addressed any iwi matters in his analysis of the AEE and RMA Part II considerations.

PNCC Evidence of James Baines – Social Impact

54. Mr. Baines discusses iwi matters in section 3.7 of his evidence but pushes aside any analysis from a social impact assessment because of what he understands are conflicting mana whenua interests over the Mangahao Block. He leaves the discussion to individual iwi presentation at the consent hearing.

E. Section 42a Report prepared by URS New Zealand Limited

55. URS were contracted to prepare a Section 42a Officers' Report that reviewed relevant plans, statutory information related to the project, project application, and submissions, and then assess the adequacy of information.

56. The URS report provides a summary rather than analysis and discussion of information gaps. In table 2.3, page 6 (Resource Management Act 1991) they note that Part II assessments have been included in the Application and in Section 7 of the AEE. In the review comments they note; "*Section 7 provides a comprehensive review of the statutory context that is relevant to the proposal.*" With regard to Sections 6(e), 7(a) and 8 of the RMA I do not concur with the URS report comments. My analysis is discussed in paragraphs 7-14 above.

57. In the Section on 'Identification of Issues', the URS Report lists cultural impacts and effects on archaeological sites (page 9) but in the table that follows their list (Specific Issues Identified) no mention is made of any tangata whenua concerns, despite them being very clearly set out in at least three comprehensive submissions (ROM, He Kupenga Hao i te Reo, and Huatau Marae). The implied challenge to mana whenua over the Mangahao Block is also a matter that should have been highlighted in the s42a report.

58. In the section 'Adequacy of Information', the URS report notes that although consultation with tangata whenua has been undertaken, no Cultural Impact Assessment has been prepared. It is true that a Cultural Impact Assessment has not been added to the AEE but one has been prepared by ROM. I concur that its absence from the record constitutes an information gap and consider that a more robust assessment of cultural values is required to properly assess the effects of the wind farm.

Culture and Cultural Identity

59. I consider that a definition of what culture is could be useful in the context of this report. In the past, narrow or confining definitions have had deleterious effects for tangata whenua trying to convey a kaitiaki expression of connection with place. There are dangers in defining notions of "culture" in a narrow or binary sense, i.e. as one dimension of a split between two realities: nature and culture. Tangata whenua knowledge of how the land was and is lived in is very much based on the notion that culture and nature are inextricably woven together. "Culture" is not an outsider ideology. It is a word used to denote a way of living and knowing and is something we should all be able to relate to, or at least respect. Cultural heritage is also a notion that is not confined to the past. Cultural heritage protection is based on sustainable land management practices and affection for place.

60. Culture is what you "do". It is an expression of shared attitudes, values, goals, practices and beliefs (identity). Simply, culture is a word that describes the imperatives of kaitiakitanga. Culture is an imperative for action, for "walking the talk". It encompasses the ideas of continuity of cultural traditions and values, as well as a demonstration of human relationships with the environment that have been carefully forged over time. In the case of Paeroa Tararua, the relationship is defined by whakapapa – not just the human connection to Papatuanuku, but the direct line of descent from Tara to Rangitane. The mountains are not only named for a Rangitane tupuna; they are Rangitane tupuna.

61. When there is a disjunct between discussions on nature and culture in fora such as RMA hearings all too often the business of weighting and ascribing value results in "cultural" concerns being neglected or de-valued. I consider that the intention of s.6(e) was that these matters would be considered together. Cultural imperatives for tangata whenua do involve care for the natural world; for ecological processes, and the business of repair and rehabilitation of damaged ecosystems. These are not matters that can be addressed, in my view and my experience, through consultation and the development of working relationships alone. Developing relationships is certainly needed for the establishment of trust and foundations for ongoing involvement of parties in a project but it needs to be accompanied with clear statements of agreement so that both parties have clarity about expectations and responsibilities.

62. Another matter to be aware of when considering cultural matters is that expressions of intangible values and relationships are often very hard to communicate, describe or share. Experience has shown that there are times when more spiritual or intangible values are discussed they are misunderstood, diminished or not respected. Whilst this is changing for

the better, there is still often a reluctance to articulate these notions. Instead, these connections are often put in terms that are more easily understood, such as conditions for species management or protection of 'sites'. The result is a compromise for iwi, at best.

63. For the purposes of this report, other aspects of cultural values, such as social effects, amenity values and recreation have not been considered because they are being dealt with elsewhere.

Assessment of Adequacy of Information

64. After reviewing all the information listed in this report, I consider that there are two major concerns with regard to iwi and cultural matters. The first is the comparative invisibility of iwi in the AEE, MRP evidence and URS s. 42a report. The second is the ambiguity around the relative iwi positions and the ROM/MRP agreements.

65. In dealing with my first concern, I feel that there are too many instances where cross-cultural conversations (or consultations) have collided rather than connected. For example, iwi have made clear statements in opposition to the wind farm and yet the AEE says that main concerns relate to the supply of mauri from the ranges. Matters to do with active involvement in decision making and Treaty of Waitangi settlement security for redress, for example, are not discussed in the AEE. Another example of iwi invisibility is demonstrated by their absence in discussions on landscapes and ecology. Iwi perspectives have not been included despite this being one of the major *pou*¹⁴ of iwi submissions. Instead the main concerns with this project are focussed on water quality/quantity, biodiversity and revegetation – or what Mr. Baker terms “the big four”.¹⁵

66. This problem is, in part, connected with the reliance on consultation as the main means of mitigating effects. Whilst it appears that there has been quite extensive consultation between MRP and tangata whenua and that there is a growing relationship of trust (at least between ROM and MRP) there is nothing in the reports, submissions and evidence that demonstrates how the application for consents has recognised and provided for the Maori relationships with this place, or how katiakitanga has been given particular effect to. This needs to be explicitly stated because otherwise there are too many risks that parties may misunderstand their roles and responsibilities, or that consultative agreements will not be adhered to or honoured. Reaching agreements in principle (as in mentioned in the ROM evidence paras 3, 20 and 46) is not sufficient for purposes or scale of this project.

67. I would also note that neither Regulatory Authority has raised consultation in their evidence or provided information as to how successful it was. This is an omission.

¹⁴ Post or tenet

¹⁵ Jeffrey Baker, Evidence for PNCC page 15 para 37 “water quality, erosion, biodiversity, and water allocation”

68. With regard to my second concern, there are several matters that need to be addressed. The first is the shift in position between the ROM submission and their evidence. In their submission, ROM noted that most of their recommendations had not been addressed. In their evidence there are references to a MoU and a Cultural Monitoring Plan. If these have been developed it needs to be established that ROM are now satisfied their recommendations have been addressed.
69. A further complication to this is the reliance He Kupenga Hao i te Reo Inc have placed on the ROM position (as set out in the ROM submission). He Kupenga Hao i te Reo need to be given the opportunity to review their position or to distance it from the later evidence presented by ROM.
70. There is also the matter to do with assertions of mana whenua. ROM have stated that they wish for confirmation that they are being treated by MRP as tangata whenua. Rangitane o Tamaki Nui a Rua have also asked to be recognised as tangata whenua and have been asked to prepare a Cultural Values Report. In the MRP evidence on consultation Mark Henry states that MRP recognise ROM as tangata whenua but have consulted with other iwi groups (9.8-9.22).
71. The apparent invisibility of Huatau Marae and the Hautika Retreat in consideration of effects is a serious omission given their location and the likely noise and amenity impacts that would result.

Recommendations

I recommend:

72. That clarity be sought on tangata whenua associations with the land and resources required for the wind farm, particularly the apparent dissension over mana whenua for Mangahao;
73. That robust agreements be developed between the applicant and iwi to address the range of tangata whenua concerns, and if necessary engage with iwi for the production of Cultural Impact Assessments;
74. That these agreements encompass matters such as Treaty of Waitangi security for future redress and the need for active involvement of tangata whenua in all aspects of the proposal (not simply being present during earthworks);
75. That the applicant demonstrate how they have recognised and provided for the Maori relationship with this environment through appropriate conditions (agreed to by iwi) rather than rely on on-going consultation;
76. That the Accidental Discovery Protocols be broadened to include provision for Cultural Monitoring Protocols (as proposed by ROM) and training those working on the wind farm development (if it is approved) in detection of archaeological evidence;

77. That confirmation is sought on which turbines iwi wish to see deleted from the proposal. The ROM submission mentions turbines 124D3 and 124B7, and yet the AEE refers to turbine #55 as being of concern to iwi. Huatau Marae have requested deletion of 35 turbines, and;
78. That the concerns of Huatau Marae, and in particular their concerns about noise effects, be assessed more robustly and addressed in terms of section 6(e) and 7(a) considerations.



Susan Forbes

25 June 2009