

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of the Proposed One Plan
notified by the Manawatu-
Wanganui Regional Council,
hearing related to Te Ao Māori

SUBMISSIONS ON BEHALF OF MIGHTY RIVER POWER LIMITED

1. INTRODUCTION

- 1.1 I appear for Mighty River Power Limited (“Mighty River Power”) at this, the Manawatu-Wanganui Regional Council’s (“the Council”) hearing on Proposed One Plan (“the Plan”) provisions dealing with Te Ao Māori.
- 1.2 Mighty River Power made a number of submissions and further submissions on Chapter 4 of the Plan – Te Ao Māori – Resource Management Issues of Significance to Hapu and Iwi. Chapter 4 is part of the Regional Policy Statement Part of the Plan.
- 1.3 The majority of Mighty River Power’s submissions and further submissions were accepted, in full or in part. Accordingly Mighty River Power is largely supportive of Chapter 4 proceeding in the form recommended in the *Horizons Regional Council’s Planners Report on Submissions to the Proposed One Plan – Te Ao Māori* (“the Planner’s Report”).

1.4 The topics that I will cover in my submissions are:

- (a) The written submissions and further submissions that Mighty River Power has made on the Plan and the response to those contained in the Council Planner's Report;
- (b) The statutory framework;
- (c) Conclusions.

2. OVERVIEW OF MIGHTY RIVER POWER'S SUBMISSIONS AND FURTHER SUBMISSIONS ON THE PLAN AND THE COUNCIL PLANNER'S RESPONSE TO THEM

2.1 Mighty River Power made the following submissions on Chapter 4:

- (a) It supported, in part, the identification of environmental issues of concern to hapu and iwi in 4.1.4. Mighty River Power is of the view that there is value in the express articulation of issues of interest to iwi and hapu in relevant planning documents.
- (b) It opposed, in part, Objective 4-1. Its primary concern was that the objective, as notified, read as if there would be no potential for any future development of a resource where mauri could be affected. Mighty River Power requested that Objective 4-1(a) be amended so that it provides for circumstances where the values associated with mauri may be affected but there is opportunity to provide for the relationship through other means. The Planner's Report accepted this submission and recommended that the word "*protected*" be replaced by the words "*recognised and provided for*" to better reflect the wording contained in the Resource Management Act ("RMA"). Mighty River Power supports this recommendation.
- (c) Mighty River Power opposed Policy 4-2 in part, on the basis that the wording implied that no development could ever occur if waahi tapu was present. The Officer's Report recommends that the word "*inappropriate*" be incorporated into Policy 4-2(a) to qualify the

obligation for protection. Mighty River Power supports this recommendation.

- (d) Mighty River Power submitted on Policy 4-3. It supported this Policy in part. It was concerned about the potential impact of the Policy on activities during low flow conditions when water takes could be restricted or suspended. The Officer's Report contains recommendations that address some of Mighty River Power's concerns. In particular the officer recommends that Policy 4-3(b) have the following words incorporated into it to take into account resource users' concerns "*following consultation with potentially affected resource users*". Mighty River Power supports this recommended change and the additional recommended changes contained in the Officer's Report on Policy 4-3, but notes that the issue of low flow water management will be addressed more fully in the hearing on water allocation and groundwater.
- (e) Mighty River Power submitted on 4-5 Methods of Implementation. It submitted that the method relating to the Memorandum of Partnership should be amended so that information related to sites of significance would be made available to developers on request. Mighty River Power accepts the explanation contained in the Officer's Report that the method is primarily about forming closer working relationships between the Council and hapu and iwi and that Policy 4-2 adequately identifies specifically how information about waahi tapu may or may not be shared. Mighty River Power also submitted that the Code of Practice for waahi tapu protection and discovery should be amended to include a date by which the protocol will be in place. This submission was accepted in the Officer's report and Mighty River Power supports the recommended change to the target row of the method to read "*To develop a code of practice for waahi tapu protection and discovery by 2010 which will reduce the number of waahi tapu inadvertently uncovered by earthworks*".

2.2 Mighty River Power also made a number of further submissions. They related to the following matters:

- (a) A number of people submitted that Paragraph 4.1.3 An Understanding of Māori Values, should be amended to include a statement that the erection of wind turbines on culturally significant mountains and ridgelines impact directly on the mauri of the mountain or ridgeline. Mighty River Power opposed these submissions. The Planner's Report recommends that the submissions not be acted on because "*If all things have mauri (as the explanation already states) then clearly mountains and ridgelines have mauri. I am not convinced that in all circumstances wind turbines would have an adverse effect on mauri – this matter is probably best left for a case by case assessment than included in the general explanation.*" Mighty River Power supports the Officer's recommendation and the reasons given for it. Mighty River Power has experience of working with tangata whenua in the development of geothermal resources outside the Region. That experience has shown that natural resources can be successfully developed in a sustainable way without adversely affecting mauri. It supports the case-by-case approach advocated in the Planner's report.
- (b) A number of submitters requested a change to Paragraph 4.1.4 Environmental Issues of Concern to Hapu and Iwi, to include a statement that "*Hapu and Iwi will be encouraged to identify mountains and ridgelines in the Region that have particular cultural significance. ...*". Mighty River Power opposed these submissions. The Officer's Report stated "*I do not know if this issue is of significance to iwi and hapu in the region, because it was not identified during consultation on the POP. I am not aware that any of the submitters are making their submission on behalf of an iwi or hapu. Therefore in the absence of any further information that this issue is in fact of significance to iwi or hapu, I do not think it wise to change this part of the plan.*" Mighty River supports the approach advocated, and the recommendation

contained in the Planner's Report. In my respectful submission the only people able to identify environmental issues of concern to hapu and iwi are appropriately mandated hapu and iwi representatives. It would be inappropriate for any other party to seek to usurp that role. Accordingly, the approach adopted in the Officer's Report is entirely appropriate.

- (c) A number of submitters requested that Policy 4-1(a) be amended to read, "*Memoranda of partnerships to set clear relationships and communication parameters to address resource management objectives, including the identification of culturally significant mountains and ridgelines, and the appropriate limitations to any development on those mountains and ridgelines.*" Mighty River Power opposed those submissions. The Officer's Report accepted Mighty River Power's further submissions and stated, "*Tararua Aokautere Guardians and their members would like the reference to memoranda of partnerships in (a) to specifically refer to mountains and ridgelines. I accept that mountains and ridgelines may be culturally significant issues for this group, and possibly for other groups in the region, and it may be appropriate to have a memorandum of partnership to clearly set out these issues. However I do not agree that it is necessary to refer to such a specific matter in this policy. To identify only one area where a memorandum may be appropriate would narrow a policy which is intended to deal with resource management issues generally.*" Mighty River Power supports the Officer's approach to these submissions.
- (d) Mighty River Power also made further submissions to submissions on Policy 4-2. As I have previously indicated, Mighty River Power supports the recommendations made in the Officer's Report on this Policy.
- (e) A number of submitters requested that table 4.1 'Environmental issues raised by hapu and iwi and how these will be addressed in the One Plan', be amended to include specific reference to the

cultural significance of mountains and ridgelines in the region. Mighty River Power opposed those submissions. The Officer's Report stated: "*A number of individual submitters (those individuals who made pro-forma submission on this issue) raised an issue they would like to have included in this table (and section 4.1.4 of which this table is a reflection). While I acknowledge the strength of feeling surrounding the issue of wind turbines and ridgelines raised by the submissions, and accept it is an issue of importance to them, I do not think that it is appropriate to include it in this table. I have also discussed this issue in recommendation TAM 5. This Table identifies issues of concern to hapu and iwi – the submitters have not identified themselves as representing a hapu or iwi of the region, and therefore I am reluctant to recommend a change to the table without a mandate from a hapu or iwi.*" Mighty River Power supports this analysis and reasoning and the Officer's recommendations.

- (f) A number of submitters sought the inclusion in the Glossary of a definition of Kaitiaktanga/Stewardship. Mighty River Power opposed those submissions. The Officer's Report notes that Kaitiakitanga is defined in the RMA, but that the definition suggested by submitters, while similar, is not the same as that contained in the RMA. Mighty River Power agrees that the inclusion of a definition differing from that contained in the RMA would only lead to confusion and supports the Officer's recommendation that the definition not be included in the Plan.

3. STATUTORY FRAMEWORK

- 3.1 Mr Maassen has prepared s 42A reports on Chapter 4 of the Regional Policy Statement. In my submission his report accurately summarises the relevant Resource Management Act 1991 provisions relating to the Council's role with respect to Maori issues in regional policy statements. Rather than repeat Mr Maassen I accept and adopt his analysis.

4. CONCLUSIONS

- 4.1 Mighty River Power made submissions and further submissions on Chapter 4 of the Regional Policy Statement Part of the Plan - Te Ao Māori. The majority of those submissions and further submissions were accepted as being appropriate amendments to the notified version of the Chapter.
- 4.2 Mighty River Power supports the inclusion of Chapter 4 - Te Ao Māori in the Plan, in the amended form recommended in the Planner's Report.

JC Campbell

Counsel for Mighty River Power Limited

13 August 2008