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Dear Robyn

One Plan Hearing - Land

During Mighty River Power's presentation at the Land Hearing on 17 July, Commissioner White requested the following information:

- Examples of environmental management plans that Mighty River Power operates under, in relation to erosion and sediment control issues; and
- The nature of regional policy relating to landscape considered by the Environment Court in *Genesis Power Ltd v Franklin District Council* [2005] NZRMA 541 (the 'Awhitu decision'). A copy of this decision is enclosed.

In relation to the Commissioner's first question, I enclose a copy of the Earthworks Erosion and Sediment Control Plan prepared by Mighty River Power in compliance with the conditions of resource consent for the Nga Awa Purua Power Station located at the Rotokawa Geothermal System, Taupo. In providing this example, I note the specific nature of the construction and design details. While it is possible to develop a generic list of matters that one might expect to find in an earthworks erosion and sediment control management plan, as the Rotokawa example shows there are site specific matters that influence the detail of such a plan and this is likely to vary for different sites and activities.

In relation to the second question, the following landscape provisions were considered by the Court in the Awhitu decision¹:

- Chapter 6 – Heritage section of the Auckland Regional Policy Statement (including Policy 6.4.19).

¹ Refer paragraphs 97 – 99 of the decision.

- Chapter 4 – Landscape section of the Auckland Regional Coastal Plan (including 4.1 Introduction, Objectives 4.3.1 & 4.3.2 and Policy 4.4.3).

Copies of the relevant sections of these Chapters are enclosed. The decision records the agreement of expert landscape witnesses in that case that the coastline adjacent to the proposed wind farm was identified as a Regionally Significant Landscape under the Regional Policy Statement, and an Outstanding Natural Landscape under the Regional Coastal Plan.² However the land on which the turbines were proposed to be located was not within the physical limits of these areas as described in the planning documents. The Court found (on the evidence) that the site was not an Outstanding Landscape.³

The Court said:⁴

"We find that although the actual foundations and site works associated with the turbines would largely occur outside of the area defined as 'regionally significant' or 'outstanding', the scale of the turbines is such that they would dominate the surrounding area and undermine the visual integrity of the natural character and landscape of the coastal environment. We consider this to be a significant adverse effect. In coming to that conclusion we think that the inland limit or boundary of the 'significant landscape area' has probably been selected with the potential impact of more conventional rural and residential buildings in mind, that is, structures to a maximum height of around 10 metres. In our view a more substantial buffer is required if the visual integrity of the natural character of the coastal landscape is to be protected in this case. The proposed turbines are of such a large scale, 90 metres high, that their visual impact cannot be adequately mitigated."

Ultimately resource consent was granted. At paragraph 228 the Court said:

"The ultimate question for us, is whether the purpose of the Resource Management Act would be better served by granting consent or refusing it. We find that the proposal meets the sustainable management purpose of the Resource Management Act. Notwithstanding the effects on the coastal environment we consider the proposal to be appropriate in the circumstances of this case. We find that the benefits of the proposal, when seen in the national context, outweigh the site-specific effects, and the effects on the local surrounding area. To grant consent would reflect the purpose of the Act as set out in section 5."

² Refer paragraph 86.

³ Paragraph 109.

⁴ Paragraph 108.

As Mr Le Marquand advised the Committee during his presentation for Transpower New Zealand Limited, the Auckland Regional Policy Statement is currently under review. In particular, proposed Change 8 to the Auckland Regional Policy Statement identifies Outstanding Natural Landscapes (mapped) and contains provisions regarding Other Valued Landscapes (not specifically identified). Following hearings on this Proposed Plan Change, the Auckland Regional Council indicated an intention to promulgate a Variation to it. This Variation is awaited.

Mighty River Power will address landscape matters in more depth in its submissions and evidence at the forthcoming Landscape and Natural Character hearing.

I trust the above answers Commissioner White's questions.

Yours sincerely

A handwritten signature in purple ink that reads "S. Ongley". The signature is written in a cursive, flowing style.

Sarah Ongley
Senior Legal Counsel