

24 Greens Rd
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Palmerston North

The Chairperson
Chartered Professional Engineers Council
PO Box 3058

5 November 2012

Dear Chairperson

Ref.Complaint against Mr Bunting

1. Today I was emailed two documents from IPENZ. One was from Dr Cleland, Chairperson of the Chartered Professional Engineers Council, dismissing my complaint against Mr Bunting. The other was the Adjudicator's report written by Mr Boyt.
2. The investigation of the complaint was totally unexpected because I was in the process of preparing the complaint as requested by Mr Willmot in his email dated 26 October 2012. A copy of this email is in Appendix 1. Mr Willmot states in his email, "I am unable to consider your complaint. Please resubmit your complaint to the Chief Executive". Why was the complaint prematurely investigated, before I had the opportunity to submit comprehensive details of the complaint as requested by Mr Willmot?
3. The lack of background information has led to IPENZ considering the complaint as having no grounds, i.e. frivolous, vexatious and not made in good faith. The Adams and Huatau would appreciate IPENZ reconsidering this judgement in light of comprehensive factual written information being supplied as requested by Mr Willmot.
4. The Adjudicator report prepared by Mr Boyt states that under section 149J(4) of the RMA members of Boards of Inquiry have statutory protection as provided by "...*member of a board of inquiry is not liable for anything the member does or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.*" The words "*good faith*" are paramount and the perceived lack of good faith forms the basis of the Adams/Huatau complaint.
5. Good faith is nebulous and not judicially reviewable. The Cabinet Manual specifies that boards of inquiry must be "*naturally just*". Natural justice is also nebulous as far as judicial review is concerned. The terms of reference for the board of inquiry stated that the final report would contain findings of fact. The failure to report findings of fact is not judicially reviewable. The Environment Court states that process must maintain public confidence. But how is public confidence enforced yet alone measured? So what we have is a series of moral and ethical obligations that cannot be challenged or enforced by those subject to a board of inquiry process. Challenge can only be made on a point of law.
6. Boards of inquiry are composed of professionals. Commissioners are appointed to boards of inquiry to provide specialist expertise across the issues being weighed. Mr Bunting is listed on the Environment Court website

as a Chartered Professional Engineer and a Fellow of the Institution of Professional Engineers. Obviously, Mr Bunting brings his expertise as a Chartered Engineer to the board of inquiry along with the associated ethical and moral obligations imposed by IPENZ. i.e. act with honesty, objectivity and integrity (Part 3(3)). Natural justice, good faith and reporting on findings of fact can reasonably be extrapolated to the IPENZ code of ethics.

7. Mr Bunting is a signatory to the Final Decision and Report of Turitea Wind Farm. This means that Mr Bunting is fully satisfied that the report has met all his professional expectations and IPENZ ethical obligations.
8. In the following paragraphs the Adams and Huatau will outline why they believe Mr Bunting (and the board) did not act with honesty, objectivity and integrity along with the other intertwined ethical and moral obligations.
9. Appendix 2 is the response of Huatau marae to the draft decision. Paragraph 2 states that Huatau marae was established primarily by the Jones whanau and not the Adams whanau. There is absolutely no excuse for this correction not to be made in the final report (more details can be found in appendix 3). Failure to make a factual correction when requested in writing is not good faith.
10. Paragraph 27 in the Huatau response to the draft decision requests that another error is corrected, i.e. that Huatau did not oppose the application in its entirety. There is absolutely no excuse for this correction to be made in the final report (more details can be found in appendix 4). Failure to make a factual correction when requested in writing is not good faith.
11. Paragraphs 33 & 34 in the Huatau response and paragraphs 43, 44 & 84 in appendix 5 (J.Adams response to draft decision) requests that the board states its criteria for meeting the tests of conclusive science and that this yardstick is applied to all evidence. The failure of the board to do this resulted in loss of objectivity and integrity, e.g. in the Board's dismissal of health effects. It is the opinion of the Adams and Huatau that a professional engineer would be fully cognizant of the test for conclusive science and the measures required to maintain objectivity. Likewise a professional engineer would be fully aware of the necessity to establish an empirical relationship for prediction and this was also lacking. An example of this last point is outlined in paragraph 51 & 52 of appendix 5.
12. Appendix 5 is John Adams's response to the draft decision. Paragraphs 27 & 28 refer to the peer reviewer for the applicant's noise expert morphing into an additional noise expert to provide additional influence to the applicant's ambitions. It is our opinion that professional engineers would be aware of the role of peer reviewers versus the joint opinion/ consensus of two experts to promote a point of view that avoids detailed objective analysis.
13. Paragraphs 31, 32 & 35 in appendix 5 refers to the necessity and request for full disclosure of assumptions, approximations and uncertainties. The Adams and Huatau believe that professional engineers would fully appreciate the absolute necessity for these to be provided in order to test models.
14. Paragraph 34 in appendix 5 questions the statistical nonsense of creating regression lines through widely scattered data and draws the board's attention to Professor Dickinson's concerns about the dubious and dishonest

methodology used in the noise standard and by noise experts. Professor Dickinson was the most experienced and highly qualified noise expert appearing before the board. In the opinion of the Adams and Huatau a professional engineer would not sign unconditional agreement and acceptance without further investigation, or register withheld judgement.

15. Paragraph 36 reminds the board that the Code of Conduct for expert witnesses has not been followed, i.e. a signed joint witness statement was not done. In the opinion of the Adams and Huatau a professional engineer would ensure compliance of such a matter before signing off. A letter providing more detail on this matter is in appendix 6. A letter from Dr Thorne, a highly qualified noise expert acting for Huatau marae, is in appendix 7 and further highlights the unacceptable and inexcusable conduct of the board in dismissing his evidence.
16. Appendix 8 outlines Mr Stichbury's well-researched concerns about the board's unconditional acceptance of Mr Alexander's evidence, i.e. fault lines are outside the area of the application and fault rupture is not expected to be an issue. The Adams and Huatau believe that professional engineers would not endorse such a statement. Even a geophysicist would not make such a statement especially in light of the Christchurch earthquakes.
17. The Adams and Huatau do not wish to labour the complaint about Mr Bunting and believe the above paragraphs demonstrate that the complaint is not frivolous and vexatious. The Adams and Huatau believe there are many more inexcusable, unacceptable matters that are incongruent with professional engineering practice, e.g. inadequacy of Kahuterawa Road for construction, incorrect conclusion that turbines will not be visible from huatau marae etc. these can be supplied if necessary.

Thank you for considering this complaint

John Adams
(on behalf of the Adams and Huatau)