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Palmerston North

Executive Officer  
NZILA  
PO Box 10-022  
The Terrace  
Wellington, 6143

10 November 2012

Dear Executive Officer

Ref. Complaint about John Hudson in his role as landscape expert  
on Turitea Board of Inquiry

1. The Adams and Huatau would appreciate NZILA executive considering our complaint against Mr Hudson who acted as the landscape expert on the Board of Inquiry for Turitea Wind Farm.
2. We believe Mr Hudson breached section A1.2 (a), (c), (e) & (f) of the NZILA code of conduct
3. 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.
4. 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.
5. Boards of inquiry are composed of professionals. Commissioners are appointed to boards of inquiry to provide specialist expertise across the issues being weighed. Mr Hudson’s credential for membership of the Turitea Board of Inquiry is listed as landscape architect. Obviously, Mr Hudson brings his expertise as a landscape architect to the board of inquiry along with the associated ethical and moral obligations imposed by NZILA i.e. fairness, honesty, integrity and competence. Natural justice, good faith and reporting on findings of fact can reasonably be extrapolated to the NZILA code of conduct.

6. Mr Hudson is a signatory to the Final Decision and Report of Turitea Wind Farm. This means that Mr Hudson is fully satisfied that the report has met all his professional expectations and the NZILA code of conduct.
7. In the following paragraphs the Adams and Huatau will outline why they believe Mr Hudson (and the board) did not act with honesty, fairness and integrity along with the other intertwined ethical and moral obligations.
8. Appendix 1 is the written response of Huatau marae to the draft decision. Paragraphs 16 & 17 in the Huatau response remind the Board of the severe visual impact on Huatau. The final report from the board states that, "turbines are not within sight of Huatau marae". The photomontage prepared by the applicant's landscape expert shows that there are three turbines that are visible, dominant, highly intrusive and disempowering to Huatau. Such a matter displays professional incompetence and failure to seek reconciliation of human needs in harmony with the natural environment. It is inexcusable, insulting and a lack of good faith that this error has occurred. Further details on this matter can be found in appendix 2.
9. Photomontages for wind turbines formed an initial significant role earlier in the hearings but were not updated and renewed as the hearing progressed and turbine locations changed. In the opinion of the Adams and Huatau this was a failure to meet the NZILA code of conduct. Furthermore the Turitea proposal included significant infrastructure by way of pylons, approximately 60 metres high, running the full length of Turitea reserve, and highly intrusive when viewed from Palmerston North and surrounding areas. No photomontages showing pylons and other infrastructure were ever presented to submitters at any time. The Adams and Huatau believe that for someone appointed as a landscape expert the omission of visual impact relating to pylons along the skyline is a failure of due process and duty. Several submitters raised this issue but were ignored. More details can be found in appendix 6.
10. Paragraph 2 in the Huatau response 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 incompetent, dishonest and not good faith.
11. 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.
12. 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 such as Mr Hudson would be fully cognizant of the test for conclusive science and the measures required to maintain objectivity.

13. 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 experienced professionals such as Mr Hudson 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.
14. 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 experienced professionals such as Mr Hudson would fully appreciate the absolute necessity for these to be provided in order to test models.
15. 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 an experienced professional such as Mr Hudson would not sign unconditional agreement and acceptance without further investigation, or register withheld judgement.
16. 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 an experienced professional such as Mr Hudson would ensure compliance of such a matter before signing off.
17. The Adams and Huatau do not wish to labour the complaint about Mr Hudson 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 the NZILA code of conduct. These additional concerns can be supplied if necessary.
18. The outcomes that the Adams and Huatau are seeking are: firstly, Mr Hudson is held accountable to the NZILA code of conduct. Secondly, Mr Hudson assists the Adams and Huatau to have errors in the final report rectified.

Thank you for considering this complaint

John Adams  
(On behalf of the Adams and Huatau)