Dear Regulations Review Committee

Ref. Lack of statutory framework to enforce regulations in RMA Act 1991 and lack of accountability arising from Judicial Conduct Panel Act 2004

Our concerns arise from the Final Decision and Report of the Board of Inquiry for Turitea Wind Farm. We requested factual corrections via written submission to the Draft Report but the corrections requested were not made in the Final Report.

S 149Q (5) (a) of the RMA Act 1991 states:
Comments on minor or technical aspects of the report-
(a) Include comments on minor errors in the report, on the wording or conditions specified in the report, or that there are omissions in the report.

There is a lack of statutory framework to have errors corrected to produce a factually correct report. The Turitea Decision is not factually correct and does meet several grounds specified in S 315 of the Standing Orders of the Regulation Review Committee, i.e.

(a) is not in accordance with the general objects and intentions of the statute under which it is made.
(b) Trespasses unduly on personal rights and liberties
(d) Unduly makes the rights and liberties of persons dependent upon administrative decisions which are not subject to review on their merits by a judicial or other independent tribunal

We can supply full details of the corrections requested if the Committee requires it.

S 149J (4) of the RMA Act 1991 states:
A 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.

And

S 16(1) of the Judicial Commissioner and Judicial Conduct Panel Act 2004 states that complaints cannot follow a judge into retirement. Judge Kenderdine the Chair of the Board of Inquiry retired on completion of the inquiry.

The two regulations identified above means there is a total lack of accountability by the Board of inquiry to produce a factually correct when specific requests were made by the Adams and Huatau in writing. The reasons for not producing a factually correct report could have been due to a number of factors that could include matters such as incompetence, bias or whatever.
S 149K (4) of the RMA 1991 states:

In appointing members, the Minister must consider the need for the board to have available to it, from its members, knowledge, skill, and experience relating to-

(b) the matter or type of matter that the board will be considering and

(c) the local community

There is no regulation in place to ensure the person specification in S149K is met. Nor, is there any statutory framework against which such matters can be judicially reviewed. The result is that the Turitea Board of Inquiry has produced a factually incorrect and technically incompetent final report and there is no accountability or mechanism to have the report corrected.

Thank you for considering our concerns, which meet several of the grounds in S 315 for Drawing attention to a regulation in the Standing Orders of the Regulations Review Committee.

Yours sincerely

John Adams
(On behalf of the Adams and Huatau Marae)