7 June 2018

Murray Sherwin
Chairman
The Productivity Commission
Wellington

Submission on the Low emissions economy inquiry

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1 Overview

The Blueskin Resilient Communities Trust (BRCT) is a registered charitable trust formed in 2008 to collaboratively work on local climate solutions. We work as a legal body to provide a public benefit and achieve the long-term objective of building community resilience. Jeanette Fitzsimons is our patron, and we are governed by a volunteer board of community leaders representing different social and business networks and with varying skills. We are represented by Jacinta Ruru (Chair), Charles Abraham (Treasurer), Ross Johnston (Secretary), Metiria Turei, Craig Marshall, Anna Marsich and Dell McLeod (Trustees).

The genesis of the Trust was a significant storm event in 2006 that compromised electricity supplies, isolated parts of the community and caused significant damage to property. That storm awakened the community to the risks of climate change and catalysed a community response. Since that time, the Trust has been working in pursuit of its vision, mission and objectives:

Our vision:
We will facilitate a positive, healthy, secure and resilient future for Blueskin Bay and linked communities and promote sustainable resource use.

Our mission:
The Trust will act to strengthen our communities in the immediate, mid and long-term future, with emphasis on energy, food, water and community resilience.

Our objectives:

1. *To develop and administer projects that provide education, support and resources to maximise locally based sustainable provision of energy, food, and water.*
2. *To develop and administer projects that provide education, support and resources to minimise energy use, encourage healthy homes and encourage sustainable households.*
3. *To secure and manage funding to achieve the stated goals of the Trust, and to stimulate local sustainable economic activity.*
4. *To develop and maintain relationships to achieve the stated goals of the Trust.*
5. *To ensure community partnership in any enterprises initiated by the Trust and to aim for the most equitable use of resources.*

6. *To foster linkages between organisations with objectives similar to, or complementary to, the Trust's own Vision and Objectives.*
7. *The Trust's goals and activity will always remain charitable.*

BRCT has pursued a variety of projects since its inception. These include relatively simple initiatives such as bulk firewood supply to the community to more complex things such as $780, 000 of home insulation retrofits, cosy home energy efficiency assessments and climate change and resilience action and advocacy. We have facilitated the design, development and are preparing the construction of a 'climate safe house' to provide a warm, efficient and healthy living environment that is able to adapt to or be relocated to avoid sea level rise over time. We aim to develop an adaptation template for coastal New Zealand.

In December 2013, BRCT formed a wholly owned charitable company (Blueskin Energy Limited) to pursue the development of a small-scale wind energy generation project which would provide a resilient supply of electricity locally and whose profits would be returned to the community to fund both on-going and new resilience projects. The Dunedin District Council and Environment Court both rejected BEL's resource consent application, and an appeal to that decision was not lodged.

This year BRCT launched the Blueskin Energy Network (www.ben.p2power.co.nz), an exciting technological offering connecting people and digital technology with machine learning in a fully commercial smart grid. The first customers were connected on the 6th of April. It involves peer to peer trading and sharing energy within the local network.

We commend the Productivity Commission for opening up a national dialogue on transforming our economy to low carbon while increasing wellbeing.

We are living in a changing environment with a rapidly changing climate. While collectively we do make preparations for unpredictable events like fires and earthquakes, we are poor, as a society at investing in solutions for the very predictable Long Emergency of climate change despite accepting that it is real and it is happening now. Our changing world requires us to innovate and be creative and we believe now is the time for government to build the legal and policy framework to ensure that the transition to zero carbon by 2050 is fair and just for all New Zealanders, and allows widespread civic engagement and innovation.

2 Resource Management Act 1991 constraints

2.0 The Blueskin Example

In 2011, the Government put forward the National Policy Statement for Renewable Energy Generation (NPSREG) that, among other things, provides a framework for small-scale wind generation. At the time, there was an effort to go further than mere policy and draft a National Environmental Standard (NES) that would make some activities permissible without having regard to local and regional plans and rules. Unfortunately, there was not enough political will in 2011 to dictate an environmental outcome via an NES, so a compromise was made and the ***Implementation Guide for the NPSREG*** was drafted to go alongside the NPSREG and give local and regional authorities guidance in the implementation of the NPSREG.

The most significant objective on the Trust's horizon (still) is to implement community owned power generation via wind. Over the last 9 years, during which time the NPSREG was in effect, the Trust worked to develop the 'Blueskin Turbine' project. The project sought to construct 1-3 turbine wind farm at Porteous Hill, Warrington. The Trust's company Blueskin Energy Ltd (BEL) applied for resource consent in 2015 to establish three turbines up to 125m tall. The project was structured to deliver an average of dividend of $100,000 per year to BRCT over the life of the turbine(s). This funding was planned to enable the Trust to continue to pursue other projects consistent with our objectives.

The project was modelled to produce 7.4GWh per annum. This would have been sufficient to supply all 1000 homes within the Blueskin Community and BEL would export the excess. The electricity generated would have fed directly into the local distribution network and supplied the community via the Waitati Zone Substation only a few kilometres away.

The application was declined by Dunedin City Council. Blueskin Energy Ltd appealed that decision to the Environment Court. Ultimately, the appeal was unsuccessful with the Environment Court concluding that visual amenity effects, particularly on three neighbouring properties outweigh the benefits of the proposal.[1] More striking was the Court's interpretation of what the NPS held to be of national importance,[2]

[1] *Blueskin Energy Limited v. Dunedin City Council* [2017] NZEnvC 150
[2] Ibid at [66]-[67].

> *"[66] Having regard to the policy's text, the introductory part states "Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities ...*
>
> *[67] The subject matter of the introduction is "national significance"; the predicate (or action) is "recognise and provide for'' and the object is "renewable electricity generation activities". **Thus, what is to be recognised and provided (for) is the national significance of certain activities, and not the activities per se**. We do not accept the appellant's submission to the contrary."*
>
> *(**emphasis added**)*

This interpretation is perplexing and a significant disappointment. To hold that the notion of an activity is nationally significant but that actually performing the activity is not appears to be antithetical to the very purpose of the NPS. Despite this result, the Trust continues to pursue the goal of community wind generation (potentially in other locations).

The Environment Court's decision is at odds with the aim of the NPSREG. It values rural amenity as expressed in a proposed district plan above clear directives in a national policy statement. BRCT believes that the outcome demonstrates inadequacy of the current Resource Management Act and its associated costs and inertia and dealing with renewable electricity projects – particularly relatively small scale ones. The Trust considers that these inadequacies have and will continue to act as a barrier to New Zealand to achieving 100% renewable energy by 2035 and carbon zero by 2050. Wind projects get developed in large lots of turbines (farms) because of the tremendous costs and time involved in obtaining resource consent as well as the uncertainty of RMA outcomes.

Because of this, companies seeking consent are much more likely to pursue large-scale projects to maximise the return on investment on their consent gamble. Yet as wind experts have consistently pointed out, it is essential to develop small scale wind farms to complement large scale projects and to distribute these small projects more evenly (geographically) across the country in order to have a successful, resilient base-load of generation.

The considerable costs and risk associated with the current consent process favours large scale operators and large scale projects. However, in order to achieve the

Governmental targets it will be necessary to mobilise sites of varying scales. Studies undertaken by the Parliamentary Commissioner for the Environment highlighted the limited availability of large-scale wind farm developments and the need to identify and utilise smaller sites.[3] Despite the clear opportunities for small and community scale energy generation identified by these reports, New Zealand has experienced little or no development in this area.

Further to the above, diversifying the location of wind generation will allow this resource to play an increasingly important role in electricity supply. Wind energy is consistent on a long-term basis and wind farms in New Zealand generate energy up to 90% of the time. This complements the supply of electricity from hydro sources.

A related challenge to achieving the target of 100% renewable electricity generation by 2035 is the unchallenged Environment Court decision on the Blueskin project that has put rural amenity value in a proposed district plan ahead of a very directive NPSREG[4]. This is a decision that could have been appealed on errors of law, but the costs of doing so and the uncertainty of the outcome were simply too much for BEL and BRCT. Our experience shows that it is evident that local and regional authorities are not taking the NPSREG seriously and have not taken the steps as expressed in the Implementation Guide to give effect to this in local and regional plans. This is a legal setback that is now a further impediment to a small-scale projects.

To address the current challenges and inadequacies with the Resource Management framework the Trust considers the following steps are necessary:

2.1 Amendment of the National Policy Statement for Renewable Electricity Generation

The Blueskin Energy Limited case demonstrates how the drafting of the NPS appears to be insufficiently directive in practice. We agree with Meridian Energy who say,[5]

[3] PCE Report *Wind Power, People and Place* (2006b) Parliamentary Commissioner for the Environment and PCE Report, *Get smart, Think small* (2006a) Parliamentary Commissioner for the Environment.
[4] *Blueskin Energy Limited v. Dunedin City Council* [2017] NZEnvC 150
[5] Draft: Low emissions economy (2018). Pp. 335.

> *"There is a need for more guidance on the relative importance of renewable energy compared to other matters of national significance or importance under Part 2 of the RMA"*

Renewable electricity projects have been notoriously difficult to obtain resource consent for. The current NPS has ensured that the benefits of renewable generation are taken into account, but has been unable to break the deadlock between that and other competing values, particularly the values identified in s 7 of the RMA. In BRCT's view, amendment of the NPS is required to ensure that renewable electricity generation takes precedence over the matters identified in s 7.

Any amendment to the NPS will necessarily require amendments of relevant regional and district documents, but this takes many, many years, time New Zealand can ill afford to waste. It is clear from the existing NPS that territorial authorities are exceedingly slow in giving effect to national policy statements. In Dunedin for example, no changes have become legally effective in its Operative District Plan. That means that almost 8 years have elapsed since the NPS become operative, and we are still waiting for the local authority to give effect to it. The scale of this delay is in our view unacceptable in the context of climate change and New Zealand's need to act swiftly.

2.2 Establishment of a National Environmental Standard for small-scale wind generation

In BRCT's view, local councils have demonstrated they are ill-equipped to deal with applications for wind developments. Despite the NPSREG having been in effect since 2011, very few district or regional councils have implemented NPSREG directives within district plans. Policy E, F and G of the NPSREG requires councils to incorporate specific provisions for renewable electricity, including provisions to assist in identifying areas suitable for renewable electricity generation. Few however have done so, and where they have, it has been after significant delays that offend NPSREG Policy H. Resource consent applications for wind generation are left to be made and assessed on a case-by-case basis with many recurring issues being raised in each instance.

For example, in the case of the Blueskin Turbine, matters such as bird-strike and noise required a significant amount of costly evidence despite the fact that both issues have been well-traversed nationally and internationally. In both areas, the effects are well

understood and are more than capable of being appropriately addressed through the imposition of conditions of consent.

In the case of noise, recent cases from the Environment Court have placed a higher threshold on wind farm operators than required by NZS 6808:2010 due to concerns about amenity. This is despite the fact that noise levels identified in the NZS are considered appropriate to avoid any adverse effects on health. This is another example where section 7 matters are prevailing over New Zealand's urgent need to increase the supply of renewable electricity.

A national environmental standard would normalise the rules applicable to small-scale, distributed wind generation and enable the establishment of such wind farms relatively quickly. In the currently regulatory context, BRCT believes that efforts to develop small-scale wind development will continue to fail due to the significant regulatory risks and relatively modest financial returns.

Compare hydro as an alternative to wind in meeting our country's targets and it quickly becomes obvious that we are missing a great opportunity of harvesting the low-hanging fruit. As a resource, water is under great demand from irrigators, conservationists and power generators. The Government's "swimmable rivers" initiative is further restricting water as a reliable resource for generation. Conversely, wind is everywhere and used by no one.

An NES would overcome these issues. BRCT is of the view that an NES could enable small-scale wind development as a permitted (or controlled) activity subject to compliance with certain standards such as:

a. turbine height;
b. distance to nearest residence;
c. compliance with NZS for noise;
d. Not being within an outstanding natural landscape identified within a regional policy statement or district plan, and;
e. maximum number of turbines.

If one or more of the standards was not complied with a restricted discretionary consent would be required with consideration limited to matter of non-compliance.

2.3 Way forward

Question 12.1 asks: "*Does decision making under the Resource Management Act 1991 unduly constrain investment in renewable electricity generation, particularly wind and hydro generation? In what ways could the National Policy Statement on Renewable Electricity Generation 2011 be strengthened to give clearer direction to regional, district and unitary councils to make provision for renewable electricity generation in their regional and district plans, regional policy statements and resource management decisions?*"

The answer to the first part of the question is undoubtedly 'yes'. We have provided two solutions to the impasse presented to small-scale renewable electricity generation projects in the sections above. And while it may be politically easier to tinker with the NPS itself, the response time for district and regional councils to give an updated NPS legal effect in local policies and plans is in our view unacceptable. New Zealand will fail to achieve its targets if the current inertia of the RMA process is not somehow circumvented. If we are to succeed, we must have a much faster legal response to climate change.

The existing regulatory environment presents a significant hurdle for the development of small-scale renewable electricity generation capacity. Small-scale projects have the potential to contribute significantly to increasing renewable electricity supply in New Zealand. They also have a number of other benefits, such as increasing resilience by distributing sources over a wider area and reducing demand on the national grid. Generating electricity closer to the demand creates efficiencies and reduces transmission losses.

There are a limited number of large-scale wind generation sites within New Zealand, which will necessitate the identification and development of smaller scale sites in order to increase supply and to develop an adequate base-load of generation. So far, New Zealand has not been able to deploy this resource. Failure to deploy this resource is likely due to a combination of investment cost and regulatory challenges.

The Blueskin Energy project development provided a clear example of the regulatory challenges. This submission recommends changes to the National Policy Statement for Renewable Electricity Generation and the promulgation of a National Environmental Standard for small-scale wind generation. In combination, these regulatory improvements will help overcome the challenges to nationally important small-scale

projects that will cumulatively contribute to existing and future targets to increase renewable electricity supply. It will be difficult to achieve a carbon zero economy without an amended NPS and an NES for small-scale wind energy generation.

3 Conclusion

We thank you for the opportunity to make a submission and to be heard. We value the improvements to community engagement through a more inclusive approach to consultation. Thank you for your attention to this submission.

Yours sincerely,

Scott Willis