



Productivity Commission

PO Box 8036
The Terrace
Wellington 6143

07/06/2018

Dear Sir / Madam,

Submission on Productivity Commission's Low Emissions Economy (Draft report)

This submission on the Productivity Commission's draft report on transitioning to a low emissions economy is made by Tilt Renewables Limited ("Tilt"). Tilt appreciates the opportunity to provide comment on the draft report and would be willing to provide any further information that would assist the Productivity Commission with its analysis.

By way of introduction, Tilt owns and operates seven wind farms across Australia and New Zealand and has over 16 years' experience in the consenting, construction and operation of renewable electricity generation infrastructure. The company has approximately 11% of the collective market share of installed wind generation capacity in Australia and New Zealand, with a total installed capacity of approximately 582 MW. Tilt's renewable electricity generation infrastructure in New Zealand includes the Tararua Wind Farm (161 MW) in the Manawatu and the Mahinerangi Wind Farm (36 MW)¹ in Otago.

Tilt also holds various resource consents for the establishment of the Kaiwera Downs Wind Farm (240 MW) in Southland and the Waverley Wind Farm (130 MW) in South Taranaki.

In light of the above, Tilt is able to provide its relevant experience and feedback on the following question in the draft report:

Q12.1 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?

Tilt considers that the Resource Management Act 1991 ("RMA") does place some undue constraints on investments in renewable electricity generation infrastructure in New Zealand. This is due to the imposition of uncertainty over the viability of consenting such infrastructure between sites and different local authorities, and due to many local authorities having a narrow focus on the local effects of infrastructure without also considering the national benefits that such infrastructure facilitates.

The lack of certainty over the viability of consenting renewable electricity generation infrastructure stems, in part,

¹ It is noted that the resource consent held for the Mahinerangi Wind Farm allows for a development with an installed capacity of up to 200 MW.

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from the National Policy Statement for Renewable Electricity Generation 2011 (“NPSREG”). Tilt considers that the NPSREG does not provide appropriate direction to local authorities with respect to the development and protection of renewable electricity generation infrastructure relative to the management of other natural and physical resources, particularly those managed by other national policy statements.

While the over-arching objective of the NPSREG seeks to provide for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, the policies that accompany this objective are ‘under-powered’ in terms of providing direction to the local authorities and decision-makers. In this regard, the policies focus on:

- Decision-makers shall recognise and provide for the benefits of renewable electricity generation (Policy A);
- Decision-makers shall have particular regard to the fact that meeting or exceeding the New Zealand Government’s national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities (Policy B); and
- Decision-makers shall have particular regard to locational constraints and technical practicalities (Policy C).
- While a requirement to have ‘particular regard’ imposes a reasonable test and creates a duty to be on inquiry, the direction in the NPSREG is much less directive than that which applies to the National Policy Statement on Electricity Transmission 2008 (“NPSET”). For example, it specifies that:
- Decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission (Policy 1);
- Decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network (Policy 2); and
- When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection (Policy 4).

Recognise and provide requires a matter to be given significant priority and not discounted as part of any balancing exercise. Tilt does not consider there is justification for the NPSREG and NPSET setting out different decision-making directives for infrastructure that is inter-related, critical to national electricity security and a low emissions economy.

In contrast to both the NPSREG and the NPSET, the New Zealand Coastal Policy Statement (“NZCPS”) provides very strongly directive policies that the Courts have recognised as being determinative when there are competing tensions between (and within) national policy statements². In particular, the policies in the NZCPS seek that adverse effects on areas of outstanding natural character / outstanding natural landscapes and on threatened or at-risk species be avoided (i.e. no adverse effects should not be allowed).³ Further, the NZCPS seeks that in all other circumstances that significant adverse effects on the natural character of the coastal environment shall be avoided.

This policy imbalance at national level manifests in regional and district planning documents that effectively fail to recognise the importance of the coastal environment or elevated rural environments (e.g. ridgelines and hilltops) for renewable electricity generation. This results in consenting frameworks that are either prohibitive towards

² *Environmental Defence Society v New Zealand King Salmon Company Limited*, NZSC 38.

³ Policies 11, 13 and 15 of the NZCPS

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renewable electricity generation infrastructure or create considerable investment uncertainty as to the potential consentability of suitable sites. Further, many statutory planning documents only seek to address 'typical' developments in rural environments (i.e. rural subdivision, processing plants, rural industries) and include objectives and policies focused on ensuring that potential adverse effects are internalised or 'minor'.

By way of a case study, the Proposed South Taranaki District Plan ("**Proposed Plan**")⁴ recognised the potential of the available wind resource along the coast in South Taranaki for renewable electricity generation activities (Policy 2.9.14). However, the Proposed Plan then went on to classify any wind farm within the coastal environment of the District as a non-complying activity – on the basis that there was a need for a rigorous assessment of any such proposal in such locations. Such an approach was considered flawed by Tilt given that non-complying activity classifications should generally be utilised for situations where it is intended that consents only be granted in exceptional circumstances (and because a discretionary activity classification would have still allowed for an assessment of all potential effects of a development).

The South Taranaki District Council justified the non-complying activity status for renewable electricity generation infrastructure on the basis that the activity is a discretionary activity outside of the coastal environment – which they also considered fulfilled their obligations to provide for the development of renewable electricity generation in accordance with the NPSREG. However, this approach ignored the fact that the locations in the District with a suitable wind resource were located along the coast (as acknowledged in the policies of the Proposed Plan). In effect, the Proposed Plan created a statutory planning framework that was more permissive towards the development of renewable electricity generation infrastructure in locations that did not have suitable wind resource.

This matter was eventually settled via appeals to the Proposed Plan by Tilt and Meridian Energy, whereby the Proposed Plan was amended to make renewable electricity generation activities a discretionary activity in the coastal environment outside of three outstanding natural character areas. However, this case study illustrates that the NPSREG is not being given sufficient weight or importance when it comes to strategic planning for activities in the coastal environment.

Similarly, the development of the Otago Regional Policy Statement ("**RPS**")⁵ has resulted in policy (4.3.4) that seeks to manage the potential adverse effects of infrastructure of national or regional significance.

In doing so, the RPS identifies that the preference should be to avoid locating such infrastructure in eight environments – including areas of significant indigenous vegetation in and outside of the coastal environment, outstanding natural character, outstanding natural features and areas containing historic heritage. The policy framework then sets out a hierarchal approach to the management of effects if development does need to occur in these environments because of a 'functional need'. However, the hierarchal approach focuses on avoiding adverse effects on the listed environments – making it effectively impossible for development that does have functional constraints to locate in areas where it may actually need to be located.

Recommendation

Tilt recognises that there will be locations where renewable electricity generation infrastructure will not be appropriate, and that there should be policy signals in the statutory planning documents in this regard. However, it is considered that the national policy instruments should seek to ensure that statutory planning documents actively provide for (or enable) investments in renewable electricity generation infrastructure in appropriate

⁴ The Waverley Wind Farm is located in the jurisdiction of the South Taranaki District Council.

⁵ The Mahinerangi Wind Farm is located in the jurisdiction of the Otago Regional Council.

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locations – which must include locations where the resource is located.

This could be achieved by the following:

- Redrafting the policies of the NPSREG so that they require decision-makers to recognise and provide for the development of renewable electricity generation infrastructure in the same manner as the NPSET;
- Related to the above, Policy A of the NPSREG should not just focus on recognising and providing for the benefits of renewable electricity generation infrastructure. It should seek to actually provide for the infrastructure itself;
- Policy B of the NPSREG should also require decision-makers to recognise and provide for the listed matters;
- There is a need for more guidance on the relative importance of renewable electricity generation infrastructure, and its locational constraints, compared to other matters of national importance under Part 2 of the RMA. This could be achieved by Policy C1 acknowledging that the need to locate the renewable electricity generation activity where the renewable energy resource is available may result it in being located in areas of importance for other values;
- Related to the above, the Government should clarify how its competing objectives for the sustainable management of natural and physical resources in the NPSREG, NPSET, NZCPS and the National Policy Statement on Freshwater Management 2011 are actually intended to relate to each other. This could be achieved by the addition of new text in the preamble to each national policy statement;
- Policy C2 should clarify that not all residual adverse effects need to be avoided, remedied, mitigated, offset or compensated; and
- By amending Policy H2 so that all local authorities are required to implement the NPSREG by initiating a plan change or variation within 12 months of the policy statement being updated. In this regard, it is Tilt's experience that a number of local authorities have still not updated their statutory planning documents to give effect to the NPSREG.

Please do not hesitate to contact the undersigned should you wish to discuss any aspect of the above submission further.

Regards,

A handwritten signature in black ink, appearing to read "Cara Layton", written over a light grey rectangular background.

Cara Layton

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