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SUBMISSION ON CONSENTING IMPROVEMENTS FOR RENEWABLE ELECTRICITY GENERATION AND TRANSMISSION

1. Introduction

Lawyers for Climate Action NZ Inc ('**LCANZI**') is a non-profit group of over 500 members and supporters, predominantly made up of lawyers and law students. We advocate for legislation and policies to ensure Aotearoa New Zealand meets or exceeds its commitment under the Paris Agreement to achieve net zero carbon emissions as soon as possible and no later than 2050. More information about us can be found on our website: <https://www.lawyersforclimateaction.nz/>.

LCANZI welcomes the opportunity to make submissions on consenting improvements for renewable electricity generation and transmission. [Link](#)

By way of introduction, following the release of the third Intergovernmental Panel on Climate Change (IPCC) on 4 April 2022, the UN Secretary-General said that:¹

"We are on a fast track to climate disaster. Major cities under water. Unprecedented heatwaves. Terrifying storms. Widespread water shortages. The extinction of a million species of plants and animals. This is not fiction or exaggeration. It is what science tells us will result from our current energy policies. We are on a pathway to global warming of more than double the 1.5°C limit agreed on in Paris. Some Government and business leaders are saying one thing, but doing another. Simply put, they are lying. And the results will be catastrophic. This is a climate emergency."

At COP27 on 8 November 2022, the UN Secretary-General followed this extraordinary statement by saying that: "We are on a highway to climate hell with our foot on the accelerator."²

The New Zealand Parliament declared a climate change emergency in December 2020. Similar declarations have been made in many other jurisdictions. Parliament's declaration includes recognition of: "the devastating impact that volatile and extreme weather will have on New Zealand and the wellbeing of New Zealanders, on our primary industries, water availability, and public health, through flooding, sea-level rise, and wildfire damage." Parliament's emergency declaration states that "climate change is one of the greatest challenges of our time" and that "New Zealand has committed to taking urgent action on greenhouse gas mitigation and climate change adaptation." Included in the declaration is a commitment to implement the policies required to meet the targets

¹ <https://www.un.org/sg/en/content/sg/statement/2022-04-04/secretary-generals-video-message-the-launch-of-the-third-ipcc-report-scroll-down-for-languages>

² <https://www.rnz.co.nz/news/world/478257/cop27-we-re-on-a-highway-to-climate-hell-un-boss>

in the Climate Change Response (Zero Carbon) Amendment Act 2019, and to increase support for striving towards 100 percent renewable electricity generation, low carbon energy, and transport systems.³

2. Overview of Proposals

LCANZI agrees that if New Zealand is to meet its emission reduction targets, this will require a rapid expansion of renewable electricity generation and transmission infrastructure, which is vital for Aotearoa New Zealand's shift to a low-emissions economy. LCANZI also agrees that New Zealand is fortunate to have access to significant renewable energy sources, but our current planning settings are not fit for purpose to meet the challenge faced.

LCANZI broadly supports the Ministry of Business, Innovation and Employment (MBIE) and the Ministry for the Environment (MfE) proposals for changes to strengthen national direction on renewable electricity generation (REG) and electricity transmission (ET) as the most effective way to improve consenting under the Resource Management Act 1991 (RMA). [Link](#)

LCANZI understands that the main objectives of the proposals are to: (1) Provide a more enabling policy direction for renewable electricity generation and electricity transmission projects to significantly increase generation output to support New Zealand's emissions reduction targets and renewable electricity goals; (2) Better manage competing interests with other Part 2 RMA matters through nationally consistent consenting pathways; and (3) Provide for Māori interests and incorporating the principles of te Tiriti o Waitangi. [Link](#)

3. Amendments to the NPS-REG

LCANZI broadly supports the proposals for recognising and providing for the national significance of renewable electricity generation by providing stronger and more directive policy on the important role of renewable electricity generation activities in meeting emissions reduction targets and helping to address climate change. This will be implemented by making sure planning decisions give greater weight to the national significance and benefits of these activities and clarifying the meaning of 'operational need' and 'functional need' in relation to the location of these activities.

LCANZI also broadly supports the preferred option regarding proposals for enabling renewable electricity generation activities in areas with significant environment values, by providing three options for addressing current issues. The preferred option is for new consenting pathways ("gateway tests" and effects management approaches) to enable renewable electricity generation activities in areas with significant environment values when their benefits outweigh residual remaining adverse effects. The preferred option will provide a single consenting pathway that acts as a 'one stop shop' for the consideration of projects where they are proposed to be located in areas with significant environment values.

The proposals for enabling renewable electricity generation activities in other areas, including providing new direction on enabling these activities where there are potential adverse effects on local amenity values, is broadly supported by LCANZI so long as effects are avoided, remedied or mitigated to the extent practicable. LCANZI supports the requirement that effects on local amenity must be positive, have wider benefits, are not in and of themselves an adverse effect and must be considered in light of the national standards for wind farm noise (NZE 6808:2010).

LCANZI broadly supports the proposals for recognising and providing for Māori interests by introducing new policy direction on early, meaningful engagement, protection of sites of significance, and enabling small and community scale renewable electricity generation activities to support tangata whenua aspirations.

LCANZI also broadly supports the proposals for strengthening direction on existing wind and solar renewable electricity generation by providing more direction on recognising the importance of maintaining existing generation output, the efficiencies of upgrading existing renewable electricity generation activities (including through repowering), and the environmental benefits of increasing the capacity and output of existing activities.

³ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20201202_20201202_08

LCANZI broadly supports the proposals to retain existing direction in relation to consenting existing hydro and investigating further options under the National Planning Framework.

LCANZI broadly supports the proposals for enabling small and community scale generation by strengthening existing direction so it is more enabling of these activities, to recognise and provide for the significant cumulative contribution of these activities in meeting emissions reduction targets, and recognising and providing for the local benefits of these activities.

The new definition of small and community scale renewable electricity generation activities is supported. LCANZI also broadly supports the option to define this based on the activity's primary purpose or based on the activity's generation capacity.

On battery storage, LCANZI broadly supports the option to broaden the scope of the NPS-REG to apply to grid/distribution connected battery storage and better recognise the national significance of these activities.

On consent lapse periods, LCANZI broadly supports applying pro-competitive considerations when decision-makers determine an appropriate lapse date for consents for renewable generation (effectively "use it or lose it" conditions).

4. Amendments to the NPS-ET

LCANZI broadly supports recognising and providing for the national significance of electricity transmission by providing stronger and more directive policy on the national significance of the electricity transmission network. LCANZI notes that this would include more specific recognition of technical, operational and functional needs, better reflecting the activities and infrastructure that form part of the operation of these activities (including access tracks associated with routine maintenance), greater recognition of national, regional and local benefits and requiring decision-makers to recognise linkages with the NPS-REG and the role of the network to support a timely and significant increase in renewable electricity generation capacity.

LCANZI broadly supports managing the environmental effects of electricity transmission by enabling minor activities without restriction provided adverse effects are avoided or mitigated where practicable, and to enable these to occur in a timely and efficient way. Including the new definition of minor electricity transmission network activities in the NPS-ET is supported.

Options for providing clearer consenting pathways for development of the electricity transmission network and 'more than minor upgrades' in different environments are supported. The preferred option, to enable these to be located in areas with 'significant environmental values' if the benefits of the activity outweigh its adverse effects and provided there are no significant residual adverse effects, is supported.

Broadening the scope of the NPS-ET to apply to all high-voltage electricity networks (not just those owned or operated by Transpower) is supported.

5. National environmental standard proposals

LCANZI broadly supports nationally consistent standards for infrastructure being developed for the National Planning Framework. LCANZI agrees that developing standards is complex and it requires a different, and more lengthy, regulatory process. LCANZI supports the Government determining how to sequence and progress proposals for new or amended NESs in the most effective and efficient way. LCANZI believes this must first be through the current RMA.

6. Amendments to the NES-ETA

Improving the workability and scope of the NES-ETA, through updated definitions, rules and conditions, is supported by LCANZI. It is agreed that this could be achieved through enabling activities with mainly visual effects, aligning the regulations with updated standards and definitions, and proposing other minor alterations to definitions to improve workability of the regulations.

7. Developing a new NES-REG

LCANZI broadly supports the proposal for a new National Environmental Standard for Renewable Electricity Generation while still enabling councils to set more permissive rules and standards for these activities.

Enabling the upgrade and repowering of existing wind and solar generation by developing national standards for upgrading and repowering existing onshore wind and solar is supported. It is noted that this would specifically provide for minor, intermediate and major upgrades and repowering activities. Subject to standards, minor upgrades would be permitted activities, intermediate upgrades would be controlled activities and major upgrades and repowering would be restricted discretionary.

Developing new national standards for small and community scale onshore wind and solar PV generation projects to improve national consistency in the management of these activities is supported. It is noted that the proposals include permitted activity standards for roof-mounted and freestanding wind turbines and solar photo-voltaic (PV) panels, with a controlled or restricted discretionary activity status where the standards are not met. It would also provide, subject to standards, a controlled activity status for community scale renewable electricity generation activities, with a restricted discretionary activity status where the controlled standards are not met. LCANZI agree that some general standards be developed to apply to all of these activities.

Nationally consistent rules for new large-scale wind and solar PV generation are supported. The option for the NES to include a nationally consistent activity status (e.g. restricted discretionary) to address current inconsistencies at a regional level is also supported.

8. Conclusions

LCANZI agrees that if New Zealand is to meet its emission reduction targets, this will require a rapid expansion of renewable electricity generation and transmission infrastructure, which is vital for Aotearoa New Zealand's shift to a low-emissions economy. As a consequence, LCANZI supports the proposals for changes to strengthen national direction on renewable electricity generation and electricity transmission.



Dr Grant Hewison
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LCANZI