

23 May 2016

Blueskin Energy Limited
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Dear Sir/Madam

APPLICANTS RIGHT OF REPLY - HEARING PANEL GUIDANCE - LUC-2015-469

Following the adjournment of the hearing for the above application I have considered the information gaps and matters of contention in relation to the evidence and submissions I have received. I consider that the time requested by the applicant to prepare a written right of reply and to deliver the right of reply in public is appropriate given the scale and significance of this application.

While it is the applicant's prerogative to determine the matters it will respond to in the right of reply, I encourage the applicant to respond to the following matters:

Groundwater

Concerns were raised by submitters about the potential impact on springs that are an important water source for farming and residential use. The potential impacts on groundwater from earthworks were identified by Mr Sycamore in his review as not being adequately covered in the evidence and submissions. Please respond to this area of concern.

Turbine Colour

The applicant indicates the colour to be used for the turbines is RAL7035, which is a light grey colour. Civil Aviation has indicated that an off-white colour is acceptable to them. Please confirm the colour selected and advise whether this colour will meet with civil aviation requirements.

Reverse Sensitivity Effects

The potential impacts of the wind farm on the farming practices of the subject site and neighbouring sites does not appear to be a significant concern but potential restrictions on fixed wing and helicopter application of fertiliser was identified as a potential issue. The Civil Aviation Regulations regarding separation distances from turbines have not been clarified at this point. I would welcome a response from the applicant on this matter.

Ecological Effects

The evidence from Dr Craig on the significance of potential ecological effects diverges significantly from the expert evidence from Dr McClellan and the submissions from Mr Onley. They suggest that there is insufficient information for Dr Craig to form a view that the effects are negligible. They consider the ecological information provided with the application is inadequate and it is not possible to form a view that the effects are minor without more research. The applicant may wish to respond to the divergence in views of the experts and consider whether conditions can be imposed that will address the concerns they have raised.

Noise Effects

Questions were posed in the legal submissions from Ms Price in relation to the noise assessment from Mr Chiles. The applicant is encouraged to respond to these matters in the right of reply.

I received advice that *NZS-6808-2010-Acoustics-Wind farm noise* is the appropriate measurement and assessment standard and that compliance with this standard will be achieved, even if this requires a reduction in turbine output. Despite this, the turbines will be clearly audible at times and some parties have argued that this will result in a reduction in amenity values for those neighbours living and working close to the turbines. The applicant may wish to respond to concerns that even if it meets the requirements of the standard noise from the turbines will result in a deterioration in rural amenity values.

The Significance of Adverse Effects of Rural Amenity Values and Mitigation Options

Mr Farrell considered that the adverse effects on amenity values for neighbours were more than minor but that the effects were not significant. He also considered that the proposal met the objectives and policies limb of the Section 104D test. After balancing all the relevant considerations he concluded that the proposal should be approved.

Mr Sycamore was persuaded through the evidence and submissions at the hearing that the effects on residents were significant and that the effects were not able to be adequately mitigated. This resulted in a change in his position from that outlined in the Section 42A report. As this is a critical matter for determining the application I would welcome a response from the applicant on the significance of effects on amenity values and the potential mitigation options.

Road Access

Submissions were received that the formed part of Porteous Road was not entirely located within legal road. As a result, the proposal to widen the road to allow large trucks to deliver the turbines would not be possible as adjoining landowners would not provide their approval to any works on their land. The applicant is encouraged to cover off this issue in the right of reply.

Decommissioning Bond

Concerns were raised that if consent was granted and the turbines established that the costs of removing the structure would be significant. It was suggested that a condition requiring the removal of the turbines may not be sufficient in the event of a financial failure and that a bond should be required for decommissioning purposes. Please respond to this issue.

Other Information Gaps

There are also a range of other matters where the level of information provided by the applicant was questioned by the submitters. Shadow flicker effects, confirmation of the turbine locations and distance to dwellings are examples. The applicant may want to respond to these matters and clarify any additional area of uncertainty.

Applicants Proposed Suite of Conditions

If consent is to be granted conditions will be required to ensure effects are appropriately managed. The applicant may want to provide a suite of consent conditions for my consideration.

Legal advice and Process

I have sought legal advice on matters such as the weighting to be given to the proposed plan objectives and policies and the application of landscape objectives and policies in the operative plan. This advice will be made available to all parties when it is received. I have also sought advice on the material provided to me in confidence by the applicant that I have not yet opened.

As discussed at the hearing the intention is that the hearing will be reconvened on 9 June 2016 to hear the right of reply. I would request that the written right of reply be provided to me by midday on the 8 June 2016 to allow me time to consider the response and identify any matters that I would like to clarify through questions.

Yours faithfully



Colin Weatherall
COMMISSIONER