

B E BRILL

Barry E Brill OBE, JP, LL.M, M.Com Law, OPM(Harv)
Barrister & Solicitor

PO Box 399
Paihia 0247
NEW ZEALAND

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The Secretary for the Environment
PO Box 10152
Wellington 6143

By email: secretary@mfe.govt.nz

Dear Ms Robertson

Complaint Concerning Political Bias

I act for Robin Grieve of Whangarei, who wishes to lodge a formal complaint arising from the document “*Our Climate Your Say: Consultation on the Zero Carbon Bill*” ([link](#)) (Consultation Document) published by the Ministry for the Environment in May of last year.

Mr Grieve points out that climate change – its science, effects, economics or policy – is amongst the most controversial and partisan issues in contemporary political debate, worldwide. Within New Zealand, whilst there is a certain consensus, sharp policy and other divisions separate the Green Party (for example) from parties on the centre-right.

In 2011, a Parliamentary Select Committee studying climate change economics and policy reported back to the House with no less than *five* separate minority reports, all along Party lines. Following at least three recent elections, including 2017, climate change policy has featured in inter-party Confidence and Supply Agreements.

It follows that leaders within the public service must take great care to ensure their agencies and staff do not take sides, or give an appearance of being more sympathetic to one viewpoint over another. There should always be a very clear divide between the evidence-based objectivity of departmental advisers and the conviction-based advocacy of partisan politicians.

In a letter to Chief Executives dated [18 February 2019](#), the State Services Commissioner, Peter Hughes, emphasised that “political neutrality is a bedrock principle which cannot be compromised for any other purpose”. He elaborated as follows:

Political neutrality is central to a Public Service that is always fit to serve the Government of the day and any subsequent governments. Providing a continuity of expert advice, experienced practice and strong public services matters. It is enshrined in the State Sector Act 1988, which states that the Public Service has a duty to “promote and uphold a State sector system that maintains political neutrality”. Political neutrality is also a key element of the impartiality requirement of the Code of Conduct and its importance is emphasised in the Cabinet Manual at [3.10], [3.22] and [3.57] to [3.64].

The principle of political neutrality is about state servants doing their jobs professionally and without favouring, or creating the impression of favouring, one political party or one point of view over another. Perception can be just as damaging to public trust and confidence as reality.”

Missing evidence

Mr Grieve has raised a number of concerns in correspondence with the Ministry over the course of 2018.

By emailed letter dated 29 June 2018, Mr Grieve requested “any official NZ weather or climate records or other official reports relied upon to make [listed] statements” in the Consultation Document.

In an undated reply, the Ministry stated that it was partially refusing his request under s 18(d) of the Official Information Act (OIA) “on the basis that the information is publicly available”, and attached an Appendix which allegedly showed where the requested information might be accessed. However, the Appendix made no reference at all to any official New Zealand weather or climate records that were relied upon to make any of the following listed statements.

- *Each year, NZ is seeing more and more extreme weather events;*
- *More recently, NZ has suffered more frequent and severe weather events (flooding droughts and wildfires);*
- *The frequency and the severity of storms, coastal and river flooding, droughts and wildfires are increasing;*

Relevant records of this genre were obviously at the core of Mr Grieve’s request, but they were neither provided nor referenced by the Ministry. It is apparent that the statements were subjective and unresearched.

In relation to the attribution of warming during 1900-50, the Appendix provided by the Ministry referred to a section of the Summary for Policymakers (SPM) of the Synthesis Report relating to the Fifth Assessment (AR5) of the UN’s Inter-Governmental Panel on Climate Change (IPCC). It also refers to two sections within Chapter 2 of Working Group 1 (WG1) of the AR5.

However, none of those three sections addresses the causation of the 1°C of warming that has occurred since 1900. If anything, they strongly suggest, that the warming of 0.5°C that occurred during 1900-1950 prior to 1951 could **not** be attributed to greenhouse gases.

Mr Grieve also requested the hard evidence (if any) relied upon for the following statements in the Consultation Document:

- *The Zero Carbon proposal will “create jobs”;*
- *The proposal will “upgrade our economy” so we will “be better paid”;*
- *The proposal will “make New Zealanders better off while reducing emissions”;*

- *“Countries like us make up around 30% of total emissions”;*
- *“NZ’s per capita emissions are high compared with similar economies in OECD countries”;*
- *“In recent years, increased emissions have caused the global climate to change rapidly”.*

All of the nine assertions italicised above are subjective opinions published by the Ministry without any statistical back-up or objective evidence of any kind. On the contrary, most of them run directly counter to evidence gathered by my client. Their appearance in an official document can only be explained as the product of bias.

Consultation prejudiced

The Consultation Document was issued by the Ministry pursuant its function under s 31(e) of The Environment Act 1986: *“to provide and disseminate information [as a] mechanism for promoting effective public participation in environmental planning”.*

Mr Grieve is of opinion that much of the material put forward as being factual in the Consultation Document is incapable of being verified. Not even one of his nine requests was fruitful and he believes his formal requests are only a sampling of the questionable ‘facts’ in the paper.

As the Acting Director, Climate Change, points out in her letter to him, the requests *“relate to primary evidence used to inform policy”*. It is obviously a very serious matter if that ‘primary evidence’ turns out to be mere speculation or unfounded assumption.

It is also entirely inappropriate that anecdotal, subjective or slanted information be included in an official document that is prepared for the very purpose of conveying factual information/issues to the New Zealand public, so that they (the public) are empowered to respond with informed views. Those aspects of the document that comprise opinion and argument should canvass both sides of each issue; any statements that are represented to be facts ought to be verifiable.

An advocacy document posing as an objective fact-sheet poisons the entire consultation process. Members of the public are confounded by non-facts and one-sided arguments to the point that they are dissuaded from participation. Special interest groups (in this case, environmental lobbies) join in the group-think with enhanced energy and dominate the process. In this echo-chamber atmosphere, thoughtful contributions from non-political sources are unlikely to be offered.

Unbalanced Publication

In its normal meaning, the word “information” in s 31(e) refers to facts rather than conjecture or opinion. The word necessarily carries an implication of accuracy and objectivity, as misleading or subjective statements would not “inform” and would obviously be counter-productive in promoting *effective* participation.

In preparing the Consultation Document on the Zero Carbon Bill proposal, section 32 of the Environment Act required all Ministry staff to have regard to s 17(f) and (g), namely:

- *all reasonably foreseeable effects of any such proposal on the environment, whether adverse or beneficial, short term or long term, direct or indirect, or cumulative;*
- *alternative means or methods of implementing or providing for any such proposal, policy, or matter in all or any of its aspects.*

If it were not self-evident, the wording “whether adverse or beneficial” clearly requires the Ministry to consider the cons as well as the pros of any proposal. The Act promotes balance, and does not contemplate a Ministry which promotes favoured political outcomes or takes sides on partisan issues.

It should go without saying that Environment Ministry staff would remain neutral at all times, without regard to the party affiliation of the Minister of the day. This expectation is reflected in s 1A of the State Sector Act 1988, the express purpose of which is to promote and uphold a State Sector system that “maintains political neutrality” as well as being “driven by a culture of excellence and efficiency” and “imbued with the spirit of service to the community”.

Both of these concerns are then *expressly* addressed in the subsequent Environmental Reporting Act 2015, which requires all reports to be “fair and accurate” (s 16), and imposes on the Secretary an unequivocal duty to act independently of any Minister of the Crown (s 15).

The public rightly expect that any Ministerial-level discussion paper will relay only objective facts and will present both sides of a proposal in a reasonably fair and balanced manner. Mr Grieve says that this Consultation Document failed dismally to meet any of those expectations, in that:

- a. The key reasons that were presented for the proposed “zero” target were deteriorating weather, greater prosperity, and global influence (see above). No evidence seems to be available for any of the ‘facts’ used to support these three arguments. If requested, Mr Grieve is able to point to authoritative data that suggests the opposite is true in all three cases.
- b. The Zero Carbon Bill apparently hopes to bind future Parliaments. The paper does not discuss the key constitutional issues. It supports the year 2050 with the misleading claim¹ that the Paris Agreement envisages “net zero emissions *by* the second half of the century”.
- c. The objective was to obtain feedback on four questions (p35) (which did not allow any option to prefer an alternative target or method), but most of the document was unrelated to the questions and instead promoted a case for more aggressive investment in the suppression of emissions. Rather than being politically neutral, it was heavily slanted to the 2050 option promoted by the Minister (Green Party) and included in the formal CSA signed by the Green and Labour Parties.

¹ Executive Summary, fourth paragraph (p12). In reality, the Paris Agreement final deadline is the *end* of the century. (See first bullet, p16.)

- d. Numerous one-sided arguments are used, eg methane is blamed for 43% of all emissions². There is no mention of beneficial aspects of CO2 or warming³ and no intelligible cost-benefit analysis.
- e. None of the alleged co-benefits in Table 3 are dependent upon *any* emissions target, let alone zero. The regressive results of the NZIER modelling are heavily fudged, as has been shown by independent economists [here](#) and [here](#).

Mr Grieve initially sought an Ombudsman investigation of these matters some months ago, but now accepts that his concerns ought to be put to you directly, so as to allow you the opportunity to rebut or counter any of the charges set out in this letter.

Yours faithfully

Barry Brill

Solicitor



² P17. The paper was issued *after* the Ministry was aware of Allen et al ([2018](#)) which shows the MfE methane measurements to be “misrepresentations” and over-stated by a factor of five.

³ Global ‘greening’, fewer frost-days, longer growing seasons, reduced winter deaths, etc