



Proposed National Policy Statement for Renewable Electricity Generation

SUBMISSION FROM NELSON CITY COUNCIL

To: Ministry for the Environment
PO Box 10362
The Terrace
Wellington 6143

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This submission is made by Nelson City Council

Address for Service:

Postal: Nelson City Council
Environmental Policy
PO Box 645
Nelson 7040
Attn: Manager Environmental Policy

Email: martin.workman@ncc.govt.nz

Fax: 03 546 0239

Contact Person: Martin Workman, Manager Environmental Policy

Direct Phone: 03 546 0431

Appearances: Nelson City Council does wish to appear to present its submission.

Signed

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Chair Environment Committee

Date:/...../.....

1 Introduction

- 1.1 Nelson City Council believes the proposed National Policy Statement (NPS) does not, in its present form, provide the necessary policy direction as to the matter of national significance beyond that provided by s7 (j) of the Resource Management Act 1991 (the Act).
- 1.2 The Policy needs a fundamental rethink and reworking if it is to assist in promoting the sustainable management of natural and physical resources. In its present form it is uncertain in its application, and will create significant additional work for Councils and affected parties that are not justified given the provisions of section 7 (j) of the Act. The Policy will fail to better provide for renewable electricity generation proposals and their benefits, and it will not provide an appropriate balance to the need to address adverse effects from such renewable electricity proposals.
- 1.3 Nelson City Council supports the use of a resource management instrument such as a NPS to give effect to the 'New Zealand Energy Strategy to 2050' and the Government's target to increase the proportion of electricity generated from renewable sources to 90 per cent by 2025.
- 1.4 Nelson has no electricity production facilities within its region. It is distant from the existing sources of electricity generation and is at the end of a long supply line. This distance from electricity generation sources creates two issues for the region:
 - a) It makes the region vulnerable to power security issues.
 - b) It creates inefficiencies in the transmission of electricity as there is significant loss of energy between the source of electricity generation and its use.
- 1.5 Local sources of electricity would improve the city's resilience. Having an ability to generate the region's energy needs, at least in part at a local level, would also help Nelson's essential services, residents and businesses avoid the impacts of increasing electricity costs and disruption to supply.
- 1.6 Nelson's focus is on solar energy, to take advantage of its high sunshine hours. The Council is:
 - a) Promoting the uptake of solar energy through initiatives for home owners, and
 - b) Working with a cluster of sustainable energy businesses to reduce the capital costs of installing solar water heating, and to develop a strong local market for solar energy.
- 1.7 The Council submits that the effectiveness of the NPS is weakened because it embraces all scales of renewable electricity projects; it sweeps up all proposals from micro-scale single household projects to large scale projects. In this regard it is poorly targeted. The matter of national importance to be addressed by the NPS is

inferred as significant projects that will make meaningful contributions towards the objectives and targets of the ‘New Zealand Energy Strategy to 2050’.

- 1.8 The Board of Inquiry could usefully consider whether the focus of the NPS could be improved by including a threshold of scale or significance that would warrant the interventions that are necessary in resource management plans to give effect to the NPS.

2 NPS Policy 1

- 2.1 Policy 1 of the NPS requires ‘particular regard’ to be had to the national, regional and local benefits relevant to renewable electricity generation activities. It goes on to specify two primary benefits that **may** arise: (*emphasis added*)
 - a) Maintaining or increasing electricity generation capacity, and
 - b) Maintaining or increasing security of supply
- 2.2 Unhelpfully Policy 1 also states that the benefits of renewable energy generation activities are wider, but are unspecified through the use of the phrase “These benefits may include, but are not limited to...”
- 2.3 The Policy attempts to provide direction and specificity as is to be expected in an NPS but is rendered less helpful by its own language.
- 2.4 In assessing how best, in a resource management framework to provide for the needs of, and to promote, renewable electricity generation, maintenance, upgrading and operation so that the benefits from those activities may be realised, the Council is drawn to consider the relationship between the proposed policy and section 7 (j) of the Act. In developing resource management instruments it is necessary to ask how best to provide the necessary focus and statutory weight to providing for the needs of renewable electricity in this case. The Council is uncertain that the NPS is the more effective mechanism.

Section 7 of the Act:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

- (j) the benefits to be derived from the use and development of renewable energy.*
- 2.5 In assessing the relative merits of where to provide for a focus on renewable energy, the Council begins by positioning the proposal within the hierarchy of the Act. The Act has one purpose: sustainable management. That purpose is directly linked to matters at different levels of significance in sections 6-7, that all persons exercising functions and powers under the Act must observe in order to achieve sustainable management of resources. There is a direct link between section 5 and sections 6-8, which specify matters that come to bear in all decisions under the Act. Part 2 is the cornerstone of all decisions under the Act; its provisions, with appropriate specificity, cannot be set aside, cannot be reworked through a submission process,

and are less likely to be rendered uncertain or weak in application through negotiation.

- 2.6 The Act is also supported by NPS's under section 45 where they must "*state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act*". A district plan must give effect to an NPS. To do so, it requires a process of plan making that is not wholly under the control of the plan maker. Here there is an indirect and uncertain link between the purpose of the Act and Part 2 and the policy interventions and regulatory instruments that will be necessary to provide for the sustainable management of renewable electricity resources in order to give effect to the NPS.
- 2.7 The Council submits that what may survive a plan change process across all Councils in New Zealand may be less on the point of the NPS than a sharp focus on a section 7 matter that is brought to bear on plan making processes as well as in consent processes under section 104. The policy intervention proposition, as well as the matter to which particular regard must be had in a consent decision, sits in sharp focus in Part 2 of the RMA. That is quite different to the proposition of an NPS policy being translated into the district plan. This is quite indirect and quite uncertain as it requires wordsmithing as well as testing in a public submission round as part of a plan change/variation before it can be brought to bear on a consent.
- 2.8 The Council is of the view that it would be more efficient to include these matters in Part 2 of the Act rather than relying on a National Policy Statement.

3 Policy 2

- 3.1 Nelson City Council accepts the aim of this Policy, which is to pave the way for renewable electricity generation to be established in a broader range of sites, while acknowledging the constraints on where these structures can occur in order to be effective and the subsequent issues that may arise from adverse effects. However, Council is unable to support this Policy as it creates significant ambiguity in relation to Part 2 considerations.
- 3.2 As worded this Policy invites the consent authority to consider, but then set aside, the constraints of section 5(c) of the Act. The implication is that sustainable management in relation to renewable energy projects will allow less emphasis to be placed on avoiding, remedying, or mitigating any adverse effects of activities on the environment.
- 3.3 However, decision makers are further guided by section 6 matters which they must recognise and provide for. By only requiring consent authorities to have 'particular regard' to constraints on the value of renewable energy sources, renewable electricity generation is perhaps afforded less importance than outstanding landscapes (listed as nationally important in section 6 of the Act), and equal importance to other section 7 matters, such as the maintenance and enhancement of amenity values, intrinsic values of ecosystems, and maintenance and enhancement of the quality of the environment.
- 3.4 The NPS does not provide more weight to renewable electricity generation activities than those other section 7 matters because the term 'particular regard' is

applied to all such matters. If the Government wishes Councils to distinguish renewable electricity generation as a matter of national significance and to give more weight to renewable electricity generation activities, it needs to construct a NPS that is more directive and certain.

- 3.5 A difficulty the Council has in submitting for the use of Part 2 and a more specifically worded section 7 (j) is that there is an underlying uncertainty in the relationship and application of Part 2 matters in a consent application. On the one hand it is problematic for Part 2 to be used to “pick national winners” for specific treatment or consideration through statutory amendments (the case could equally be made for aquaculture, versatile soils, wild and scenic rivers for example), on the other hand the legislation is drafted to provide for protection of section 6 matters now. The language and subject matter focus of section 6 is quite different to the subject matter focus and language of section 7.
- 3.6 A further issue for the Council is whether within Part 2 a section 6 matter can be used to trump section 7 matters in a consent (or vice versa?). Will the protection of outstanding landscapes or the protection of areas of significant indigenous vegetation raise the bar for consenting such that it may act against a renewable electricity generation proposal? If a purpose of the NPS is to reduce the consenting uncertainties for renewable electricity generation then the Council holds the view that Policy 2 will not assist.
- 3.7 Further, the Proposed NPS will not assist in those circumstances when a proposal for renewable electricity generation (and supported by a NPS that acknowledges the matter as being of national importance) is tested against the policy of a district plan that has been crafted by a local community to reflect its issues, its resource management priorities and its natural resource circumstances. There will still be a clash potentially of local benefits and priorities against national benefits and priorities. Local policy expressions relating to landscape, amenity, quality of the environment and ecosystems may well have a strength not afforded to local implementation of Policy 1 and Policy 2 of the proposed NPS if the NPS is given effect to through amendments to district plans.
- 3.8 The Council does not see the NPS as proposed assisting in the resolution of these tensions. The key factor here is that the NPS does not stand on its own; it is not master of its own consequence because the policies addressing the matter of national importance are subject to the statutory process within the First Schedule of local definition and evaluation through a public process.
- 3.9 The place of renewable electricity generation within the resource management framework will only change within the statutory landscape if this matter of national importance is clearly articulated in Part 2, or if the NPS stands alone and does not require local definition and articulation.

4 Policy 3

- 4.1 The Council supports this policy as it acknowledges that different technologies have a different nature and scale of effect to which consent authorities must have particular regard. Clearly the issue of reversibility is quite different for a dammed wild river where the eco-system is irreversibly altered, compared to wind farm structures or photovoltaic solar cells constructed on pastoral land. However, although it may have been the intention to link this Policy back to section 6 matters, this is not articulated in the Policy. This is further complicated where district plans remain incomplete, with recognition of matters of national significance (section 6(b) in particular) not provided for as the identification process is yet to be advanced by councils.

5 Policies 4 and 5

- 5.1 Nelson City Council supports the intent of the policies to introduce time bound performance in giving effect to the NPS. As a matter of national importance it is not sound for NZ Inc to rely on the priorities of Councils to implement the NPS.
- 5.2 However, it would be more efficient for the Government to specify the wording for these actual policies that each local authority must adopt. Requiring all local authorities to come up with their own wording is inefficient. Locally developed wording would be prone to further variation through amendments requested through the consultation process.
- 5.3 Development of wording at a centralised level would also avoid the need for the Ministry for the Environment, and renewable energy companies or others in the energy sector, spending time reviewing each plan change and making submissions on each local authority's plans to ensure they achieved the purpose intended by the NPS.
- 5.4 Another way to achieve some degree of centralised efficiency could be to provide 'acceptable wording' guidance alongside the NPS which Councils could choose whether or not to adopt.

6 Conclusion

- 6.1 Nelson City Council endorses the role of a NPS to reinforce the importance of renewable electricity generation within the resource management setting, but would like the Board of Inquiry to consider how that intent might be achieved more efficiently.
- 6.2 The Board is invited to consider whether the NPS should have a threshold test of significance or some criteria that has the NPS focussing only on large scale proposals.
- 6.3 The Council is uncertain that the NPS as proposed will be an effective means by which renewable electricity generation will be enabled.