

**RESOURCE MANAGEMENT ACT 1991
SECTION 49 SUBMISSION ON A PROPOSAL FOR A
NATIONAL POLICY STATEMENT**

21 Pitt Street, Auckland Central
Private Bag 92 012
Auckland 1010 New Zealand
DX CP 28 088 Pitt St
Telephone +64 9 366 2000
Facsimile +64 9 366 2155
www.arc.govt.nz

TO: Board of Inquiry
c/o Ministry for the Environment
PO Box 10 362
WELLINGTON 6143

FROM: Auckland Regional Council
Private Bag 92 012
AUCKLAND 1010

1 The Auckland Regional Council (ARC) makes this submission in conditional support to the proposed National Policy Statement for Renewable Electricity Generation

2 The particular parts of the proposed National Policy Statement that this submission relates to are:

2.1 The entire National Policy Statement for Renewable Electricity Generation (NPS).

3 The reasons for the ARC's submission are:

3.1 Introduction

3.1.1 The Resource Management Act 1991 ("the Act") states that the purpose of a National Policy Statement is to "state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act"¹. Therefore, a National Policy Statement will identify the matter of national significance, its relevance to Part 2 matters and how it will achieve the purpose of the Act. A National Policy Statement should not be a de facto amendment of the Act's purpose nor should it undermine the directions in sections 6, 7 and 8 as to the Act's purpose.

3.1.2 The ARC considers that the Preamble accurately describes the issues arising in respect of renewable electricity generation, in particular the balance to be achieved between increasing renewable electricity generation capacity while giving effect to sections 5, 6, 7 and 8 of the Act. The ARC also supports the clearly stated and measurable objective. However, the policies that follow do not respect or defer to the balancing exercise referred to in the Preamble and supported by the Objective.

3.1.3 The ARC supports the provision of greater policy direction on renewable electricity generation. The ARC is generally supportive

¹ Section 45(1)

of the proposed NPS, particularly as it attempts to provide a clear approach for planning authorities to respond to Central Government's target to achieve 90 per cent renewable electricity generation by 2025, as set out in the New Zealand Energy Strategy.

- 3.1.4 Responding to climate change and addressing unsustainable resource use are two of the principal environmental sustainability challenges facing the Auckland region, as identified in the Auckland Sustainability Framework (ASF). The ASF has been developed by all of the region's councils, in partnership with central government agencies, mana whenua, academic institutions, business interests and the community. The ASF has a 100 year vision and is designed to align short-term investment and action with long-term social, economic, environmental and cultural outcomes.
- 3.1.5 The operative Auckland Regional Policy Statement (ARPS) and proposed Change 6 to the ARPS, directly address issues surrounding infrastructure provision, including renewable electricity generation. In general, the ARPS seeks to enable the provision of new regionally significant infrastructure while ensuring that any adverse effects on the environment are avoided, remedied or mitigated. The ARPS clearly favours a shift towards renewable electricity generation and it is important that the NPS facilitates the potential development and contribution of these generation sources in the future.
- 3.1.6 The ARC considers that security of electricity supply is particularly important to the growth and development of the Auckland region. The security of electricity supply may be negatively affected by events such as a rise in the price of fuels, natural disasters such as floods, human error, failure of the national grid, geopolitical or industrial disruptions such as oil shocks, industrial disputes, market or regulatory failure or depletion/shortage of resources. The ARC supports the argument that by diversifying the type and/or location of electricity generation, the impact of such events may be lessened or avoided in the future.
- 3.1.7 However, the ARC considers that the NPS elevates renewable electricity generation activities to a status that undermines the broad sustainable management purpose of the Act. In particular, the NPS does not enable a balanced assessment of positive effects (or benefits), adverse effects and relevant matters under Part 2. To the contrary, it encourages tolerance or acceptance of adverse effects generated by renewable electricity generation activities. The NPS should identify matters that are relevant to achieving the purpose of the Act, not exclude consideration of matters that are relevant to achieving the purpose of the Act.

3.1.8 In summary, the ARC considers the key issues to be:

- Achieving the purpose of the Act and the weighing of environmental effects;
- Ensuring the policies respect the Preamble and Objective
- Recognising small and community-scale renewable electricity generation activities;
- Considering economic benefits where there are adverse environmental effects;
- Implementing the NPS.

3.2 Achieving the purpose of the Act and the weighing of environmental effects

3.2.1 The ARC has concerns that insufficient guidance is given in weighing the merits of renewable electricity generation with the imperatives of Part 2 the Act.

3.2.2 Section 45(1) of the Act states that the purpose of a National Policy Statement is to "state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act". The section 32 report states:

"Nevertheless, the RMA does not clearly establish the significance of the benefits of renewable electricity generation projects, which by their nature can compete with other environmental values and are often felt at the national level."

The statement suggests that renewable electricity generation projects have a significant (possibly nationally important) "environmental value".

3.2.3 The section 32 analysis considered amendments to section 6 of the Act ("Matters of National Importance"), but concluded that "introducing a pro-development sentiment into section 6 could enable development in high-value environments that should best be avoided, and therefore risk inconsistency with the purpose of the Act." The section 32 analysis went on to state "...aside from amending section 6 of the RMA, none of the alternatives would have an appreciable influence over the judgments central to the RMA decision making process...".

3.2.4 It is accepted that the NPS seeks to strike a balance between having an "appreciable influence over the judgments central to the RMA decision making process" and not being inconsistent with the purpose of the Act. The ARC considers that an apposite balance has not been struck by the NPS because it potentially undermines the purpose of the Act.

3.2.5 The proposed NPS is intended to provide a clear direction from Central Government that the wider environmental benefits of

renewable electricity generation (i.e. reduction in carbon dioxide emissions) must be recognised and balanced against potential adverse effects. However, the NPS as proposed does not currently provide adequate guidance on how this “balancing” is to be achieved. To the contrary, the policies suggest that some adverse effects should simply be ignored, which does not assist a balancing or weighing exercise.

3.2.6 The ARC considers that the NPS should include more directive policy to guide decision makers in the balancing of conflicting considerations and to ensure that significant adverse effects are avoided. To do this, the NPS must recognise the weighing factors that might not favour a particular renewable electricity generation project². This would include Part 2 matters such as: significant natural character; significant amenity values; historic heritage; outstanding natural features and landscapes; significant indigenous vegetation and significant habitats of indigenous fauna. Those are matters recognised within the Preamble but not in the policies. The ARC considers that the NPS on Electricity Transmission provides for these matters in policies 4, 7, 10 and 11. It is desirable to include similar policies in this NPS, as such alignment enhances clarity and consistency of interpretation particularly of national policy statements that address interrelated matters.

3.2.7 The relief detailed in items 4.2, 4.3, 4.4, 4.5 and 4.6 below responds to this submission point.

3.3 Ensuring the policies respect the preamble and objective

3.3.1 The Preamble clearly states the intention to promote renewable electricity generation while acknowledging the necessary balancing of competing values that define and direct the sustainable management purpose under Part 2 of the Act. The objective appropriately focuses on a measurable target, being 90 per cent of NZ electricity generated from renewable sources by 2025.

3.3.2 The ARC supports policy 1 to the extent it promotes the use of renewable electricity generation as a means by which the country may avoid, reduce or displace the emission of greenhouse gases. However, the guidance offered by policies 1, 2, and 3 only refers to renewable electricity generation and does not acknowledge the statutory requirement to sustainably manage all relevant natural and physical resources.

3.3.3 Whilst policies 4 and 5 are intended to be directive, they fail to provide the necessary guidance as to the content or extent of changes to any planning documents that are required.

3.3.4 The research and assessment referred to in policy 4 does not need to be provided for within a national policy statement. Policy 4 refers

² By way of comparison, see the National Policy Statement on Electricity Transmission effects on the environment (objective 5, policies 4 and 7) and third parties (policies 10 and 11).

to activities undertaken as part of the investigation and establishment of an activity, which will generally have minor effects. It is difficult to understand why such fine grained matters should be the subject of a policy in a national policy statement. To give an analogy, many local authorities have experienced the differences between the investigation and the actual establishment of an activity, such as an aggregate resource production activity. It is the difference between prospecting (or research) and quarrying. It therefore may be more appropriate to manage research scale activities within an NES.

3.3.5 The relief detailed in items 4.2, 4.3 and 4.6 below responds to this submission point.

3.4 Recognising small and community-scale renewable electricity generation activities

3.4.1 The recognition awarded to small and community-scale renewable electricity generation activities within the NPS is commended. If the government target of 90 per cent renewable electricity by 2025 is to be achieved individual actions and their cumulative contribution must be acknowledged. Furthermore, activities at the individual and community scale raise the level of awareness and opportunity.

3.4.2 The intent of the NPS to encourage small and community-scale renewable electricity generation activities should be retained. Particular encouragement should be given to the investigation of small scale urban energy generation opportunities.

3.4.3 There will be challenges in developing an enabling planning framework to give effect to this policy direction, due in part to the plethora of small scale renewable electricity generation options. The intent of the NPS to encourage small scale and community-scale renewable electricity generation should be facilitated by minimising regulation on such facilities. An effective and efficient of achieving this, while also reducing the burden on local authorities to manage these activities, would be through setting a common national standard for small and community-scale renewable electricity generation activities through an NES.

3.4.4 The relief detailed in item 4.7 below responds to this submission point.

3.5 Considering economic benefits where there are adverse environmental effects

3.5.1 Renewable electricity generation, as with non-renewable electricity generation, has the potential to have significant adverse effects. Consideration of economic factors, including how proposals contribute to security of supply and the value of avoiding carbon dioxide emissions, should be included in plan provisions and in the consideration of proposals. The section 32 analysis places considerable emphasis on the economic benefits derived from the NPS and the avoidance of economic risks (arising from a lack of

security of supply, exposure to fluctuations in resource price and economic liabilities on the international carbon market). However, these benefits are largely speculative (as acknowledged in the Executive Summary at page xiv).

- 3.5.2 Economic and efficiency factors and their potential contribution to the social and economic wellbeing of the community are relevant, whether or not they outweigh adverse landscape, cultural and other environmental effects of a proposal. The NPS should provide guidance on how these matters are to be assessed and weighed.
- 3.5.3 It is acknowledged that this is not an explicit consideration for non renewable generation, other than via economic considerations that arise from the purpose of the Act.
- 3.5.4 The regulation of the electricity industry is complex and imperfect and often the viability of proposals by industry regulatory bodies is just considering one aspect, such as the Electricity Commission Grid Investment Test. It is important that a NPS ensures that Part 2 of the Act, which has as its purpose sustainable management, is explicitly considered in the management of energy projects.
- 3.5.5 The relief detailed in item 4.2 below responds to this submission point.

3.6 Implementing the NPS

- 3.6.1 The successful implementation of a NPS hinges on the clarity of policy and consistency within the NPS itself. The quality of this policy guidance will reduce the resources needed for implementation.
- 3.6.2 The Energy Efficiency and Conservation Authority has assessed the potential for renewable electricity generation in each region. This provides an indication of the potential energy sources and technologies appropriate for each region in a consistent manner and could assist in the preparation of NPS guidance documents.

3.7 Related Matters

It is recognised that these following related matters may not be issues for consideration under this NPS directly. However the NPS needs to be considered within the context of the government's overall energy strategy. In that context it is appropriate to recognise the importance of linkages to other mechanisms these include:

a) Demand management

Intrinsically linked to the issue of electricity generation is that of demand management. There is a need for, not only a move towards sustainable electricity generation as intended within this NPS, but a move toward a more sustainable level of use.

b) Removal of disincentives

An increase in individual small and community-scale renewable electricity generation activities, as intended within the NPS, raises the need for a protocol and/or regulation between potential small electricity producers and retailers. This is necessary to ensure facilitation and fair pricing of electricity sold back to the grid.

c) Maximise efficiency of non-renewable energy generation

In the event that new non-renewable capacity proves necessary or existing capacity is significantly upgraded:

- i the benefits of co-location to maximise the use of waste heat;
- ii the benefits and potential opportunities for co-generation; require proper consideration.

4 Relief sought

4.1 Objective

“To recognise the national significance of renewable electricity generation by promoting the development, upgrading, maintenance and operation of new and existing renewable electricity generation activities, such that 90 per cent of New Zealand electricity will be generated from renewable sources by 2025 (based on delivered electricity in an average hydrological year).”

- Retain the objective in its entirety.

4.2 Policy 1 – Recognising the national significance of the benefits of renewable electricity generation activities

- Retain policy 1 subject to the following amendments:

“The economic and social benefits of renewable electricity generation activities, at any scale, are of national significance. Decision makers must have particular regard to the national, regional and local benefits relevant to renewable electricity generation activities. These benefits may include, but are not limited to:

- i *maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions*
- ii *maintaining or increasing security of electricity at local, regional and national levels by diversifying the type and location of electricity generation*
- iii *integrating the renewable electricity generation activity with the transmission network and the establishment of peak load and/or back up*

generation while avoiding, remedying and mitigating the effects of these activities.”

4.3 New policies on environmental effects

- Add the following additional policies to the NPS:

“When considering the environmental effects of new renewable electricity generation infrastructure, decision makers must have particular regard to the extent to which any adverse effects have been avoided, remedied or mitigated through the site selection process.”

“Planning and development of renewable electricity generation infrastructure should minimise adverse effects on residential and recreational amenity and general rural character”.

“Planning and development of renewable electricity generation infrastructure should avoid significant adverse effects on significant natural and cultural heritage values including outstanding natural features and landscapes, areas of significant natural character and areas of high recreational value and amenity”.

4.4 Policy 2 – Acknowledging the practical constraints associated with renewable electricity generation activities

- Retain policy 2 subject to the following amendments.

“When considering measures to avoid, remedy or mitigate the adverse environmental effects of renewable electricity generation activities, consent authorities must ~~consider~~ have particular regard to the constraints imposed on achieving those methods by...”

4.5 Policy 3 – Having regard for the relative reversibility of adverse effects associated with particular generation types

- If policy 3 is to be retained define the term ‘reversibility’ and amend the policy as follows:

“When considering proposals to develop new renewable electricity generation activities, decision-makers must ~~consider~~ have particular regard to the relative degree ~~and likelihood~~ of reversibility of the adverse environmental effects associated with proposed generation technologies.”

4.6 Policy 4 – Enabling identification of renewable electricity generation possibilities

- Delete policy 4 and the intent placed in a NES to be notified by 13 March 2012.

4.7 Policy 5 – Supporting small and community-scale renewable electricity generation

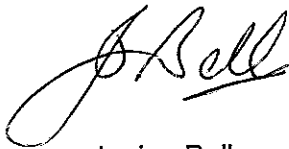
- Retain policy 5.
- Develop a NES 'to enable activities associated with the development and operation of small and community-scale distributed renewable electricity generation'. The NES should be developed in such a way as to inform the plan change, proposed plan or variation required by policy 5 to be notified by 13 March 2012.

5 This submission would be met by:

5.1 The Board of Inquiry confirming the Proposed National Policy Statement for Renewable Electricity Generation subject to the amendments and clarification sought, outlined in the above submission, and any other further or consequential amendments required to give effect to the issues raised above.

6 The Auckland Regional Council does wish to be heard in support of this submission.

Signed for and on behalf of the
AUCKLAND REGIONAL COUNCIL



Janine Bell
General Manager, Regulatory Services

Dated on the 7th day of November 2008.

Address for Contact:

Hugh Jarvis
Group Manager Policy Implementation
Auckland Regional Council
Private Bag 92 012
Auckland

Email: hugh.jarvis@arc.govt.nz
Phone: 09 366 2000 xtn 8312