

**SUBMISSION ON THE PROPOSED NATIONAL POLICY
STATEMENT FOR
RENEWABLE ELECTRICITY GENERATION**

Section 49 Resource Management Act 1991

BY: RES New Zealand Ltd

**To: Board of Inquiry
C/o P O Box 10 362
WELLINGTON 6143**

1. This is a submission by RES New Zealand Ltd (**RES**) on the Proposed National Policy Statement for Renewable Energy Generation (**NPS**)
2. This submission relates to all provisions of the NPS.
3. The submitter supports in part and opposes in part the NPS and the reasons for the submission and changes sought by the submitter are set out in sections 3, 4 and 5 of this document.
4. The submitter wishes to be heard in support of this submission and if others make a similar submission, RES will consider presenting a joint case with them at a hearing.

Signature of person authorised to sign on behalf of RES New Zealand Ltd:



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Date: 31 October 2008

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SUBMISSION BY RES NEW ZEALAND LTD ON THE PROPOSED NATIONAL POLICY STATEMENT FOR RENEWABLE ELECTRICITY GENERATION

1. RES NEW ZEALAND LTD

RES New Zealand is the local subsidiary of the Renewable Energy Systems (RES) group of companies and a new entrant to the New Zealand electricity generation market.

The RES Group is one of the leading and largest independent developers of renewable energy projects worldwide. It is wholly owned by the Sir Robert McAlpine Group and has its headquarters in the United Kingdom.

Since 1980, the RES Group has successfully completed more than 2700 MW of wind energy capacity. It has an ownership interest in more than 485MW of wind energy projects (operational and under construction), including projects in the US, United Kingdom, France, Scandinavia, Ireland, Portugal and the Caribbean. In the last year, RES has brought several hundred megawatts of capacity under construction in North America and Europe. It also has a number of projects with consent and at the planning stage, including in Australia.

RES New Zealand was set up in Wellington at the end of 2006 following a successful bid to the Greater Wellington Regional Council for the rights to develop, construct and operate the Puketiro wind farm project.

The proposed Puketiro windfarm is located on ridgelines in the lower Tararua Ranges, 5 km north east of Pauatahanui and 37km from Wellington City. It spans the Upper Hutt and Porirua Districts and is part of the Greater Wellington Region.

The Puketiro windfarm would consist of around 50 three bladed wind turbines, each with a 2 to 3 MW capacity, making the total generating capacity from the windfarm of between 100MW and 150MW.

A windfarm of 150MW is sufficient to generate enough clean, renewable electricity to power 65,000 average New Zealand homes and displace 325,000 tonnes of carbon from NZ's existing fossil fuel power stations every year.

2. BACKGROUND TO RES' SUBMISSION

The Resource Management Act 1991 (**RMA** or **The Act**), through regional and district plans and decisions on consent applications, can provide or limit opportunities for renewable energy development. It therefore has a significant impact on the ability of the country to reach the goals and objectives of the New Zealand Energy Strategy (NZES), National Energy Efficiency and Conservation Strategy (NZECS) and the recently enacted Electricity (Renewable Preference) Amendment Act 2008.

Those objectives include setting a target for renewable electricity generation of 90 per cent by 2025 and reducing the impact of fossil fuelled electricity generation on climate change by creating a preference for renewable electricity generation. A 10-year restriction has been imposed on new base load fossil-fuelled thermal-electricity generation.

To achieve these targets and deliver clean, secure, affordable energy, New Zealand will need to commission an annual average of 175MW of new renewable electricity generation per year – all of which will be subject to RMA process.

Without some sort of guidance or appropriate intervention, the RMA will constrain the ability to meet those goals. In RES' experience, the requirement in the RMA for councils to have particular regard to the benefits of renewable energy (section 7(j)) has not been successful in encouraging the development of renewable energy projects or updating regional and district plans to reflect it. RES understands that only a few Councils have reacted by putting in place plans to try and achieve those benefits in their district or region.

The need to increase the uptake of renewable energy projects is not currently recognised under the RMA as a mandatory consideration. The weight to be given to government policy and other legislation is a matter of discretion and subordinate to matters like the preservation of natural character (s6(a)), protection of outstanding landscapes (s.6(b)) and the maintenance and enhancement of amenity values (s.7(c)). Despite their benefits, renewable energy projects, especially windfarms, can have an impact on those values. In those circumstances, it is legally open for consent authorities to weigh local impacts in a way which is inconsistent with the national goals and the realisation of the benefits of renewable energy.

The result has been that between 1990 and 2007, greenhouse gas emissions from electricity generation have risen by approximately 91 percent. According to MFE, in that time only 17 per cent of generation capacity consented under the RMA has been renewable. If current trends were to continue, by 2030, approximately 2323 MW of the additional capacity needed would use fossil fuels – an increase of about 50%.

An NPS is therefore regarded by RES as an important opportunity to help achieve the national benefits of renewable energy. The decision to prepare one is strongly supported. Without more explicit direction in the RMA, the government's objectives for renewable energy and the potential to increase generation will not be realised in many parts of the country. The NPS is the chance to ensure that the raft of new policies and law changes are reflected in RMA decision making. The NPS will need to ensure that the government's policy objectives, including its preference for renewable electricity generation, are understood and properly taken account of by local authorities and the courts.

RES' submission is that in light of the very clear policy directions set recently, the proposed NPS is too weak and the policies insufficiently direct to have the desired effect under the RMA. This document sets out our reasons for that that submission and the ways in which it can be fixed.

3. REASONS FOR THE SUBMISSION - WHAT THE NPS NEEDS TO ACHIEVE

The proposed NPS needs to set out the government's position on the national significance of renewable energy in a way which can influence RMA planning and decision making. To do that, it must contain provisions requiring councils to reflect the government's objectives and other legislation when they prepare plans and policy statements and make decisions on resource consents. While the Objective and identified Matter of National Significance in the proposed NPS are designed to achieve that, the related policies are likely to fall well short of the goals that have been set.

Currently the draft NPS does not contain any recognition that maintaining access to natural energy resources is critical to maintaining the potential to develop renewable electricity generation. Like most other forms of renewable energy generation, suitable locations for windfarms (e.g. windy ridgelines) are a finite resource. Windfarms can not be shifted or planned for in areas where the resource does not exist. Conflict between competing uses for these resources is occurring, in most cases without thought being given to the impact on the potential for renewable energy generation. Where incompatible uses have been allowed to locate, gaining consent to harness those resources for renewable energy has become difficult. Planning to prevent further inappropriate uses from interfering with the development of renewable energy resources is crucial and of immediate significance. Without proper consideration, it is easy for the opportunity to be sterilised by inappropriate planning or location of activities. The current Policy 4 in the NPS, which is designed to try and enable identification of renewable generation potential is too narrow and, because it doesn't require any action until 2012, far too slow to be able to make a difference to these problems.

As a first step, the NPS should require local authorities to properly assess the resources in its district or region for opportunities to develop renewable energy. The outcomes could then feed into local policy development, including necessary plan changes and decisions on resource consents.

Based on that information, the NPS should require councils to identify in plans and policy statements, areas in their districts and regions that may be suitable and appropriate to locate renewable energy projects, including in particular, wind generation. Provided that suitable checks and balances are in place and provision made for appropriate development in other locations, in those areas, certain types of renewable energy development should attract a lower activity threshold, such as controlled or restricted discretionary.

To ensure that appropriate weight is given to decisions impacting on renewable electricity generation potential, the NPS could also be used to direct the development of renewable energy targets in each region or district. That would tend to give consent authorities and those preparing plan and plan changes appropriate guidance about the weight and priority to be given to matters affecting the ability to harness local renewable energy resources.

Whether or not that type of approach is adopted, Councils need to take steps to ensure that the options to develop, upgrade or maintain renewable energy projects in suitable areas are not unnecessarily foreclosed through inappropriate plan provisions or the granting of resource consents for incompatible activities. The NPS needs to recognise that the natural resources which support renewable electricity generation are themselves nationally significant, and need to be protected against inappropriate development so that their potential to be harnessed can be retained.

This is especially important in the area of landscape protection policy. Most landscape controls will have been developed at a time prior to the development of large scale windfarms. The impacts on renewable energy generation are unlikely to have been considered at the time. A requirement in the NPS for local authorities to immediately review the landscape protection controls in their areas in light of the objectives of an NPS for renewable energy would likely have a significant impact in maintaining or enhancing the potential use of some areas for this purpose.

Policies requiring changes to RMA plans also need to be complemented by a requirement that in assessing any resource consent application, the impact of the activity on the ability to develop renewable energy is expressly considered and where necessary, avoided, remedied or mitigated. Activities which might be inconsistent with the use of renewable energy resources, such as rural subdivision, would be subject to a tougher set of controls where they adversely affect that potential.

The NPS also needs to ensure that all types of RMA decision making is carried out in light of all relevant national policy and legislation. Appropriate guidance about the benefits of renewable generation is not currently able to be taken into account. To address that, the NPS should direct that in making decisions which may impact on the ability to use and develop renewable energy resources, the provisions of the New Zealand Energy Strategy and Electricity (Renewable Preference) Amendment Act 2008 are taken into account as relevant considerations.

Once these types of policy are brought into the NPS, then the current, much narrower proposed policies, including policy 2 (acknowledging potential constraints) and policy 3 (recognising reversibility of effects), will be in the proper context and receive the support they need to help achieve the need to increase renewable generation activity.

The following sections of this document outline the changes to the NPS that RES is seeking.

4. SUBMISSIONS ON SPECIFIC PROVISIONS IN THE NPS

The submissions and reasons for submissions made by RES in the proceeding section 3 relating to the NPS generally are hereby adopted. Specific submissions about the provisions in the proposed NPS are set out below:

Preamble to the NPS

Submission

RES' considers that the preamble is a satisfactory restatement of the issues which require the development of an NPS for Renewable Energy Generation.

Decision sought

RES does not seek any specific changes to the Preamble, though it is prepared to support any changes which may better articulate the background issues or better reflect the thrust of our submission.

Matter of national significance

Submission

RES believes that the government has correctly identified the matter of national significance. It supports without reservation the identification in the NPS of 'the need to develop, upgrade, maintain and operate renewable electricity generation activities in New Zealand'.

RES' concern is that the policies and methods in the proposed NPS fail to maximise the potential to do so.

Decision sought

Retain the wording of this section and ensure that the subordinate policies are supportive of it and designed to achieve it.

Objective

Submission

RES considers that the objective has been well drafted, is clear and sets a target which the rest of the NPS should be subordinate to and designed to achieve. RES' concern is not with the Objective, but the policies which have been proposed to try and achieve it.

Decision sought

Retain the wording of this section and ensure that the subordinate policies are supportive of it and designed to achieve it.

Policy 1

Submission

RES believes the policies as a whole fail to provide clear direction or set requirements for local authorities to achieve the objective of the NPS - to promote the development etc of renewable generation activities.

RES supports the requirement in policy 1 for decision-makers to ‘have particular regard to’ the benefits of renewable generation activities, but the policy does not direct how that should occur and in what circumstances. It fails to set actions to achieve it. As a result, Policy 1 needs amendment to clarify its purpose and further supporting policies, outlined in this submission, to achieve it.

Decision sought

Amend as necessary and incorporate the intent of the policy into a more comprehensive, targeted and cohesive set of policies designed to achieve the Objective of the NPS. Specific wording set out in Section 5 of this submission.

Policy 2

Submission

On its own, Policy 2 (which seeks to acknowledge some of the constraints associated with renewable generation activity) is potentially helpful in achieving the objects of the NPS. However, as one of the few core policies in the proposed NPS, it is far too narrow and particular to have the impact needed to promote the development and operation of renewable generation activities. The intent behind policy 2 needs to be incorporated into a much wider and more comprehensive suite of policies designed to achieve the objective of the policy change.

Decision sought

Amend as necessary and incorporate the intent of the policy into a more comprehensive, targeted and cohesive set of policies designed to achieve the Objective of the NPS. Specific wording is set out in Section 5 of this submission

Policy 3

Submission

Like Policy 2, Policy 3 (which requires consideration of the ‘relative reversibility’ of adverse effects) is potentially helpful for windfarm projects in particular. However, as one of the core policies in the NPS, it can not achieve the objectives of the NPS or meet the need to develop and operate more renewable energy projects without significant help. It is also arguable that the current definition of ‘effect’ in section 3 of the Act already provides for consideration of this issue. Policy 3 needs to be incorporated into a much wider and comprehensive policy statement designed to achieve this.

Decision sought

Amend as necessary and incorporate the policy into a more comprehensive, targeted and cohesive set of policies designed to achieve the Objective of the NPS. Specific wording is set out in Section 5 of this submission.

Policy 4

Submission

Policy 4 is far too narrow and the actions required too slow to make the sort of changes needed to meet the objectives of the NPS. In RES' experience, the issues related to the development of new renewable energy projects have little to do with either the identification and assessment by generators of potential sites (policy 4(i)) or constraints on the ability to undertake research (policy 4(2)). With respect to wind generation in particular, the industry already has good information about sites of interest to it and proven it is in a position to carry out commercial and nationally significant windfarm development immediately. Obtaining resource consents for those projects and ensuring that they are considered under the appropriate RMA framework is the priority. Policy 4 fails to achieve this.

Decision sought

Amend as necessary and incorporate parts of the policy into a more comprehensive, targeted and cohesive package designed to achieve the Objective of the NPS. Specific wording is set out in Section 5 of this submission.

Policy 5

Submission

Policy 5 (which seeks to support small and community scale renewable generation activity) is unlikely to provide significant help in achieving the objects of the NPS. New Zealand needs 175MW per year of new renewable generation. The ability and technology to achieve this is already available. The NPS needs to concentrate on reaching the correct policy settings for encouraging that to occur. While the intention to encourage small scale generation is supported by RES, inclusion of this policy is likely to carry undue weight within the NPS and distract from the overall thrust. It should be incorporated in a separate NPS and addressed as a separate issue.

Decision sought

Delete this policy from the current NPS and prepare a separate NPS to address issues related to small and community scale renewable energy generation.

5. RELIEF SOUGHT – ADOPTION OF NEW PROVISIONS IN THE NPS

- (a) Further to sections 2 to 4 of this submission which identify the steps that the NPS needs to take and the reasons for our submission that it fails to achieve its stated objective, RES seeks that the current policies be deleted or amended as appropriate, and new policies be prepared to state:

“The benefits of renewable electricity generation activities are of national significance and all persons exercising functions and powers under the RMA must take steps to recognise and provide for the need to develop, upgrade, maintain and operate renewable electricity generation activities”

“In achieving this policy, regional councils, territorial authorities and consent authorities, shall, where relevant

- (a) Take steps to assess the resources in their district or region for opportunities to develop renewable electricity generation activities, and shall set targets for their use and development;
- (b) Identify in regional and district plans, areas that may be suitable and appropriate to locate renewable electricity generation activities, including for wind generation, and notify a plan change, proposed plan or variation to
 - i. recognise and provide for opportunities to use and develop them; and
 - ii. avoid, remedy or mitigate any adverse effects of activities on the potential to use and develop them;
- (c) Immediately review and if necessary notify a plan change, proposed plan or variation to amend relevant landscape protection policies and rules in light of the objectives and policies of this NPS and ensure that the impacts on the ability to develop, upgrade, maintain and operate renewable electricity generation activities have been taken into account and any adverse effects on it avoided, remedied or mitigated;
- (d) Notify a plan change, proposed plan or variation to enable activities associated with the identification and assessment by generators of potential sites and energy sources for renewable electricity generation;
- (e) In granting any resource consent or preparing any plan change, proposed plan or variation, ensure that the impacts on the ability to develop, upgrade, maintain and operate renewable electricity generation activities have been taken into account and any adverse effects on it avoided, remedied or mitigated;
- (f) When considering proposals to develop new renewable electricity generation activities, have particular regard to the relative degree of reversibility of the adverse environmental effects associated with proposed generation technologies
- (g) In exercising any functions and powers which may affect the current or future use or development of renewable electricity generation, have regard to the New Zealand Energy Strategy (NZES), National Energy Efficiency

and Conservation Strategy (NZEEECs) and the Electricity (Renewable Preference) Amendment Act 2008;

- (h) In making any decision under the Act, have particular regard to the practical constraints associated with the development, upgrading, maintenance and operation of new and existing renewable electricity generation activities, including
 - i. the nature and location of the renewable energy source
 - ii. the availability of alternative locations
 - iii. logistical, engineering, or technical practicalities
 - iv. the nature and location of existing renewable electricity generation activities
 - v. the location of existing structures and infrastructure including, but not limited to access roads and suitable electricity infrastructure.

“The policies in this NPS are effective from the date on which is it notified in the Gazette and where there is a requirement to notify a plan change, proposed plan or variation, this shall occur no later than 6 months from that date”

- (b) Such further or other relief, including suitable words or provisions which
 - a. address the reasons for this submission in sections 3 and 4, or
 - b. are consistent with the relief sought in section 5, and
 - c. are able to achieve the Matter of National Significance and Objective of the proposed NPS