

7th July 2009

The Chairman
Board of Inquiry
Proposed NPS for Renewable Electricity Generation
C/- The Ministry for the Environment
PO Box 10362
WELLINGTON

Dear Sir

Responses to Requests for Further Information

As a consequence of requests made by the Board of Inquiry ('the Board') during the course of its hearing of the case presented by Pioneer Generation Limited ('Pioneer') on the 11th of June 2009 in Dunedin to the Proposed National Policy Statement for Renewable Electricity Generation ('proposed NPS'), the following additional information is provided for your consideration.

1. The Board raised a question regarding the re consenting process, what effects should to be considered as part of the re consenting process, and the additional policy which Pioneer proposed (new Policy 6), which is repeated for completeness, with minor amendment sought (to include the words 'and operating'), as follows:

When considering proposals to re consent and / or enhance existing renewable electricity generation activities, decision-makers must have particular regard to:

- (i) the benefits associated with maintaining or enhancing the existing generation capacity; and
- (ii) the existing environment.

POLICY EXPLANTION

The existing environment means the environment that exists with electricity generation infrastructure in place **and operating.**

Pioneer believes that when taking into consideration a re consenting project the existing environment must be assessed, that is the environment that exists with the electricity generation infrastructure in place and operating. Further, Pioneer considers that only those adverse environmental effects that were unanticipated at the time at which the project was originally consented, and that are inducing on-going publically contentious adverse environmental effects, should require consideration during on-going operation.

In addition to this, Pioneer believes that there may be instances where it is appropriate to utilise a 'controlled activity' status for re consenting of lawfully established renewable electricity generation projects in order to provide certainty of investment and also more certainty to the applicant / generator. Pioneer understands that a controlled activity status may not

be appropriate in all circumstances, for example, where issues of known public interest require consideration, or a renewable hydroelectric power generation scheme has not been properly operated, maintained, or is inducing on-going environmental effects. Therefore, the Company is not adverse to controlled activity status being restricted to specific renewable electricity generation schemes / activities, where the environmental effects associated with on-going operation are known not to be contentious.

An example of a controlled activity rule from the Proposed West Coast Regional Water Management Plan that prescribes a controlled activity classification for the consenting of existing hydroelectric power generation schemes is set out below. Should the Board consider inserting a policy that requires local government authorities to provide for the consenting of renewable electricity generation projects as controlled activities in the proposed NPS, a similar framework to that prescribed in Rule 12.6.1 below could be adapted and utilised.

12.6 Damming and associated Taking, Use, Discharging and Diversion for Hydro-Electricity Generation purposes

12.6.1 *For the Hydro-Electricity operations identified in Schedule 7 of this Plan:*

- (a) The damming of water for hydroelectric power generation purposes*
- (b) The taking of water for hydroelectric power generation purposes*
- (c) The use of water for hydroelectric power generation purposes*
- (d) The discharge of water and trace contaminants to water for hydroelectric power generation purposes*
- (e) The diversion of water for hydroelectric power generation purposes*

*is a **controlled** activity.*

In considering any resource consent for the damming, taking, use, discharge or diversion of water in terms of this rule, the Council will restrict the exercise of its control to the following matters:

- (a) Any adverse effect of continuing or discontinuing the damming, taking, use, discharge or diversion of water on:*
 - (i) Any natural or human use value identified in Policy 5.4.1, 5.4.1B & 5.4.1C of any affected water body, including the impoundment itself;*
 - (ii) The water quality of the lake or river;*
 - (iii) The amenity values of the lake or river;*
 - (iv) Fish passage;*
 - (v) Any existing lawfully established take, use, dam, discharge or diversion of water;*
 - (vi) Public access to and along any lake or river, and present and future access to the water resource for the purpose of taking or using water or discharging contaminants or water to water; and*
- (b) Any maximum or minimum level or flow of water, and the range, or rate of change, levels or flows of water; and*
- (c) Any potential flooding, erosion, land instability, sedimentation or property damage resulting from the damming, diversion, taking, use, or discharging of water or from the discontinuation of the damming, diversion, taking, use or discharging of water; and*
- (d) The management of the lake or river shores; and*

- (e) Invasion by or proliferation of aquatic plants; and
- (f) Any restoration of exposed lake bed resulting from any reduction in authorised lake levels; and
- (g) The purpose of the existing dam or lake level control; and
- (h) The duration of the resource consent; and
- (i) The information and monitoring requirements; and
- (j) Any financial contribution; and
- (k) Any bond; and
- (l) Review of the conditions of the resource consent.

An application for resource consent under this rule does not need to be notified and does not need to be served on persons who may be adversely affected by the activity, provided that Council will serve the application on the Director General of Conservation if it considers the Director General may be adversely affected by the activity.

Explanation

The Department of Conservation has particular functions involving the preservation and protection of freshwater fisheries and freshwater fish habitat. Furthermore, many of the existing hydro schemes listed in Schedule 7 are located on (in full or in part) or connected to, areas administered by the Department.

2. Pioneer was asked two questions specifically regarding activity status. The first of those questions was in relation to Policy Five. The Company was asked how Policy Five could promote or enable small and community-scale distributed electricity generation, and whether consideration had been given to activity status, and if that might be utilised in regard to the Policy to assist in enabling small and community-scale distributed electricity generation.

Pioneer did not discuss the utilisation of activity status within its submission or statement of evidence to Policy Five. It considers however, that in order to promote or enable small and community-scale distributed electricity generation (which it considers to be projects of 10MW or less), a less restrictive activity status, such as a controlled or restricted discretionary activity status may be utilised within local government planning documents, where small and community-scale distributed electricity generation proposals could be restricted to particular size and scale parameters.

3. The second question asked of Pioneer with regard to activity status related to Policy Four. The Company would like to firstly clarify that of the two potential options for relief sought provided within its evidence, that it would prefer the alternative relief sought to be implemented. This is because the alternative relief sought would effectively enable activities associated with the identification of potential sites, sources of renewable electricity generation and / or investigations into new or emerging technologies and methodologies to occur more easily. The relief sought by Pioneer is repeated for completeness below:

By the 13 March 2012, local authorities are to notify, in accordance with Schedule 1 of the Act, a plan change, proposed plan or variation to introduce objectives, policies and where appropriate, methods, into policy statements and plans to enable ~~activities associated with:~~

- i. activities associated with the identification and assessment by generators of potential sites and energy sources for renewable electricity generation
- ii. activities associated with research-scale investigation into emerging renewable electricity generation technologies and methods.

If looking at areas in which renewable electricity generation can occur, vs. constraint areas however, Pioneer would prefer that constraint areas were implemented within local government planning documents. The reasons for this are set out in Pioneer's submission and evidence.

Pioneer believes that development in constraint areas could employ a non-complying or discretionary activity status, thus, in order for proposals that were to be located in such areas to be granted resource consent, they would need to be able to satisfy the tests prescribed within sections 104B and 104D of the Resource Management Act 1991. The Company further considers that proposals that do not traverse constraint areas should be able to be argued on their merits more readily, and thus should be afforded a less restrictive activity status in accordance with the size, scale, level of benefit, and adverse effects that the proposal may induce.

4. Pioneer was asked to consider whether the proposed NPS could be 'beefed-up' when it comes to small-scale vs. large-scale proposals. Overall the Company considers that the most effective approach that the proposed NPS could provide would be to promote renewable electricity generation, no matter what the size or scale.

Pioneer trusts that the above is of assistance to the Board of Inquiry. The Company would be happy to provide further clarification or respond to any additional questions that the Board of Inquiry may have.

Yours faithfully

Pioneer Generation Limited



Peter Mulvihill

Asset Manager