

Proposed National Policy Statement on Renewable Energy

Kenneth Palmer (addendum 22 June 2009)

1. A principled approach

Purpose of the RMA s 5. Ss 6-8

Structure to deliver the purpose

National input

Regional input

Territorial/district input

Place and function of National Policy Statements s 45

Need for top level input and direction

Janet McLean, "New Zealand's Resource Management Act 1991: Process with Purpose?" (1992) 7 Otago Law Review 538, 549, 555

(p 549) "In the end section 5 offers too many choices without further guidance. If it tells us little about sustainability, it tells us less about "management". The section implicitly requires that we develop ways to assess risk and adverse effects. What does the remainder of the Act say about standards and goals and environmental management".

(p 555) "The Act would be greatly enhanced by the addition of measurable goals or standards".

Cf New Zealand Coastal Policy Statement – importance of this NPS

2. Electricity generation context

RMA s 7(j) "The benefits to be derived from the use and development of renewable energy". Also relevant s 7 (b)(ba)(i).

Section 7(j) needs to be explained and clothed in a NPS as proposed.

The rationale for the NPS, in addition to the matters relevant under s 45. [See s 32 report]

2. Case guidance (relevance to policy 2?)

Genesis Power Ltd v Franklin District Council [2005] NZRMA 541 (strong s 7(j) endorsement)

Subject to other part 2 matters, s 6 in particular

The Outstanding Landscape Protection Soc Inc v Hastings District Council [2008] NZRMA 8 (Maori cultural issues in relation to sacred landscape)

Unison Networks Ltd v Hastings District Council, Env Ct, W11/2009, 23 February 2009, Judge Bollard presiding (Maori dimension)

Should NPS draw attention to relevance of other part 2 matters in respect of processing resource consent applications or is s 104(1)(b)(i) sufficiently clear?

3. Size of NPS

cf NPS on energy security

Virtue of brevity.

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