



23 July 2009

Board of Inquiry – Proposed National Policy Statement for Renewable Electricity Generation  
C/- Ministry for the Environment  
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**Te Rūnanga o Ngāi Tahu View on Proposed Policy 3 – “...relative degree of reversibility...”**

1. During the presentation of the Te Rūnanga o Ngāi Tahu (Te Rūnanga) submission to the Board of Inquiry on Wednesday 24 June, the Board enquired about the view of Te Rūnanga in respect of the proposed wording of proposed policy 3 and whether and how such a policy may be implemented in inferior plans. The transcript (page 1413) records that discussion as follows:

**Chair:** ...Finally if I could just ask about policy 3. And again, if this policy were left unchanged, how, in your opinion, from your experience, a local authority would deal with it in a regional or district plan or policy statement or whatever... and the words that are exercising our minds are the words, “relative degree of reversibility.”

**Mr Horgan:** Right

**Chair:** Now, how would you see that then being translated into an inferior instrument?

2. Proposed policy 3 provides:

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

3. Te Rūnanga has reconsidered the potential implications of policy 3 and, in light of this, wishes to propose alternative wording that will remove the need for inferior policy statements and plans to provide further clarification about the application of the policy. At the same time, the amended policy will still ensure that reversibility is an issue that is appropriately factored into decisions on renewable electricity generation applications.
  
4. After evaluating the submissions opposing proposed policy 3, Te Rūnanga has formed the view that the major concern about the policy is the fact that, as presently worded, it is likely to require decision-makers to engage in a comparative assessment with other hypothetical renewable electricity generation technologies. In particular, concern has been expressed about what the phrase "... the relative degree of reversibility..." means and how it might be given effect to. By way of illustration, we refer to the following passages from the submissions and evidence presented on behalf of Meridian Energy Limited:

*Legal Submissions on behalf of Meridian Energy Limited*

[57] It is not legally relevant, when considering a consent application under the RMA, whether or not the adverse environmental effects from one type of renewable electricity generation activity are reversible, when compared with an alternative generation technology. Instead an overall consideration and judgment needs to be made, in terms of achieving the purpose of the RMA.

[58] The extent that any effects of a proposal are reversible will be a factor that feeds into the mix of considerations. However, the RMA mandates an approach whereby each proposal is to be judged on its own merits, rather than a "relative" consideration of one proposal pitched against another hypothetical proposal. No other type of development under the RMA is subject to consideration of the "relative reversibility" aspects of alternative technology.

[59] The inclusion of this concept will also encourage submitters to compare a consent application against a hypothetical "perfect project", being one which is completely removable at the end of its life with little or no evidence of its previous or potential existence, in order to demonstrate that consent for the project being considered should be refused. The inclusion of this concept would encourage unconstructive debate, and would not be consistent with the merits-based approach which the RMA provides.

Evidence of Sarah Margaret Dawson

[44] As discussed in the legal submissions and described in Ms Moss's evidence, it is also not appropriate to compare one proposal against a theoretical alternative, when determining the appropriateness or otherwise of the primary proposal. It is not normally possible to compare proposals, because there is rarely sufficient information about a possible alternative proposal and its associated mitigation for such a comparison to be fairly made. In any event, as stated in the legal submissions, such an approach would go against the normal assessment of any proposal on its merits, within the relevant policy framework.

5. It is evident from these passages that it is the comparative assessment rather than the requirement to have particular regard to the reversibility of the effects *per se* that is being opposed. It is the phrase "relative degree of reversibility" that is in contention.
6. While Te Rūnanga remains adamant that the NPS must direct decision-makers to have particular regard to the reversibility of the effects of a proposed renewable electricity generation activity, we do not consider that such a consideration necessarily needs to involve a comparative assessment with other forms of renewable electricity generation. Te Rūnanga is of the view that it will be possible for decision-makers to gauge the extent to which the effects of the proposed renewable electricity generation activity are reversible without having to compare it with hypothetical alternatives. Decision-makers can make a judgment simply based upon where the effects of the proposal fall along the continuum from permanent to temporary.
7. In this context, Te Rūnanga proposes that policy 3 be reworded as follows:

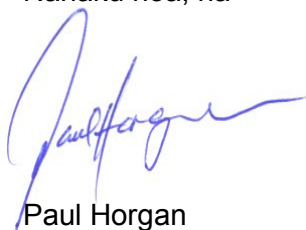
When considering a proposal to develop, renew or upgrade renewable electricity generation activities, decision-makers must have particular regard to the extent to which the adverse environmental and cultural effects of the proposal are reversible.

8. Although such a policy may, by implication, still entail a relative assessment (from temporary to permanent), it will serve to ensure that decision-makers do not engage in a comparative assessment of the respective reversibility of the effects of competing forms of renewable electricity generation (thereby addressing Meridian's

apparent principal concern about policy 3). At the same time, it will still ensure that decision-makers turn their attention to the reversibility issue and factor this into their decision (thereby addressing Te Rūnanga's concern). Such a policy will also serve to encourage developers when designing a renewable electricity generation project to incorporate as many reversible features as possible.

9. Te Rūnanga proposes that the new version of policy 3 apply not only to applications for new renewable electricity generation activities, but also to applications to renew or upgrade existing operations. Te Rūnanga considers that developers must make every effort to incorporate reversible features into the design and operation of their renewable electricity generation activities, whether or not they are new or existing. While Te Rūnanga acknowledges that the opportunities to incorporate reversible features into existing renewable electricity generation infrastructure may be more limited than for new infrastructure, there may still be opportunities to modify the operation of an existing system in such a manner that reduces the potential long term impacts.
  
10. Te Rūnanga also proposes that the amended version of policy 3 expressly refer to cultural effects. While it is accepted that cultural effects comes within the ambit of environmental effects, it is considered that the impact of historical hydro electricity generation (in particular, the Waitaki system) upon Ngāi Tahu values has been so profound as to justify a specific reference to cultural effects.
  
11. Te Rūnanga considers the reworded version of policy 3 to be preferable to the deletion of the policy in its entirety, which is the outcome sought by Meridian Energy Limited. Te Rūnanga maintains that reversibility is an essential component of renewable electricity generation and that there must be explicit recognition of this within the NPS for Renewable Electricity Generation.

Nāhaku noa, nā



Paul Horgan  
Environmental Advisor