

29 October 2008

The Board of Inquiry
Proposed National Policy Statement on Renewable Electricity Generation
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To whom it may concern

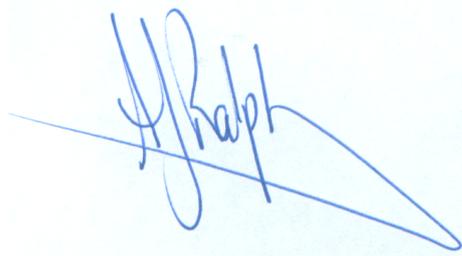
Proposed National Policy Statement on Renewable Electricity Generation

Please find enclosed the Tauranga City Council's submission to the Proposed National Policy Statement on Renewable Electricity Generation (NPSREG).

The Tauranga City Council submission is broken into two sections, the first focuses on the higher level strategic direction within the proposed NPSREG, the second part focuses on specific issues which the City Council requests be considered by the Board of Inquiry.

If you require any further information or clarification please contact Campbell Larking: Planner: Environment at the Tauranga City Council on (07) 577 – 7257 or email on campbell.larking@tauranga.govt.nz

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'A Ralph', with a long horizontal flourish extending to the right.

Andy Ralph
Manager: Environmental Policy
Tauranga City Council

National Policy Statement on Renewable Electricity Generation

29 October 2008

Tauranga City Council
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1.0 Context Setting

Tauranga City is in the heart of the Bay of Plenty region. Tauranga City extends from the Wairoa River in the west to the Kaimai-Mamaku ranges in the south and the Pacific Ocean on the north and east.

The Council has been, and continues to support sound environmental management based on a sustainable framework. As such, this Council (along with Environment Bay of Plenty and the Western Bay of Plenty District Council) now operate under a 50 year sub-regional growth management strategy termed SmartGrowth which focuses on sustainable development. This document guides the three Councils in developing and delivery strategy and policy to the community of the sub-region. This will be implemented through working collaboratively together through SmartGrowth's implementation framework, through the Regional and District Plans (RMA), the Long Term Community Council Plan (LGA) and Transportation (NZTA). electricity generation and distribution is provided by the private sector with no specific local authority involvement.

2.0 Purpose of Submission

The purpose of this submission is to outline the Tauranga City Councils (TCC) position to the Proposed National Policy Statement on Renewable Electricity Generation (NPSREG). This submission firstly outlines a number of overriding matters specific to the Policy Statement, and then seeks to work through the specific issues inherent within the proposed objective and policies.

3.0 General Observations

TCC seeks a National Policy Statement that is a guiding policy document which is not overly prescriptive, a document which enables local authorities to make local authority decisions based upon sound policy development and community consultation. The NPSREG should deal with the big issues facing the country's generation needs and providing guidance and direction on such matters to local authorities and how they should be implemented through Regional and District Plans. It should allow local authorities to utilise the provisions of the RMA to manage effects accordingly, and use the NPSREG to support those decisions. The NPSREG however, needs to be specific enough to enable regional and local authorities to deliver on those policies and appropriate guidance needs to be provided within the final document to enable this.

3.1 Submission

TCC does not believe that the NPSREG in its current form is a valuable tool for delivering on the overall objective and the above matters. TCC believes that there are other means which would deliver on the overall objective of the NPSREG, specifically a National Environmental Standard or alternatively no NPSREG at all.

TCC suggests that if any national policy statement on this subject matter is to be effective, then areas where renewable electricity generation activities could occur be mapped. The Ministry for the Environment should then work with local authorities to develop specific objectives, policies and rule requirements to deliver on the desired objective. TCC says that to provide a blanket coverage of renewable energy generation activities across New Zealand will not solve the problem nor deliver on the objective of the NPSREG. Rather, joint initiatives between central and local government and the industry with support by the community in targeted areas will be more effective.

At an overview level, TCC believes that the proposed NPSREG should:

- Provide an overall strategic context with which it is seeking to address and achieve;
- Use objectives and policies to clearly direct expected outcomes for local interpretation (including monitoring mechanisms linked to those objectives);
- Leave regional and local issues for Territorial Local Authorities to determine and manage appropriately in working with generators which allows for the community to decide on how to provide for renewable generation and within what parameters ;
- Provide assistance to Councils to implement the NPSREG (through such methods as best practice documents and associated technical advice and associated funding);
- Provide policy and technical guidance on how to give effect to the NPSREG through plans and implementation of those plans (and resource consents);
- Ensure the NPSREG provides for integration of issues across jurisdictional boundaries;
- Include a clear implementation strategy and the means by which, by whom and how the strategy will be implemented.
- Provide greater direction to the generators to require that they provide relevant information to local authorities to enable appropriate and defensible plan changes to be made to deliver on the NPSREG.
- Add value to the RMA, in providing unequivocal policy direction to be achieved by councils.
- Must assist councils in their deliberations as to what is appropriate, and conversely what is inappropriate, in terms of providing for renewable energy generation and where this can occur. The NPSREG ought to assist councils in managing locating renewable generation activities within the environment, and in setting appropriate conditions to manage potential effects on that environment.

TAURANGA CITY COUNCIL SUBMISSION TO THE PROPOSED NATIONAL POLICY STATEMENT ON RENEWABLE ELECTRICITY GENERATION

3.2 Proposed Objectives and Policies

TCC does not support objectives and policies as proposed as these are not clear and do not articulate the national interest, rather require Councils to undertake a significant amount of new assessment, analysis and policy development (which is at the territorial authorities ratepayers expense). It is highly questionable whether the outcome of this work will then deliver the overall outcome sought by this NPSREG as drafted.

3.4 Developing an National Policy Statement versus a National Environmental Standard and alternative methods to deliver on the Proposed Objective

TCC questions the actual need for the NPSREG and considers that, as discussed within the document '*Evaluation under Section 32 of the Resource Management Act 1991*', a national policy statement would add little value (page 4, section 1.1.3 – Previous consideration of electricity generation under the RMA). Given the need to deliver on the target for renewable electricity generation of 90 percent by 2025, TCC believes that stronger guidance should be delivered. If National Guidance is warranted to deliver on this target, then Government should consider developing National Environmental Standards (NES), rather than an NPS. TCC believes that an NES could be easier than an NPS to develop and implement, created using existing powers, and written to have an impact on the provision for renewable energy generation. It could also be written so that controls were consistent between regional and local authorities as the NPSREG will not provide for consistent outcomes across New Zealand. If the Government were to proceed with the NPSREG surely it could provide a level of certainty and guidance as to whether a project should proceed or not and as to its governing conditions. This could be of value to the generator, local government, and potential submitters alike.

Furthermore, TCC notes, as outlined in the '*Evaluation under Section 32 of the Resource Management Act 1991*' document, the RMA allows for the "call in" of consent applications where these are "part of a proposal of national significance". Rather than providing for a National Policy Statement, the Minister for the Environment should be looking to utilise these powers under the RMA to decide on applications rather than require regional and local authorities to undertake complex and costly plan changes to 'give effect' to an NPS.

3.5 Resourcing Impacts

TCC notes that there will always be resourcing issues for Councils to effectively implement any National Policy Statement. Giving effect to relevant NPS provisions in policy statements and plans can involve significant regional and local plan amendment processes under Schedule 1, which are both costly and time consuming. This often takes valuable resourcing away from higher priority localised planning and policy work (and away from other national priorities). Therefore, we consider that any NPS should be accompanied by funding from central government to assist local authorities implement it.

3.6 Requirements of Electricity Generators

TCC says that in order for the NPSREG to be effective that it should direct the electricity industry to provide enough information to local authorities at the outset of any plan change so that appropriate decisions can be made. As written, this Policy Statement is un-implementable as it requires local authorities to undertake a significant amount of work, yet the industry holds all the information and has the technical expertise on what activities can occur, in what locations within New Zealand and also a wider understanding of the technology available.

3.7 Lack of Clarity on Overall Outcome Sought

TCC submits that even though the overall objective is clear, there appears to be a discrepancy between the objective and the preamble. The preamble identifies that the problem is how to provide a nationally consistent approach, while the objective is to recognise the significance of renewable electricity generation. This matter is critical to the implementation of the NPS as it is currently a fundamental flaw that exists between the overall intention sought.

Submission Request

That the Proposed NPS clearly articulate the national interest and issue through the Preamble and Objective.

3.8 Lack of Monitoring Strategy

There is no clear monitoring strategy. In order to ascertain the effectiveness of the NPSREG (and any NPS) a monitoring strategy (with appropriate monitoring indicators) should be developed. The monitoring of the NPSREG should not be devolved to local authorities to undertake unless funding is provided to achieve this end. If this is not acceptable to the Minister for the Environment, then an agreed set of indicators should be developed nationally which would then be reported on through each local authority's 'State of the Environment Reporting' (which each local authority is required to undertake as per Section 35 of the RMA). This would enable consistency of monitoring at the national level rather than requiring Councils to develop the monitoring indicators.

Submitter Request

That the Board of Inquiry requests of the Minister for the Environment to develop a monitoring strategy with indicators so that the effectiveness of the NPS can be measured over its life.

3.9 Lack of Implementation Plan

There is no Implementation Plan to show how the Minister for the Environment will aid Councils to implement the NPSREG. The Implementation Plan should consider and show how Councils are to implement the Objectives and Policies, and aid in monitoring the Proposed NPS. There has been no discussion on the 'best way' to implement these.

Submitter Request

That a Policy Implementation Plan be developed in conjunction with Councils.

3.10 Lack of clarity between Policies and the Proposed NPS

There are a number of instances where the Section 32 assessment does not reflect the policies as drafted. This is considered to be a reflection of poor drafting.

Submitter Request

That as the Board of Inquiry works through the submissions, the policies as drafted and the S.32 analysis a check is made that each Policy is a true reflection of the Section 32 analysis.

4.0 Specific Comment on Objectives and Policies

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Objective	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's electricity will be generated from renewable sources by 2025 (based on delivered electricity in an average hydrological year).	<p>TCC does not believe that it is appropriate to develop objectives that give renewable energy precedence over other matters of national importance/significance. When preparing regional and district plans, and when considering resource consent applications it is very likely that Councils will need to weigh up different competing values, for example, weighing up renewable energy opportunities against identified landscape values, or weighing up a renewable energy generation application where it is contrary to another National Policy Statements such as the New Zealand Coastal Policy Statement.</p> <p>These tradeoffs between competing resource values need to be made on a case by case basis as each local or region is different. There will generally always be a land use component associated with renewable energy development, particularly as renewable energy sources are generally not readily transportable. Land use, landscape values and amenity issues need to be worked through on a case by case basis which requires a balanced approach. As such the use of 'pre-eminent words' such as 'significance' should not be used.</p> <p>Submitter Request That the Objective be redrafted to reflect that even though this matter is important, it is not of national significance under the RMA. TCC proposes that the Objective be drafted as outlined below:</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
		<p>To recognise the national significance of renewable electricity generation by promoting <u>promote</u> the development, upgrading, maintenance and operation of new and existing renewable electricity generation activities, such that 90 per cent of New Zealand's electricity will be generated from renewable sources by 2025 (based on delivered electricity in an average hydrological year).</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Policy 1	<p><u>Policy 1 - Recognising the national significance of the benefits of renewable electricity generation activities</u></p> <p>The 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:</p> <ul style="list-style-type: none"> • maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions • maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation. 	<p>In assessing this policy the Board of Inquiry should also ask the question, <i>'what value does this policy add to the RMA.'</i> This matter is provided for in the RMA, section 7(j) and to some extent Section 7(ba).</p> <p>TCC does not support the use of the term 'must' as provided for in Policy 1. TCC believes that the Policy should be amended to utilise section 7 terminology of ...'<u>shall</u>' have particular regard...By using the term 'must', TCC sees that this is almost the same as saying it is a <i>fait au compli</i> that that an activity can proceed.</p> <p>Submitter Request</p> <p>That further work should be undertaken to develop a stronger list of benefits that can be derived from renewable electricity generation to aid decision makers in making decisions.</p> <p>That the use of the term '<i>must</i>' be replaced with the term '<i>shall</i>'</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Policy 2	<p><u>Policy 2- Acknowledging the practical constraints associated with the development, upgrading, maintenance and operation of new and existing renewable generation activities</u></p> <p>When considering measures to avoid, remedy or mitigate the adverse environmental effects of renewable electricity generation activities, consent authorities must have particular regard to the constraints imposed on achieving those measures by:</p> <ol style="list-style-type: none"> i. the nature and location of the renewable energy source ii. logistical or technical practicalities associated with developing, operating or maintaining the proposed renewable electricity generation activity iii. the nature and location of existing renewable electricity generation activities iv. the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the local electricity distribution network, and the national grid. 	<p>This Policy appears to identify that certain adverse effects are warranted and unavoidable and that these should be accepted. TCC sees that this policy is in fact contrary to the Resource Management Act 1991 with its underlying premise to manage adverse effects on the environment. Because of this, and as discussed in the Section 32 analysis, activities that have an adverse effect on the environment that cannot be avoided, remedied or mitigated should not proceed.</p> <p>There is also a lack of clarity between the policy and the section 32 report. The policy seeks to recognise that there are practical constraints set by the location of renewable energy and that these must be considered through the resource consent process, however the S.32 report identifies that Policy 2 seeks to ‘tip the balance in favour of renewable electricity projects that, for reasons deriving from practical constraints, might otherwise fail’.</p> <p>Submitter Request That the Policy be removed, or alternatively:</p> <p>That the statement in the s.32 report ‘<i>Policy 2 seeks to tip the balance in favour of renewable electricity projects that, for reasons deriving from practical constraints, might otherwise fail to gain a commercially viable resource consent</i>’ be removed.</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Policy 3	<p><u>Policy 3 - Having regard to the relative reversibility of adverse effects associated with particular generation types</u></p> <p>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.</p>	<p>TCC is concerned about the intent of this Policy and what it is actually trying to achieve. TCC questions why the policy focus is on 'reversibility'. Does this mean that activities that are potentially reversible are favoured such as wind powered generation (where the structure can be removed) whereas activities which are less reversible such as hydro are less favoured? In this instance are activities that may be reversible, however may have significant amenity effects, favoured over those that may not be reversible however lesser environmental impacts on the environment?</p> <p>The policy also raises interpretation questions. It is questioned what is 'the relative degree of reversibility' and how this could be interpreted. If this Policy is to remain the 'phrase relative degree of reversibility' is required to be defined.</p> <p>Submitter Request TCC does not support this Policy and seeks for it to be removed. This Policy does not add clarity and does not enable decision makers to consider applications on their merits.</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Policy 4	<p><u>Policy 4 - Enabling identification of renewable electricity generation possibilities.</u></p> <p>By 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:</p> <ul style="list-style-type: none"> i. the identification and assessment by generators of potential sites and energy sources for renewable electricity generation ii. research-scale investigation into emerging renewable electricity generation technologies and methods. 	<p>TCC questions whether this policy is necessary and how it relates to delivering on the overall Objective. A national standard could be developed so that these activities would be enabled to occur within acceptable environmental standards. TCC questions why this Policy is necessary. Furthermore, it requests that information be provided to show what issues exist that is relevant to the problem definition.</p> <p>The use of the term ‘enable’ is inappropriate. This term should either be defined or another be used in its place to define what is actually expected. To ‘enable’ activities it appears to direct local authorities to override other matters that it must take into account in considering any activity. It must be remembered, and should be provided for in the Policy, that a balancing exercise is required to be undertaken in considering the effects of an activity.</p> <p>Submitter Request TCC does not support this Policy and seeks for it to be removed. This Policy does not add clarity and does not enable decision makers to consider applications on their merits.</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
Policy 5	<p><u>Policy 5 - Supporting small and community-scale renewable electricity generation.</u></p> <p>By 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 the development and operation of small and community-scale distributed renewable electricity generation.</p>	<p>The section 32 analysis states that this Policy is intended for rural and island environments, however this is not reflected in the Policy wording. If the s.32 analysis is correct then this Policy should be amended to reflect the actual intent and make it clear to decision-makers on how to actually give effect to this Policy and where it is appropriate to deliver it. The Policy also does not reflect the conclusion in the S.32 analysis that the Policy is intended to service remote rural villages.</p> <p>Furthermore, TCC questions whether a 4MW threshold is appropriate. What should be considered through this Policy is what renewable energy generation activities are either appropriate in certain environments along with the associated effects that are acceptable at the local, regional and national level. TCC does not support the threshold of 4MW without further information being provided on what type of renewable activities 4MW actually entails to enable consideration of the actual effects on the environment.</p> <p>The use of the term 'enable' is also required to be defined.</p> <p>As drafted, the Policy can also be interpreted in two ways. One, to enable 4MW renewable activity generation activities to occur, the second way to not enable those activities to occur but rather enable the activities associated with the generation. Further clarification on this policy is required given this ability to interpret the policy.</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
		<p>At a minimum the Ministry for the Environment should provide technical assistance to all Councils to aid in developing and implementing this policy. This should also be provided for in an implementation plan as local authorities cannot be expected to hold the technical expertise to develop specific policies on these matters, how fund the development of these.</p> <p>Submitter Request TCC does not support this Policy and seeks for it to be removed.</p>

Objective/Policy/Section 32. Ref	Statement / Action from Plan	TCC Comments/ Request for Amendment
S.32 Analysis – 5.2.6.1 Removal of requirement to identify and avoid ‘high value areas’	Discussion on why the requirement to identify and avoid ‘high value areas’	<p>Many Councils are identifying high value areas through utilising case law criteria from both the Banks Peninsula and Central Otago (Queenstown and Wanaka decisions). Criteria for assessing landscapes is also proposed in the New Zealand Coastal Policy Statement. Furthermore, the New Zealand Institute of Landscape Architects is currently working with the Environment Court on developing a consistent methodology and definitions of terms. It is unclear why, as stated in the s.32 analysis that there would be no certainty of consistency across the country in this matter given the above.</p> <p>TCC however does not believe that local authorities should have to identify high value landscapes as a requirement for this NPSREG, rather the NPS should identify that Renewable Energy Generation Activities should not be provided for in high value landscapes unless the adverse effects can be avoided, mitigated or remedied. By not providing for this matter it would appear that the NPSREG is trying to override a matter of national significance (s.6b) through this policy.</p> <p>Submitter Request Such a Policy could be worded similar to that below:</p> <p><i>‘Planning and development of renewable electricity generation should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character, areas of high cultural or recreation value and amenity and existing sensitive activities including urban areas’.</i></p>