

From: Ken Palmer [<mailto:ka.palmer@auckland.ac.nz>]

Sent: Thursday, 30 October 2008 7:48 p.m.

To: Renewable Electricity

Subject: Submission Proposed National Policy Statement for Renewable Energy

1. I wish to make a brief personal submission in support of the proposed statement.
2. The proposed NPS is concise, but is basically sufficient for the purpose. Conciseness should be commended as a virtue under the RMA.
3. It could be commented that the functions of regional councils as against territorial authorities under the RMA are not alluded to under policies 4 and 5. Those functions or the demarcation of jurisdiction cannot be extended by a NPS to the extent that a matter could become ultra vires the RMA. One assumes the respective councils will be aware of their respective functions and will act accordingly. Reference can be made to Canterbury Regional Council v Banks Peninsula District Council [1995] 3 NZLR 189 on the matter. It is possible that policies 4 and 5 could be qualified by some wording drawing attention to actions to be taken within the appropriate functions and roles of regional councils and territorial authorities.
4. Policy 4 (i) could lead to local authorities identifying suitable sites for wind farms or excluding sites not seen to be suitable. This is commendable. The Board may be aware that this approach has been adopted in Wales UK. Reference can be made to an article by Marcus Trinnick, "Green on Green: Planning for Wind Energy" (2006) 34 Journal of Planning and Environmental Law, Occasional Papers 89-113, at 102.
5. The desirability of a NPS supporting wind farm developments has been promoted in an article by the submitter Kenneth Palmer "Wind Power Consents in New Zealand" 2007. The article was first presented to the Australasian

Law Teachers Conference 2007 (Perth), and has been published on the ALTA website, under the Law and Social Justice Group/ Environmental heading.

http://www.alta.edu.au/2007_published_conference_papers.html

A copy of the article is attached for the information of the Board. The article refers to the work by Marcus Trinnick (footnote 62).

6. I do not need to appear at a hearing (unless requested by the Board).

Thank you

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