

**Form 3
Submission**

**proposal for national policy statement for
renewable electricity generation**

In accordance with section 49 of the Resource Management Act 1991

To The Chairperson
 Board of Inquiry

From: Port Nicholson Block Settlement Trust
 (Taranaki Whanui ki Te Upoko o Te Ika)

This is a submission on the proposed national policy statement for renewable electricity generation (the Proposal) that was publicly notified on 6 September 2008.

Submission Statement

This submission does not support the use of a national policy statement (NPS) for renewable energy for the following reasons outlined below:

(1) The lack of clarity around the issues that the proposed NPS is meant to address:

The two major energy challenges identified by the New Zealand Energy Strategy (NZES) and referred to in the preamble of the proposal document are:

1. to respond to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy
2. to deliver clean, secure, affordable energy while treating the environment responsibly.

The stated objective of the NPS, however, is as follows:

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).

We question the necessity and value, however, of imposing a NPS for renewable energy on local communities around the country when:

- (a) renewable energy is already being strongly encouraged through the introduction of the NZETS (as it has already been seen to encourage investment in renewable energy generation producing lower greenhouse gas emissions).
- (b) New Zealand already has a very high amount of renewable energy generated by stationary energy production (70%) particularly when compared with renewable energy generated in other countries.
- (c) The energy sector accounts for a small amount of the total greenhouse gas (GHG) emissions in New Zealand (only 12% of New Zealand's total GHG emissions in 2006).
- (d) The decision goes against advice (May 2006 report) from the Governmental Reference Group set up to investigate the merits and potential scope of national guidance on management of electricity generation under the RMA. We note the comment in the evaluation document that the release of the New Zealand Energy Strategy (NZES) and the introduction of the NZETS meant that the Governmental Reference Group report was released in a very different context to that of today, however the introduction of the NZETS and NZES would appear to support their conclusion that a national policy statement relating specifically to renewable electricity generation would add little value
- (e) renewable energy generation, in itself, does not ensure a secure energy supply (90% of New Zealand's electricity was generated from renewable sources in 1975 but this came exclusively from hydro-generation and the overall system was extremely vulnerable to security of supply. The same will apply to wind farms etc.)
- (f) the evidence outlined in the Proposal appears to indicate that a NPS on renewable energy is unnecessary, in particular, because:
 - there is already a shift in focus of the New Zealand electricity market towards the use and development of renewable energy sources since the introduction of the NZETS and the NZES (as it increases the relative returns on investment in low emission technologies thereby making it more cost-effective to invest in renewable energy)

- the increased number of applications for projects for renewable electricity generation projects submitted and the increased number of consents granted for these projects has grown rapidly since 2004
- there is case law emerging from the Environment Court that is beginning to encourage standardized methodologies for the assessment of environmental effects in sectoral and strategic areas where expert consideration of these effects can be highly subjective

It is clear that the key drivers behind the introduction of the NPS are not the two major energy challenges identified in the NZES and alluded to in the preamble but:

- the fiscal risk associated with total national greenhouse gas (GHG) emissions generated over the first commitment period of the Kyoto Protocol (and potentially post-2012).
- the governments target of 90% renewable energy by 2025

For this reason, we do not believe that the Government has been entirely transparent on the issue that the NPS is meant to address, nor do we believe that the NPS is a suitable mechanism for achieving the –unstated - objectives. Inconsistent policy development of this nature is likely to result in perverse outcomes, and therefore raise many unintended consequences, which could result in communities picking up the cost of poor policy design. Maori communities would, therefore, carry potentially a greater burden of the real cost associated with this proposal.

If the issue to be addressed is the target of 90% renewable energy by 2025, we suggest that it would be more appropriate to address that issue by establishing a target that is realistic and achievable rather than one based on ideological reasons.

We also believe that a review of the impact of the NZETS on the uptake of renewable energy generation should take place once the stationary energy sector has been phased into the NZETS for at least a year.

If the issue to be addressed is the fiscal impact resulting from the penalties on GHG emissions over the first commitment period of the Kyoto Protocol (2008-2012) and beyond, then this needs to be addressed in a greater strategy across all sectors and not just the stationary energy sector which is responsible for a minor percentage of New Zealand's overall GHG emissions.

In either case, however, it would be more appropriate if the Proposal clearly outlined the issues the NPS was trying to address.

(2) The lack of analysis on how this NPS is likely to impact on Maori.

The proposal document states that:

'..in August 2007 the Minister for the Environment decided it was desirable to prepare a national policy statement for renewable energy. The Minister then consulted a number of relevant interested parties and iwi authorities under section 46 of the RMA. As a result of comments received, the Minister decided in March 2008 that the scope of the national policy statement should be narrowed to renewable energy generation.'

We note that none of the comments provided by iwi authorities (or subsequent related analysis) appears to have been provided in this proposal or to the Board. Section 45(2)(h) of the RMA (Purpose of national policy statements) specifies that in determining whether it is desirable to prepare a national policy statement, the Minister may have regard to 'anything which is significant in terms of section 8 [the treaty of Waitangi].' Therefore, we strongly urge the Board of Inquiry to obtain this information and to make it publicly available. If, for some reason, there were few or no comments provided by iwi authorities – then this would illustrate a systemic failure in due process by the Ministry for the Environment.

(3) The potential for renewable electricity generation activities and interests to infringe on, to erode existing Maori property rights, or to breach Treaty of Waitangi principles

In the evaluation of the objective, the proposal document states:

Cultural wellbeing is not specifically provided for in the Objective. However, Part II of the RMA (including section 8) recognises, among other matters, the importance of Maori and their special relationships, important historical sites, and the Treaty of Waitangi.

The Objective itself does not have an impact on cultural wellbeing, and nothing in the proposed NPS suggests that such issues should be overlooked. It is also noted that section 6 takes priority (including a number of cultural matters) over section 7 (which includes climate change and renewable energy). Each proposal is still, therefore, assessed on its merits, and where there are significant adverse effects on cultural wellbeing, this would be considered in the usual RMA framework.

Although it is true that nothing in the Objective itself suggests that issues of cultural wellbeing should be overlooked, there is a strong likelihood or high

risk that the 'national interest' aspect supported by the NPS would take priority over local or Maori interest.

The above is a major concern for Taranaki Whanui ki Te Upoko o Te Ika as we hold mana whenua, mana moana for the Port Nicholson environ, including the cities of Upper Hutt, Hutt and Wellington.

Notwithstanding the obligations to act in accordance with the principles of the Treaty of Waitangi, under this proposal (in particular, policy 1), interests of local Maori (such as water property, customary fishing rights etc.) are likely to be outweighed by the benefit to the national interest.

We have seen the 'national interest' advanced with great enthusiasm by governments (local/central), over time since the signing of the Treaty of Waitangi – when it comes to alienating Maori from our resources.

We strongly advise the Board of Inquiry not to take this submission lightly or the concerns of other Maori groups lightly. Our concerns are made, based on historical fact. This Proposal could give rise to fresh treaty breaches and the lodging of contemporary claims with the Waitangi Tribunal, particularly where decisions are made that encroach on existing settlements made with Maori.

(4) A weak cost analysis

Although it is understood that the estimate of costs for the introduction and implementation of the NPS provided in this proposal is a preliminary assessment, this estimate appears to be understated. At present, the proposal states:

There are, however, some potential costs associated with a move to promote and increase the proportion of electricity generated in New Zealand from renewable energy sources. These costs include:

- *the potential to increase pressure on the transmission network, leading to a need for more investment in transmission infrastructure*
- *the need to provide more installed capacity than would be the case if New Zealand opted for thermal generation*
- *the potential for adverse environmental effects associated with the use and development of natural and physical resources.*

No estimates, however, have been included for costs associated with consents/ appeals or for litigation. We believe that the latter will be significant, particularly where decisions are made that may erode the interest/ property rights of local iwi and hapu. We also believe that no real decision on the NPS

can be made unless a more realistic and independent costs assessment is carried out and provided to the Board of Inquiry.

We seek the following changes to the proposal:

- Explicit statement that this NPS be removed because:
- It is non-transparent;
- The cost of NPS could affect disproportionately higher numbers of Maori consumers and communities;
- It increases the likelihood of infringement on Maori property rights in the guise of national interest;
- It shifts the burden of cost from Treasury's original assumptions that New Zealand would be in credit with regards to greenhouse gas emissions whereas it now appears that we will be significantly in deficit;
- Since that assumption has been found to be flawed, government is now endeavouring to shift the cost to consumers (communities);
- Government's current policy has agriculture (largest emitter) as being provided an adjustment period and not being phased into the NZETS until post 2012 whereas the stationary energy sector is entering much earlier and being doubly penalised with an NPS that appears unjustified.

We do not wish to be heard in support of my submission.

29 October 2008

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