

Report back on development of national environmental standards for electricity transmission

Office of the Minister
Cabinet Policy Committee

Proposal

1. This paper reports on progress with the development of national environmental standards for electricity transmission (NES). It proposes that the timeframes be extended so that key issues raised during the public consultation can be properly addressed and so that the proposals can be tailored to assist councils implement the National Policy Statement on Electricity Transmission (NPS).

Executive summary

2. The discussion document (*Proposals for National Environmental Standards for Electricity Transmission*) was released in October 2007 for public consultation. It contained proposals for two national environmental standards (NES) under the Resource Management Act 1991:
 - i. The **transmission activities NES**, which would provide for the efficient use, maintenance and upgrading of the existing transmission network by clarifying resource consent requirements for these activities; and
 - ii. The **transmission risks NES**, which would protect electricity transmission lines from inappropriate third-party activities.
3. The submission period closed at the end of November 2007. Eighty-four submissions were received. There was a good rate of response from local government, particularly from regional councils.
4. The Ministry for the Environment has analysed the submissions and published a summary of submissions. Most of the comments on the transmission activity NES related to the workability of the proposals. However nearly half of the submitters opposed the proposed transmission risks NES on the grounds that it would impose additional costs on councils and landowners.
5. The issues raised by submitters are complex and will take time to resolve. The transmission activities NES as proposed, comprising 42 separate regulations, will be the most detailed and comprehensive NES so far. In its final form this NES (in combination with the NPS) would in effect be a “national plan” addressing all aspects of the operation, maintenance and upgrade of transmission lines, and will over-ride significant sections of district plans.
6. It is vital for councils to support and understand the standards, as councils will have the job of implementing them. It is critical to get the NES right, that they be workable, and deliver benefits without imposing unnecessary costs.
7. The NPS on Electricity Transmission took effect on 10 April 2008, and councils have four years to review or change plans to give effect to its provisions. A well drafted set

of NES could assist councils implement the NPS. Consultation with local government is underway to discuss the implementation of the NPS and how NES could assist in this process.

8. Whilst the proposed transmission activities NES requires further detailed work, I consider that it will benefit the national grid and should be completed and implemented. It will provide a consistent national framework of resource consent requirements which provides for the operation, maintenance and upgrade of existing transmission lines and takes into account operational requirements.
9. As for the proposed transmission risks NES, I have asked the Ministry for the Environment to re-evaluate it in the context of the NPS requirements and reasons given by submitters for opposing the proposals. The Ministry proposes to evaluate a number of RMA and non-RMA options, in consultation with key stakeholders. These options include relying on guidance material, a revised NES, strengthening electrical safety requirements for activities around transmission lines, RMA designations, or negotiated easements with landowners.
10. On 2 July 2007, Cabinet Business Committee noted the expectation that the process of preparing standards would be completed “within this parliamentary term” [CBC Min (07) 13/14 refers]. However, I will need more time to allow officials to address the issues raised in submissions, undertake further consultation on the proposals, and to ensure that NES can assist local authorities implement the NPS on electricity transmission.
11. I will report back to Cabinet by the end of August 2008 with detailed proposals for the transmission activities NES once the issues raised in submissions are addressed by the Ministry for the Environment

Background

12. On 2 July 2007, the Cabinet Business Committee agreed to the release of a discussion document entitled *Proposals for National Environmental Standards for Electricity Transmission* for public consultation, “with a view to the process being completed within this parliamentary term” [CBC Min (07) 13/14 refers].
13. The objective of the NES proposals is to promote the sustainable management of electricity transmission (the national grid), ensuring there is national consistency and adequate protection of the grid. This supports the vision of the New Zealand Energy Strategy, of “a reliable and resilient system delivering New Zealand sustainable, low emissions energy services”.
14. The discussion document contained proposals for two national environmental standards (NES):
 - i. The transmission activities NES, which would provide for the efficient use, maintenance and upgrading of the existing transmission network to be undertaken by specifying activities that do not have significant effects and can be undertaken without the need for resource consents, and specifying resource consent categories for other activities; and
 - ii. The transmission risks NES, which would protect electricity transmission lines from inappropriate third-party activities.
15. After completing a preliminary cost benefit appraisal of the proposed standards, the Ministry for the Environment released the discussion document in October 2007, and submissions closed at the end of November 2007. The Ministry has analysed the submissions and published a summary of submissions.

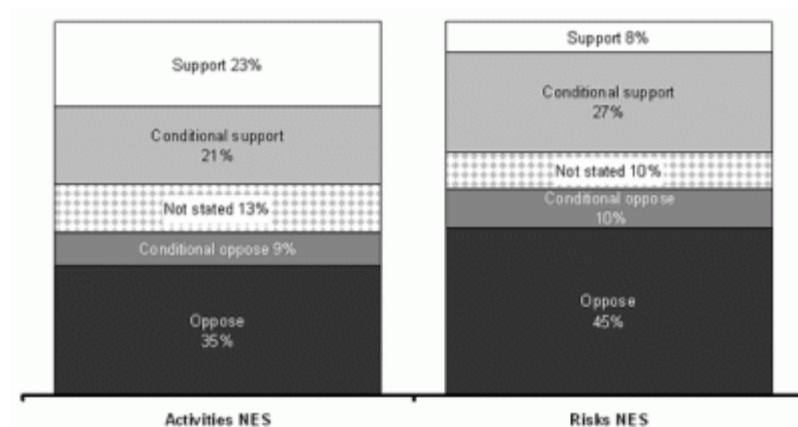
Overview of submissions on draft NES

16. Eighty-four submissions were received. The following figures contain a breakdown of submissions. There was a good rate of response from local government, particularly from regional councils. Twenty four of the submissions were from landowners. Figure 1 shows the level of support for the standards.

Figure 1: Proportion of submissions, by position, for each of the proposed standards

electricity-transmission-submissions.gif

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Proposed national environmental standards for transmission activities

17. The breakdown of submissions by position for the proposed transmission activities NES shows that 44% of submitters supported the proposals, as proposed or subject to specific changes being made. Submitter comments generally related to ways to make the proposed NES more workable, including very detailed comments on the proposed NES (comprising 42 separate regulations). Landowners opposed the proposed NES because they believed that the permitted activity provisions would allow Transpower greater freedom of access to private land (which they will not).

18. Key issues raised by submitters on the specific proposals include:

- The proposed NES listed those transmission activities which would be permitted, and specified resource consent requirements for other transmission activities. Any activity (including very minor activities) not specifically listed would default to full discretionary.
- The proposals are extremely detailed and would over-ride provisions of district and regional plans. Councils are concerned about their ability to implement the standards.
- The proposed NES may generate more resource consents for transmission activities in some areas (for example by not providing for minor discharges),

which is not desirable for councils or Transpower. Other councils noted that the standards would be more lenient than their plans.

- d. The standards do not take enough account of the sensitivity of the environment the transmission activities will occur in – for example the same provisions apply to rural areas and populated urban areas.
- e. The standards do not contain limits for electric and magnetic fields.
- f. The standards will prevail over future designations, which could cause confusion for councils and Transpower in the future.

Proposed national environmental standards for transmission risks

19. Only 8% of submitters supported the proposed transmission risks NES as proposed, and another 27% supported the standards in principle but asked for significant changes.
20. Landowners universally opposed these standards, as did many councils. Key reasons were:
 - a. The proposed NES would impose restrictions on land use near the transmission lines, hence a reduction in land value, and there will be significant costs and uncertainty in obtaining resource consents.
 - b. The costs and resource requirements for councils in enforcing and administering the standards. Councils would be enforcing electrical safety requirements in which they have no expertise or experience (this is currently undertaken by MED).
 - c. Cost savings to Transpower would be transferred to landowners and councils, and the proposal could create liability issues for councils.
 - d. The relationship between future designations and the proposed NES is proving to be problematic and as currently drafted it may result in more onerous requirements for other network utility operators.
 - e. Submitters also questioned the evaluation of options for addressing transmission risk issues. Many saw the proposed NES as providing Transpower with a de facto designation without requiring landowner compensation, and suggested that an easement arrangement would be a better way.

Relationship with the NPS on electricity transmission

21. The NPS for Electricity Transmission took effect on 10 April 2008, and councils have four years to review or change their plans to give effect to the provisions. A well crafted set of NES ought to assist councils to implement the NPS. The NPS provides the objective and policies, and the NES provides the equivalent of plan rules.
22. Consultation with local government is underway to discuss the implementation of the NPS and how NES could assist in this process.
23. The final NPS contains eight more policies than the proposed NPS. It puts a greater onus on “decision-makers” under the RMA to recognise and provide for the effective operation, maintenance, upgrading and development of electricity transmission, and to recognise operational requirements. The proposal for the transmission activities

NES covers these issues in part, but no longer fits with the final NPS as neatly as it did with the proposed NPS of May 2007.

24. The final NPS contains two new policies requiring councils to “manage activities to avoid reverse sensitivity effects on the network”, and ensure the network is not compromised. The NPS requires councils, in consultation with the grid operator, to identify a buffer corridor where “sensitive activities will not be provided for in plans and/or given resource consent”. The proposed transmission risks NES would need significant modification to assist councils to implement these policies.

Next steps: transmission activities NES

25. The NES proposals and the issues raised by submitters are complex and will take time to resolve. The transmission activities NES as proposed will be the most detailed and comprehensive NES proposal so far, comprising 42 separate regulations. In its final form this NES will in effect be a “national plan” addressing all aspects of the operation, maintenance and upgrade of transmission lines, and will over-ride significant sections of district plans.
26. It is vital for councils to support and understand the standards, as councils will have the job of implementing them. It is critical to get the standards right, that they are workable, and that the Ministry for the Environment is able to provide guidance to councils on how the standards fit with the plans.
27. In order to formulate a robust set of regulations for transmission activities, the Ministry will need to:
 - Resolve legal issues around the basis of the standards and relationship to designations
 - Work closely with local authorities in coming up with a workable set of regulations which assist them to implement the NPS policies
 - Assess the relevant provisions of a wider range of plans against the final detailed proposals to ensure that overall no additional consent requirements are created
 - Complete a section 32 analysis, which requires evaluation of whether the proposals are the most appropriate way to achieve the purpose of the RMA, taking into account the costs and benefits of the proposed regulations.
28. Whilst the proposed transmission activities NES requires further detailed work, I consider that it will benefit the national grid, if correctly developed and implemented. It will provide a consistent national framework of resource consent requirements which provides for the operation, maintenance and upgrade of existing transmission lines and takes into account operational requirements.
29. In order to consider the views of submitters, consult with local authorities and key stakeholders, and produce a workable set of regulations, the Ministry for the Environment have advised me that they will need more time. I will report back by the end of August 2008 with detailed proposals for the transmission activities NES.

Next steps: transmission risks NES

30. I consider that submitters raised a number of valid concerns, and I have asked the Ministry for the Environment to assess whether a regulation under the RMA is the correct tool to address the effects of third party activities on transmission lines. The evaluation will take account of the reasons given by submitters for their opposition to the proposals, the provisions of the NPS regarding protection of transmission lines,

and wider sustainable management issues including the effects on land use of restrictions around transmission lines.

31. It is the Ministry's intention to evaluate a number of RMA and non-RMA options, in consultation with key stakeholders. These options include:
- Relying on non-statutory guidance to councils on suitable plan provisions to implement the NPS policies relating to protecting transmission lines
 - A complete revision of the NES proposals in light of the NPS
 - Strengthening the provisions and enforcement of the Electrical Code of Practice for Safe Distances, which provides for protection to and from transmission lines by setting out specific distance requirements
 - The use of RMA designations
 - Investigating the option of negotiated easements.

Consultation

32. The following agencies have been consulted on this paper and their views taken into account: Department of Building and Housing, New Zealand Defence Force, Department of Internal Affairs, Department of Conservation, Land Information New Zealand, Ministry of Agriculture and Forestry, Ministry of Economic Development, Ministry of Health, Te Puni Kokiri, Ministry of Transport, Treasury. The Department of the Prime Minister and Cabinet has also been advised about this paper.
33. Submissions on the proposals for the NES on electricity transmission contained in the discussion document were received from central and local government, landowners, industry and Iwi. Further consultation is proposed with local government, central government agencies, and key stakeholders in preparing final NES proposals for the transmission activities NES and reconsidering the approach to reducing transmission risks.

Financial implications

34. There are no financial implications arising from this paper.

Human rights

35. There are no human rights issues arising from this paper.

Legislative implications

36. Implementing the proposals will ultimately require the preparation of regulations under the Resource Management Act 1991.

Regulatory Impact Analysis

37. This paper is an interim report back on progress and does not contain any new proposals. A preliminary regulatory impact statement was prepared on the public

consultation draft of the proposals for NES. A regulatory impact statement will be prepared when the final proposals for regulation are submitted to Cabinet for approval in August 2008.

Gender implications and disability perspective

38. There are no gender implications for or implications for people with disabilities arising from this paper.

Publicity

39. I propose to release a press statement outlining progress on the preparation of national environmental standards for electricity transmission.

Recommendations

40. The Minister for the Environment recommends that the Committee:

1. **note** that a discussion document proposing two national environmental standards (under the Resource Management Act 1991) for electricity transmission was released for consultation in October 2007.
2. **note** that the Ministry for the Environment is revising the proposals for national environmental standards for electricity transmission:
 - a. to take account of the ability of the proposed national environmental standards to assist councils implement the National Policy Statement on Electricity Transmission within the four year timeframe required
 - b. to consider the comments made by submitters on the proposals and to consult further with key submitters.
3. **invite** the Minister for the Environment to report back by the end of August 2008 with detailed proposals for regulations setting out consent requirements for electricity transmission activities and establishing permitted activity status for electricity transmission activities that do not have significant adverse effects.
4. **note** that the Ministry for the Environment will re-consider the proposed transmission risks national environmental standard and re-evaluate alternative options in the context of the requirements of the National Policy Statement on Electricity Transmission and issues raised by submitters.
5. **note** that the Minister for the Environment intends to issue a press release outlining progress on the preparation of national environmental standards for electricity transmission.

Hon Trevor Mallard
Minister for the Environment