

13 March 2020

To: Ministry for the Environment Biodiversity Team

by email: indigenousbiodiversity@mfe.govt.nz

ORION NEW ZEALAND LIMITED FEEDBACK ON DRAFT NATIONAL POLICY STATEMENT ON INDIGENOUS BIODIVERSITY

- 1 This submission is made on behalf of Orion New Zealand Limited (*Orion*).
- 2 Orion appreciates the opportunity to submit on the draft National Policy Statement on Indigenous Biodiversity (*NPS-IB*).

INTRODUCTION TO ORION

- 3 Orion owns and operates the electrical distribution network that provides power to central Canterbury. Orion is one of the largest electricity distribution networks in New Zealand, supplying services to more than 204,000 homes and businesses. Orion's core purpose is to consistently deliver a safe, resilient and cost-effective power supply, and promote the safe and efficient use of electricity. Orion's network runs through various different types of environments including areas of ecological significance and it requires constant maintenance, upgrade and further development.
- 4 Broadly, the electricity distribution network comprises a number of assets: underground cables, overhead lines, substations, transformers, kiosks, electricity structures (poles/pylons, earth rods and associated buildings) and access tracks. Orion is responsible for the establishment, operation, maintenance and upgrade of these assets and the network.
- 5 Electricity distribution networks are essential in the provision of safe, resilient, and cost effective power supply in our communities and the promotion of the safe and efficient use of electricity. The distribution network and its assets are significant infrastructure in a local, regional, and even national sense (being that they play a key role in distributing electricity from the larger transmission network, or National Grid) and are of strategic importance.
- 6 Orion acknowledges the importance of indigenous biodiversity to New Zealand and the need to halt decline in indigenous species, habitats and ecosystems. As a network utility provider of regional and national significance, Orion seeks to ensure that any new national direction for protection of indigenous biodiversity still appropriately enables the continued safe, resilient and efficient distribution of electricity. The NPS-IB must recognise that sometimes there is a functional need for utilities to be located in areas of significant indigenous biodiversity and that it is essential that existing utilities can be properly maintained and upgraded where

necessary. There may also be situations in the future where a new utility asset has to be located in an area of ecological significance.

COMMENTS

- 7 Some specific comments on the draft NPS-IB provisions are below. Orion seeks that these are incorporated into the final NPS-IB and any other changes that may be necessary to give effect to the below
- 8 **Policy 8** recognises the “locational constraints that apply to specific subdivision, uses and developments”. Orion supports this policy. It has existing electricity distribution assets which have a functional need to be in areas of ecological significance. The ongoing use, repair, maintenance and minor upgrading of these assets is crucial for Orion to maintain a secure and reliable electricity supply.
- 9 **Policy 10** “provides for appropriate existing activities that have already modified indigenous vegetation and habitats of indigenous fauna”. Orion supports this policy. Orion seeks that the use, repair, maintenance and minor upgrading of electricity distribution assets in significant natural areas is enabled. While Orion accepts that some restrictions may be necessary for major upgrades to existing infrastructure, there should also be an appropriate consenting pathway to provide for and enable this.
- 10 **Implementation requirement 3.7(b)** acknowledges that the maintenance of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms, within appropriate limits. Orion considers this is an important point and seeks it is retained.
- 11 **Implementation requirement 3.9** contains exceptions to the “avoid” policies for new use and development of “nationally significant infrastructure” that takes place in or affects ‘medium’ SNAs (subclause (2)). Orion seeks that this exemption is retained with some amendments.

Definition of “nationally significant infrastructure”

- 11.1 The definition of “nationally significant infrastructure” does not include the electricity distribution network, although the National Grid transmission network is included. Orion appreciates that the transmission network is undoubtedly of national importance. However, similar status should also be afforded to the distribution network (which plays an essential role in delivering electricity from the National Grid to New Zealanders). It is crucial that Orion and all other electricity distribution networks/providers are recognised and protected as being assets of local, regional, and strategic importance.
- 11.2 Accordingly, Orion seeks that the electricity distribution network is added to the definition of “nationally significant infrastructure”. Alternatively, Orion seeks that the exception contained in implementation requirement 3.9 be applied to all utilities operated by network utility operators (defined in s166 RMA).

Extent of exemption

- 11.3 The infrastructure exception discussed above only applies to SNAs of 'medium' value, not those of 'high' value. Orion seeks that the exemption is extended to apply to all SNAs. There may be some limited situations in which there is a demonstrable need for new use and development of significant infrastructure within SNAs of high value. If the need for that infrastructure to be located in a high SNA is clear and appropriate then it should be enabled and there should be a consenting pathway that would allow for this. Blanket application of the 'avoid' policy in this context is not appropriate.
- 12 Subclause (4) sets out further exceptions including relating to use or development that addresses a severe and immediate risk to public health and safety. Orion supports that exemption and also seeks that this list of exemptions in subclause (4) is expanded to exempt use or development works necessary for lifeline utilities to fulfil their duties under the Civil Defence and Emergency Management Act 2002.
- 13 **Implementation policy 3.12** as proposed applies the usual management hierarchy (remediating, mitigating, offsetting, compensation, as appropriate) to existing activities in SNAs. However, this implementation policy also states that local authorities must ensure continuation of existing activity will not lead to the loss of extent or degradation of ecological integrity of an SNA and ensure the adverse effects of an existing activity are of no greater character, scale or intensity than they were before the NPS commences. Orion supports this approach to existing activities but seeks explicit recognition within this provision of existing network utility infrastructure such as electricity distribution assets. Further, as noted above, it is essential that Orion is able to use, repair, maintain and carry out minor upgrading on its existing assets wherever they are located to ensure secure and reliable supply of electricity. Orion seeks that this provision will not affect its ability to carry out those activities within SNAs. While it accepts that greater control may be necessary over more major upgrading works, day-to-day use, repair, maintenance and minor upgrading must be enabled without creating an inappropriate regulatory burden.

CONCLUSION

- 14 As explained above, The NPS-IB must recognise and enable critical utilities and nationally and regionally important infrastructure. There will be instances when it is unavoidable for this infrastructure to be located in areas of significant indigenous biodiversity and that it is essential that utilities can be properly used, repaired, maintained, upgraded and developed where necessary.
- 15 Thank you for the opportunity to submit on the proposed NPS.

Signed for and on behalf of Orion New Zealand Limited by its solicitors and authorised agents Chapman Tripp



Jo Appleyard / Amy Hill
Partner / Senior Solicitor

Address for service of submitter:

Orion New Zealand Limited
c/- Jo Appleyard / Amy Hill
Chapman Tripp
5th Floor, PwC Centre
60 Cashel Street
PO Box 2510
Christchurch 8140
Email address: Jo.Appleyard@chapmantripp.com / amy.hill@chapmantripp.com