

Birchfield Coal Mines Limited

SUBMISSION ON THE DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY: MARCH 2020

Ministry for the Environment

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Introduction

Birchfield Coal Mines Limited (BCM) is a family owned mining company that operates on the West Coast of the South Island. The company has been mining on the West Coast for over 50 years. Coal mined by BCM is used in many primary industries and essential services throughout the South Island and wider New Zealand.

BCM is a significant employer on the West Coast and contributes significantly to a number of small local businesses by engaging contracting services.

BCM hold additional minerals permits that cover high quality steel making coal reserves. These resources have been recognised as important to New Zealand's strategic focus on housing developments and will contribute to lowering global carbon emissions due to the high quality nature of these reserves.

We welcome the opportunity to submit on the draft National Policy Statement for Indigenous Biodiversity. Our submission is divided into a primary submission, which sets out the key issues of concern to us, and recommendations for resolving them; and answers the questions posed in the accompanying discussion document.

Executive summary

1. Birchfield supports the NPS-IB, including its Objectives.
2. Councils should identify and map Significant Natural Areas, with mandatory ground-truthing for accuracy, noting this will be resource intensive and time consuming.
3. We support the provision of access to the effects management hierarchy under Part 3.9 for specified activities, including mineral and aggregate extraction, for the reasons stated.
4. Unfortunately, the exemption for specified activities from avoiding effects under Part 3.9 (1) will not work in practice because New Zealand's biodiversity will largely be significant, and most of that will be of high value, on our reading of Appendices 1 and 2. This is particularly the case on the West Coast where Birchfield is based.
5. To solve this problem, we recommend deleting Appendix 2 because it is unnecessary; removing all reference to high and medium value for the same reason; and deleting Part 3.9 (2) (a).
6. Birchfield also recommends amending the significance criteria in Appendix 1, on the basis that if almost everything is significant, then the term "significant" is meaningless.

7. The existing activities provisions in Part 3.12 need to provide an exemption for mineral and aggregate extraction because these activities are constantly changing as part of the nature of extractives. This will be reflected in existing resource consent conditions, and these may need to be varied or renewed from time to time. We recommend expanding the definition of mineral and aggregate extraction to include existing activities, and also minerals prospecting and exploration.
8. Birchfield supports the effects management hierarchy, in general terms, as fit for purpose for extractives sector resource consent applicants.
9. In Appendix 3, we recommend shortening Principle 2 (limits to offsetting), and ditto for Appendix 4, and deleting the term “socially acceptable”, because this is already covered in the resource consent process.
10. We recommend removing the conflict between Principle 5 on “like-for-like”, and Principle 9 on “trading up”, and allowing for both approaches. Under Principle 9, trade ups for at-risk and data-deficient species ought to be allowed, for the trading up provision to have meaning.
11. We recommend deleting all reference to the precautionary approach, because it could lead to the prevention of almost all activities on land in New Zealand, including work done by the Department of Conservation. The NPS-IB is already a robust document.
12. We are concerned about the term, “degradation of mauri”. It is not clear what it means or how this could be debated in the resource consent process. Ideally, these three words would be removed from the NPS-IB, on the basis that the Maori world view, or world views are already reflected in the Hutia Te Rito framework.
13. The NPS-IB should take precedence over all other national policy statements, where biodiversity is concerned, for clarity, and to avoid regulatory duplication.

Birchfield Coal Mines Q & A

Questions	Birchfield Coal Mines
Q1. Do you agree a National Policy Statement for Indigenous Biodiversity (NPS-IB) is needed?	Yes, subject to Birchfield’s primary submission.
Q2. The scope of the proposed NPS-IB focuses on the terrestrial environment and the restoration and enhancement of wetlands. Do you think there is a role for the NPS-IB within coastal marine and freshwater environments?	Yes. The NPS-IB must trump all other national policy statements, as far as biodiversity is concerned, to avoid regulatory duplication.
Q3. Do you agree with the objectives of the proposed NPS-IB?	Yes.
Q10. Territorial authorities will need to identify, map and schedule Significant Natural Areas (SNAs) in partnership with tangata whenua, landowners and communities. What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?	The mapping of SNAs is extremely resource and time intensive. Imagine West Coast Regional Council mapping SNAs in te region. This task would take decades, even if it could be done.
Q12. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPS-IB appropriate for identifying SNAs?	No. We recommend amending Appendix 1, to avoid classifying almost all biodiversity in New Zealand as significant.

Q13. Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs.	Council must ground-truth all mapping of SNAs, to ensure accuracy.
Q19. Do you think the proposed NPS-IB provides an appropriate level of protection of SNAs?	No. Mineral and aggregate extraction will not be able to access the effect management hierarchy, certainly not, on the West Coast. Refer to our primary submission for our recommended solutions to this problem.
Q20. Do you agree with the use of the effects management hierarchy as proposed to address adverse effects on biodiversity instead of the outcomes-based approach recommended by the Biodiversity Collaborative Group?	Yes.
Q21. Are there any other adverse effects that should be added to Part 1.7 (4) to be considered within and outside of SNAs?	Delete “degradation of mauri”, because the meaning is unclear, and it is not clear how this concept could be debated during the resource consent process. The NPPS-IB is already ruled by the Hutia Te Rito framework.
Q22. Do you agree with the distinction between high and medium-value SNAs as the way to ensure SNAs are protected while providing for new activities?	No. Delete Appendix 2 and all reference to high and medium value in the NPS-IB because almost all biodiversity will be of high value.
Q23. Do you agree with the new activities the NPS-IB provides for, and the parameters within which they are provided for?	Yes, and no. Expand the definition of mineral and aggregate extraction to include existing activities, and minerals prospecting and exploration. As written, Part 3.9 will not work as intended, because very few extractives projects will be able to access the effects management hierarchy when applying for resource consent. Refer to our primary submission.
Q26. Do you agree with managing existing activities and land uses, including pastoral farming, proposed in Part 3.12 of the proposed NPS-IB?	No. The definition of mineral and aggregate extraction needs to include existing activities, because these are in a state of constant change, and also minerals prospecting and exploration, for Part 3.9 to work as intended.
Q28. Do you think it is appropriate to consider both biodiversity offsets and biodiversity compensation (instead of considering them sequentially) for managing adverse effects on indigenous biodiversity outside of SNAs?	Yes.
Q31. Do you think the inclusion of the precautionary approach in the proposed NPS-IB is appropriate?	No. The precautionary approach is unnecessary because the NPS-IB is already robust, because New Zealand has the rule of

	law, and because this could stop almost all activities on land.
Q34. Do you agree with the framework for biodiversity offsets set out in Appendix 3?	Birchfield has made recommendations in its primary submission.
Q35. Do you agree with the framework for biodiversity compensation set out in Appendix 4?	Ditto.
Q36. What level of residual adverse effect do you think biodiversity offsets and biodiversity compensation should apply to	<p>a. More than minor residual adverse effects.</p> <p>The RMA is not a no-effects statute. It provides for activities if they can be managed to be no more than minor. If this is achieved with avoid, remedy, mitigate, then there is no need for offsets or compensation.</p>
Q38. The proposed NPS-IB promotes the restoration and enhancement of three priority areas: degraded SNAs; areas that provide important connectivity of buffering functions; and wetlands. Do you agree with these priorities?	No. The West Coast, for example, is different from every other region in New Zealand, and so should not have a blunt instrument applied to it.
Q39. Do you see any problems in wetland protection and management being driven through the Government Action for Health Waterways package while wetland restoration occurs through the NPS-IB?	Yes. Discussed above.
Q41. Do you think regional biodiversity strategies should be required under the proposed NPS-IB, or promoted under the New Zealand Biodiversity Strategy?	No, they should not be required, to avoid imposing a blunt instrument across New Zealand.
Q53. Part 3.4 requires local authorities to manage indigenous biodiversity and the effects on it of subdivision, use and development in an integrated way. Do you agree with this provision?	Yes.
Q54. If the proposed NPS-IB is implemented, then two pieces of national direction – the NZCPS and the NPS-IB – would apply in the landward coastal environment. Part 1.6 of the proposed NPS-IB states if there is a conflict between these instruments the NZCPS prevails ...	As submitted above on this topic.
Q55. The indicative costs and benefits of the proposed NPSIB for landowners, tangata whenua, councils, stakeholders, and central government are set out in Section 32 Report and Cost Benefit Analysis. Do you think these costs and benefits are accurate?	Discard the S32 report. It does not represent reality.
Q59. Do you think a planning standard is needed to support the consistent implementation of some proposals in the proposed NPSIB? ...	No. This is totally unnecessary given the scope and depth of the NPS-IB.

Q60. Do you think there are potential areas of tension or confusion between the proposed NPSIB and other national direction?	Yes. As submitted above on this topic.
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