

# Leonard Andrew Andersen QC

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## **Re: Proposed National Policy Statement for Indigenous Biodiversity: Port Otago Ltd Feedback**

1. Port Otago Ltd has identified an issue with the definition of ports within the definition of National Significant Infrastructure.
2. The definitions are contained in paragraph 1.8. The relevant definition is:  
  

**nationally significant infrastructure means any of the following:**

....

**h) commercial ports (as defined in Part A(6) of Schedule 1 of the Civil Defence Emergency Management Act 2002).**
3. The problem is that “commercial ports” are not defined in that section. The relevant definition in the Civil Defence Emergency Management Act 2002 (“CDEMA”) is that of “Lifeline utilities” contained in Part A of Schedule 1. The relevant specific entity is contained in clause 6 and is:  
  

**The port company (as defined in Section 2(1) of the Port Companies Act 1988) that carries out port related commercial activities at Auckland, Bluff, Port Chalmers, Gisborne, Lyttelton, Napier, Nelson, Picton, Port Taranki, Tauranga, Timaru, Wellington, Westport or Whangarei.**
4. The point about the definition in CDEMA is that it is the definition of the entity that owns each of the specified ports and does not define the ports themselves. While Port Otago Ltd is

sufficiently identified for the purposes of CDEMA by the reference to the port at Port Chalmers, the identification of the infrastructure in the National Policy Statement requires that there also be identification of the port at Dunedin operated by Port Otago Ltd.

5. As the definition in the proposed National Policy Statement was intended to refer to the port infrastructure rather than the entity owning the port infrastructure, the problem is resolved by amending the definition to specify the port infrastructure owned by the relevant port companies.
6. The definition could be amended to read:
  - h) **commercial port facilities owned and/or operated by a port company (as defined in Part A(6) of Schedule 1 of the Civil Defence Emergency Management Act 2002).**
7. This amended definition would mean that the nationally significant infrastructure itself is identified and, from Port Otago Ltd's perspective, it would ensure that the commercial port at Dunedin as well as the commercial port at Port Chalmers is recognised as nationally significant infrastructure.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Len Andersen QC', with a long horizontal stroke extending to the right.

**Len Andersen QC**