



Corporate Office

**Powerco Limited**  
Level 2  
NPDC Civic Centre  
84 Liardet Street  
Private Bag 2061  
New Plymouth 4342

☎ 0800 769 372

🌐 [powerco.co.nz](http://powerco.co.nz)

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Ministry for the Environment,  
PO Box 10362,  
Wellington 6143.

Via email: [indigenusbiodiversity@mfe.govt.nz](mailto:indigenusbiodiversity@mfe.govt.nz)

## **POWERCO – SUBMISSION ON DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY**

This is Powerco Limited's submission on the draft National Policy Statement for Indigenous Biodiversity (NPSIB).

Powerco is an electricity and gas distribution company providing an essential infrastructure to diverse communities across the North Island. Our infrastructure is the backbone that supports many different ways of living and working, and to people and organisations of all incomes and means. Every day we are working to better understand the choices, costs, trade-offs and limitations of how to ensure energy is delivered where and when it is needed today, but with an eye to an uncertain and different future. Our infrastructure can be described as: critical infrastructure, regionally significant infrastructure and lifeline infrastructure.

**Protection of indigenous biodiversity must not be at the expense of providing critical infrastructure** to ensure New Zealanders receive an efficient, safe, and reliable electricity supply. Powerco needs to be able to operate, maintain and upgrade existing assets that may traverse areas that will be managed under the NPSIB.

**“Avoid” policies will prevent new critical infrastructure being provided.** The ‘avoid’ directives will prevent critical infrastructure being able to be established, operated, maintained and upgraded as necessary within Significant Natural Areas (SNAs). There needs to be a clear policy framework that provides a consenting pathway for critical infrastructure traversing areas of indigenous biodiversity.

**Lifeline utility infrastructure needs recognition as nationally significant** in the NPSIB, in the same way that other ‘nationally significant infrastructure’ is recognised. This needs to then carry through to the objectives, policies and implementation requirements to ensure such infrastructure can establish, operate, and be maintained and upgraded.

**The NPSIB needs to provide clarity and certainty** - we note that the aims of the NPSIB included clarifying roles and achieving a nationally consistent approach to reduce repeated litigation, costs, confusion and uncertainty. However, we think that this draft NPS falls short of achieving those aims.

At a high level, our views are that:

**Is a NPSIB needed to strengthen requirements under the RMA?**

- We agree that councils need guidance on how to implement RMA requirements for indigenous biodiversity.
- We do not agree that the draft NPSIB provides useful guidance. It is both too complex and subjective.

**Does the NPSIB provide the appropriate level of protection of SNA?**

- The 'avoid' policies are too unbalanced and there is a need for a clear consenting pathway for infrastructure within SNA.
- The NPSIB will place a heavy burden on infrastructure providers and others, with a need to submit on multiple plan changes, and on-going litigation seems inevitable.

**Do we agree with the definition of nationally significant infrastructure?**

- There is insufficient recognition of the importance of lifeline utility infrastructure.
- The economic and social benefits of such infrastructure are crucial to support regional and national population and economic growth.

Attachment 1 contains our detailed submission on the need for a balanced approach to be taken in the NPSIB, which, in our view, is the most significant issue with the NPSIB.

Attachment 2 contains a table with a summary of our views on other proposed changes we wish to comment on in less detail. Where we suggest amendments, deletions are shown in strikethrough font and additional text is shown as bold underlined.

Attachment 3 contains several examples of locations where we have existing and/or proposed assets within areas affected or potentially affected by SNA provisions. These examples illustrate where

We look forward to the next steps in the consultation process. We would welcome the opportunity to discuss the issues we raise in our submission with Ministry officials. If you have any questions on this submission, or would like to discuss these issues further, please contact Gary Scholfield, Environmental Planner, Ph +64 7 928 5659, Mobile +64 27 598 4145 or email: Gary.Scholfield@powerco.co.nz.

Yours sincerely



Gary Scholfield  
Environmental Planner  
**Powerco Limited**

## **Attachment 1: Powerco's view on the need for Better Provision for Infrastructure in the NPSIB**

There is a need to ensure the balance and alignment between Government policy documents is clearly understood and established at the time of preparing a National Policy Statement (NPS) such as the NPSIB. Unfortunately, Powerco considers that this balance and alignment has not been achieved and therefore submits that there is a need to review and revisit the proposed NPSIB in its current form. In particular, we consider that there should be greater recognition within the NPSIB of the need to balance the maintenance of indigenous biodiversity against other imperatives, such as ensuring the provision of infrastructure that is essential to support regional and national urban development and economic growth.

Powerco considers that there is a lack of alignment and consistency in the Government's approach across the various national policy statements and legislation in relation to urban development and the level of recognition of the need to enable essential infrastructure to establish, operate, and be maintained and upgraded as necessary to meet the needs of urban development, people and communities.

The proposed NPS Urban Development (NPSUD) would require local authorities to ensure that each district has adequate urban development capacity to meet future demand. Our submission on the NPSUD said that we are supportive of the Government's intention of shifting the current perception that urban development only has negative effects on amenity. We pointed out that a secure and safe supply of energy, including electricity and gas, for existing and future communities is an important aspect of what makes up the amenity values of an urban area.

Some balance is achieved in the NPSIB in relation to 'nationally significant infrastructure', in provisions relating to medium value SNAs. Also, in the National Policy Statement on Electricity Transmission (NPSET) and the guidance that MfE have given on the implementation of the NPSET, there is recognition of the needs of the national grid electricity transmission. For example, in the NPSET Implementation Guidance for Local Authorities the following guidance is given:

In developing policies for a district's outstanding landscapes and natural features, as well as areas of high landscape amenity, some recognition and provision for transmission lines should be made, particularly where such areas are already traversed by transmission lines or have a reasonably foreseeable potential to be traversed. It may be appropriate for a district plan to specifically address provision for transmission lines in these areas, if particularly relevant, or at least be explicit about the values that make these areas significant.<sup>1</sup>

Whilst it is recognised that the drivers for the protection of indigenous biodiversity are different to those for protection of outstanding landscapes, it is considered that a similar recognition of the needs of essential infrastructure, particularly infrastructure that is

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<sup>1</sup> Ministry for the Environment, National Policy Statement on Electricity Transmission: Implementation Guidance for Local Authorities, 2010, p24

classified as 'lifeline utilities,'<sup>2</sup> should be incorporated into the policy framework and implementation provisions of the NPSIB.

Making better provision for infrastructure in the NPSIB is necessary. We make some specific suggestions in the discussion that follows.

### **Objectives and Policies**

Powerco considers that 'maintain and protect' objectives and policies of the NPSIB and the 'avoid' implementation imperatives that follow, set too high a threshold to enable critical infrastructure to be able to establish, operate, be maintained and be upgraded. Powerco has existing assets within areas that are or may become SNAs. Powerco needs to be able to operate, maintain and upgrade those assets as necessary to meet the needs of communities. In Attachment 3 we illustrate some examples of Powerco assets affected by existing SNAs and areas that may potentially be identified as SNAs in the future.

Powerco also needs to establish new infrastructure and it will not always be possible to avoid location within SNAs.

Powerco considers that there is a need for a clear consenting pathway to enable the integrated consideration of infrastructure development and indigenous biodiversity in instances of an interface, rather than an unqualified and impracticable obligation to avoid all adverse effects.

We consider there is a need to include an Objective such as:

"To enable the operation, maintenance and upgrading of existing energy infrastructure within SNAs and to recognise the locational constraints of energy infrastructure that mean they may need to locate within SNA."

However, we think that the NPSIB needs to be rewritten in its entirety, to ensure that the objectives, policies and implementation methods take into account the benefits of critical infrastructure and the constraints imposed by the technical and operational requirements of such linear networks as ours.

### **Implementation**

The 'protect and avoid' approach is carried through to the Part 3 Implementation requirements of the NPSIB. We have particular concerns with those implementation provisions that would effectively prevent any development, including our infrastructure, from establishing, operating, being maintained and upgraded within SNAs. We consider that proposals that impact on indigenous biodiversity should all be able to be assessed under the effects management hierarchy.

In clause 3.9 Managing Adverse effects on SNAs listed adverse effects are to be 'avoided'. We think that the listed adverse effects and the requirement to 'avoid' those effects will, in effect, be a prohibition on any development within SNA. The 'avoid' provisions sets a high threshold, as the term "avoid" means "not allow", or, "prevent the occurrence of". The implications of the avoidance requirement are amplified by the broad framing of the stated effects, which include the unqualified terms "loss", "disruption",

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<sup>2</sup> 'lifeline utilities' are defined by the Civil Defence and Emergency Management Act 2002

“fragmentation” and “a reduction”. It seems that, for example, any “loss” or “disruption” would be prohibited, no matter how minor the scale of the effect. We note that this broad “avoid” policy approach will constrain the scope for biodiversity offsetting and compensation, which, in our experience, can offer significant opportunities to improve biodiversity outcomes.

We note that other implementation requirements also lack the necessary balance and recognition of the importance of infrastructure that is so critical that it is classed as ‘lifeline utilities’ under the Civil Defence and Emergency Management Act 2002. Clause 3.7, for example, recognises only the benefits of the maintenance of indigenous biodiversity to the social, economic and cultural wellbeing of people and communities. There is not a similar recognition of the social, economic and cultural benefits of critical infrastructure. 3.7(b) states that “the maintenance of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms, within appropriate limits” but the social, economic and cultural wellbeing provisions of infrastructure need to have a higher recognition in our opinion.

We also note that clause 3.8 Identifying SNAs refers to criteria in Appendices 1 and 2 and sets principles for assessing and classifying SNAs, but none of those criteria include any reference to recognising the locational requirements of critical infrastructure.

A further concern relates to the constraints of clauses 3.12 Existing activities in SNAs. This clause appears to significantly constrain the maintenance, upgrade, alteration or extension of existing activities located in any SNA. This has particular implications for linear infrastructure assets such as electricity lines which already exist within numerous SNAs. An inability to provide critical infrastructure, due to a consenting pathway being absent, has consequential adverse effects on community well-being and on the ability for the Government’s urban development agenda to be able to be met.

## Definitions

We consider that the NPSIB needs to provide greater recognition of infrastructure that is critical to meeting the needs of people, business and communities. We think this would be best achieved by expanding the definition of ‘nationally significant infrastructure’ that is included in the NPSIB, and ensuring that the objectives, policies and implementation methods throughout the NPSIB provide a consenting pathway for ‘nationally significant infrastructure’ with sufficient clarity and certainty.

Potential amendments to the definition of ‘nationally significant infrastructure’ are:

- a) Expand the definition to include ‘lifeline utilities’ as defined by the Civil Defence and Emergency Management Act 2002, as follows:

‘nationally significant infrastructure means any of the following:

...

**c) Lifeline utilities as defined in the Civil Defence and Emergency Management Act 2002, and their associated essential infrastructure and services’**

or

- b) Amend the definition of nationally significant infrastructure to read as follows:

“nationally significant infrastructure means any of the following:

a) ...:

b) ~~the national grid electricity transmission network:~~ **facilities for transmission and distribution of electricity , including the national grid and distribution networks.**

Should neither of these options for amending the definition of 'nationally significant infrastructure' be considered acceptable, we identify in Attachment 2 of our submission, a number of other options that we think will, albeit to a less satisfactory extent, address our concerns

### **Concluding Comments**

We are concerned there is insufficient alignment between Government policy documents and that the NPSIB fails to recognise other Government policy directives that promote urban development and the provision of the infrastructure that is necessary to service that development.

We are also concerned that the NPSIB is lacking in certainty, clarity and a balanced approach. We think the policy direction of avoidance of all adverse effects within SNAs would prevent the establishment, operation, maintenance and upgrading of critical infrastructure within SNAs. We are of the opinion that the NPSIB needs a substantial rewrite to bring the required clarity, certainty and balanced approach.

## Attachment 2: Summary of Powerco’s views

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p><i>Fundamental Concepts</i> <i>Objective 3</i></p>	<p>Clause 1.7(1) Hutia te Rito</p> <p>Objective 3 “to recognise and provide for Hutia Te Rito in the management of indigenous biodiversity”</p>	<p>Delete or provide guidance on how the concept of ‘Hutia te Rito’ should be implemented in objectives, policies and methods of implementation.</p>	<p>We understand Hutia te Rito to be a statement recognising the multiplicity of interrelationships within and between ecosystems, of which people are a part and have a stewardship role. Beyond this recognition, it is unclear how Hutia te Rito is intended to function as an operational principle in the context of a National Policy Statement. The draft Section 32 Evaluation Report repeatedly expresses strong uncertainty about how to implement the “fundamental concept” of the NPSIB and calls for guidance on this.</p>
<p><i>Fundamental Concepts</i> <i>Adverse effects on indigenous biodiversity</i></p>	<p>Clause 1.7(4) Adverse effects on Indigenous biodiversity</p> <p>References in this National Policy Statement to adverse effects on indigenous biodiversity include effects including, but not limited to, the following::</p> <p>a) loss of ecosystem representation or extent: b) disruption of sequences, mosaics or ecosystem function: c) fragmentation of loss of buffering or connectivity within and between habitats or ecosystems:</p>	<p>Rewrite NPSIB to provide clarity</p>	<p>We find it unclear what the intent is of the ‘fundamental concepts’. If the intention is to clarify concepts then we do not accept that clarity is achieved. This fundamental concept appears to attempt to be an all-encompassing definition of what would constitute an adverse effect on indigenous biodiversity, but it includes the proviso “not limited to”, so it would be of limited assistance to implementation of the NPSIB.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
	<p>d) the reduction in population size or occupancy of threatened species:</p> <p>e) the degradation of mauri:</p> <p>f) a reduction in the richness, abundance or viability of species in habitats and ecosystems:</p> <p>g) pest vegetation or fauna incursions and changes that result in increased risk of incursions:</p> <p>h) disruption to indigenous fauna by people and their pets and livestock and changes that increase the risk of disruption:</p> <p>i) a reduction in people's ability to connect with and benefit from, indigenous biodiversity including from benefits such as –</p> <ul style="list-style-type: none"> <li>i. the historical, cultural or spiritual relationship of tangata whenua with their taonga; and</li> <li>ii. the scientific, educational, amenity, historical, cultural, landscape or natural character values of indigenous species and indigenous habitats; and ecosystem services.</li> </ul>		



Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p><i>1.8 Definitions</i> <i>Effects Management Hierarchy</i></p>	<p>effects management hierarchy means an approach to managing the adverse effects of subdivision, use and development that requires that</p> <ul style="list-style-type: none"> <li>a) adverse effects are avoided where possible;</li> <li>b) adverse effects that cannot be demonstrably avoided are remedied where possible;</li> <li>c) adverse effects that cannot be demonstrably remedied are mitigated</li> <li>d) in relation to adverse effects that cannot be avoided, remedied or mitigated, biodiversity offsetting is considered; and</li> <li>e) if biodiversity offsetting is not demonstrably achievable for any indigenous biodiversity attribute on which there are residual adverse effects, biodiversity compensation is considered</li> </ul>	<p>Retain the effects management hierarchy and ensure that it can be applied to all SNA in relation to critical infrastructure.</p>	<p>We think the effects management hierarchy is an appropriate policy tool to apply to all SNA, such that offsetting and compensation are options where effects cannot be avoided, remedied or mitigated.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p>1.8 Definitions Implementation 3.15 Highly Mobile fauna</p>	<p>1.8 Highly mobile fauna means species that – a) are highly mobile; b) where some individuals move between different environments during their life cycle for reasons such as feeding, mating, nesting, moulting or in response to climatic conditions; and c) for the purposes of this National Policy Statement, include only threatened or at-risk species</p> <p>3.15 Highly mobile fauna (1) Every regional council must work together with the territorial authorities in its region to survey and record areas outside SNAs where highly mobile fauna have been, or are likely to be, sometimes present (in this clause referred to as highly mobile fauna areas).</p>	<p>Rewrite NPSIB to provide more certainty; or Amend 3.15 as necessary so that the establishment of critical infrastructure in highly mobile fauna areas is not controlled by the NPSIB.</p>	<p>The definition of 'highly mobile fauna', in conjunction with Clause 3.15, appears likely to capture any area outside an SNA where highly mobile fauna occur as a "highly mobile fauna area". We consider that the benchmark is too low for defining 'highly mobile fauna areas' as meaning any location could meet that definition We consider that these provisions will mean that infrastructure providers will face extensive consequential planning obligations.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p>1.8 Definitions</p>	<p>nationally significant infrastructure means any of the following:</p> <p>...</p> <p>b) the national grid electricity transmission network:</p> <p>c) national renewable electricity generation facilities that connect with the national grid:</p> <p>d) major gas or oil pipeline services (such as the pipeline from Marsden Point to Wiri and high-pressure, gas transmission pipelines from Taranaki):</p>	<p>Amend the definition of nationally significant infrastructure to include lifeline utilities as defined in the Civil Defence and Emergency Management Act 2002:</p> <p>‘nationally significant infrastructure means any of the following:</p> <p>...</p> <p><b><u>c) Lifeline utilities as defined in the Civil Defence and Emergency Management Act 2002, and their associated essential infrastructure and services,</u></b></p> <p>Or</p> <p>Amend the definition of nationally significant infrastructure to encompass all electricity and gas distribution:</p> <p>“nationally significant infrastructure means any of the following:</p> <p>a) ...:</p> <p>b) <del>the national grid electricity transmission network:</del> <b><u>facilities for transmission and distribution of electricity, including the national grid and distribution networks.</u></b></p> <p>...”</p>	<p>As discussed in Attachment 1 of our submission, we consider that the NPSIB needs to give recognition of the needs of infrastructure such as electricity which would not fall within the current definition of ‘nationally significant infrastructure’ within the NPSIB, or have the recognition afforded to such infrastructure. Our preference would be for the definition of nationally significant infrastructure to be expanded by including ‘lifeline utilities’.</p> <p>As defined in the Civil Defence and Emergency Management Act 2002 (CDEM) a lifeline utility includes an entity that produces, supplies, or distributes manufactured gas or natural gas; and an entity that generates electricity for distribution through a network or distributes electricity through a network. Under the CDEM lifeline utilities are expected to ensure that they are “able to function to the fullest extent possible ... during and after an emergency”. This obligation means that investment in the continued operation and development of such utilities is required, but the NPS under the RMA (such as the NPSIB) do not adequately recognise and enable lifeline utilities to meet their broader obligations.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
		<p>In the alternative to amending the definition of 'nationally significant infrastructure' add a definition for 'critical infrastructure':</p> <p style="text-align: center;"><b><u>Critical Infrastructure means infrastructure necessary to provide services which, if interrupted, would have a serious effect on the people within a district or a wider population, and which would require immediate reinstatement. Critical infrastructure includes infrastructure for electricity.</u></b></p> <p>Or</p> <p>Add a definition for 'Lifeline utilities':</p> <p style="text-align: center;"><b><u>Lifeline utilities means: as defined in the Civil Defence and Emergency Management Act 2002, and their associated essential infrastructure and services'</u></b></p> <p>Or add a definition for 'regionally significant infrastructure':</p> <p style="text-align: center;"><b><u>Regionally Significant Infrastructure means:</u></b></p>	<p>Another option would be for the definition of 'nationally significant infrastructure' to be expanded to include local electricity distribution.</p> <p>An acceptable (but less satisfactory) alternative would be for a definition to be included for 'critical infrastructure' and for provision to be made throughout the NPSIB to enable critical infrastructure to establish, operate, be maintained and upgraded within all areas of SNAs and in other areas where there may potentially be impacts on indigenous biodiversity.</p> <p>We provide a further option, which would go some way to addressing our concerns. This option is to include a definition of 'regionally significant infrastructure' and making provision for such infrastructure throughout the NPSIB.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
		<p><b><u>i. facilities for transmission and distribution of electricity, including the national grid and distribution networks.</u></b></p>	
<i>Objective 6</i>	<p>6.To recognise the role of landowners, communities and tangata whenua as stewards and kaitiaki of indigenous biodiversity by: b) Allowing people and communities to provide for their social, economic and cultural wellbeing now and in the future; and c) Supporting people and communities in their understanding of and connection to, nature.</p>	<p>Rewrite NPSIB to provide certainty and clarity or include a new objective that recognises the importance of critical infrastructure to enabling people and communities to provide for their social, economic and cultural wellbeing.</p>	<p>We consider that Objective 6 needs to be reframed so that the “allowing people and communities to provide for their social, economic and cultural wellbeing is not only in terms of ‘recognising the role’ of people as stewards and kaitiaki of indigenous biodiversity.</p>
<i>Policy 6</i>	<p>6. To identify and protect areas of significant indigenous vegetation or significant habitat of indigenous fauna by identifying and managing them as SNAs</p>	<p>Rewrite NPSIB to provide a consenting pathway for critical infrastructure within SNAs and where they may affect indigenous biodiversity.</p> <p>Amend by including a new policy:</p> <p><b><u>In identifying and managing SNAs territorial authorities shall recognise and take into account the development, operation, maintenance and upgrading of nationally significant infrastructure [or ‘critical infrastructure] in these areas.</u></b></p>	<p>We think that the term ‘protect’ is very absolute and councils are likely to unnecessarily restrict activities within SNAs when developing provisions under this policy.</p> <p>We think that there is need for a policy that would bring balance to the NPSIB, by recognising the importance of nationally significant infrastructure (with the definition amended to address our concerns as noted above). We also consider that there is a need for a policy based on the effects management hierarchy approach, which will achieve better outcomes.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
		<p>Amend by including a new policy and implementation methods that enables the effects management hierarchy to be applied for nationally significant infrastructure (or critical infrastructure) within all SNA</p>	
<p><i>Policy 7</i></p>	<p>7. To manage subdivision, use and development outside of SNAs as necessary to ensure indigenous biodiversity is maintained</p>	<p>Rewrite NPSIB to provide clarity and certainty.</p> <p>Amend Policy 7 or include a policy specifically relating to nationally significant infrastructure [or critical infrastructure] and recognising the locational constraints for such infrastructure.</p> <p>Amend Policy 7 so as to limit the scope of the 'areas outside SNAs' that may be subject to the policy and implementation requirements of 'ensuring indigenous biodiversity is maintained'.</p>	<p>As discussed in Attachment 1, we consider that the NPSIB in its entirety needs to take a more balanced approach to recognising the locational and operating needs of infrastructure. We suggest inclusion of a new definition for either 'critical infrastructure', 'regionally significant' or 'lifeline utilities' and use of that term in the policies of the NPSIB.</p> <p>We are concerned with the potential wide breadth of areas that may be subject to a requirement for maintenance of indigenous biodiversity. The mapping of SNAs has the advantage of providing a degree of certainty of the extent of the areas subject to SNA provisions. We think Policy 7 will add to the uncertainty of what areas might be subject to protection and consequential consenting pathway difficulties.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<i>Policy 8</i>	8. To recognise the locational constraints that apply to specific subdivisions, uses and developments	<p>Rewrite NPSIB to provide clarity and certainty.</p> <p>Include a new policy that provides for nationally significant infrastructure [or critical infrastructure] to be established within SNAs, recognising the locational, operational, functional needs of such infrastructure.</p>	As discussed in Attachment 1, we consider that the NPSIB in its entirety needs to take a more balanced approach to recognising the locational and operating needs of infrastructure. We suggest inclusion of a new definition for either 'critical infrastructure', 'regionally significant' or 'lifeline utilities' and use of that term in the policies of the NPSIB.
<i>Policy 10</i>	10. To provide for appropriate existing activities that have already modified indigenous vegetation and habitats of indigenous fauna	10. To provide for <del>appropriate</del> existing activities that have already modified indigenous vegetation and habitats of indigenous fauna	We consider that "appropriate" is unclear and subjective, and that this policy does not provide clear direction to local government.
<i>Policy 12</i>	12: to identify and protect indigenous species and ecosystems that are taonga:	12: to identify and <del>protect</del> <b><u>manage adverse effects of land use and development on</u></b> indigenous species and ecosystems that are taonga:	We consider that the term 'protect' is very absolute. We query whether the term 'identified taonga' as per the definitions should be used. If not restricted to 'identified taonga', this policy could have wide and uncertain ramifications.
<i>Implementation</i>	3.7 Social, economic and cultural wellbeing	Amend 3.7 to recognise the contribution of critical infrastructure to social, economic and cultural wellbeing,	We note that the Implementation requirements of 3.7 recognise only the benefits of the maintenance of indigenous biodiversity to the

Topic	NPSIB Provision	Suggested Amendments	Powerco view
	<p>In implementing this National Policy Statement, local authorities must recognise –</p> <ul style="list-style-type: none"> <li>a) that the maintenance of indigenous biodiversity contributes to the social, economic and cultural wellbeing of people and communities; and</li> <li>b) that the maintenance of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms, within appropriate limits; and</li> <li>c) that people are critical to maintaining and enhancing indigenous biodiversity; and</li> <li>d) the importance of forming partnerships between local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity; and</li> <li>e) the importance of respecting and fostering the contribution of landowners as stewards and kaitiaki; and</li> <li>f) the value of supporting people and communities in understanding,</li> </ul>	<p>Amend 3.7 to remove the lack of clarity and certainty involved with the repeated use of the term ‘appropriate’.</p>	<p>social, economic and cultural wellbeing of people and communities. We consider, as discussed in Attachment 1 to our submission that a more balanced approach needs to be taken.</p> <p>We are concerned with the lack of clarity in the use of ‘appropriate’. There is case law relating to the use of the term ‘inappropriate’ in section 6(a) Matters of national importance (“inappropriate subdivision, use and development”), but we consider the term ‘appropriate’ to be loose and open to interpretation and subjective judgement.</p>



Topic	NPSIB Provision	Suggested Amendments	Powerco view
	connecting to and enjoying indigenous biodiversity.		
<i>Implementation</i>	<p>3.8 Identifying significant natural areas</p> <p>(1) Every territorial authority must–</p> <p>a) undertake a district wide assessment in accordance with Appendix 1 to determine if an area is significant indigenous vegetation and /or significant habitat of indigenous fauna; and if it is,</p> <p>b) classify areas of significant indigenous vegetation and /or significant habitat of indigenous fauna as either High or Medium, in accordance with Appendix 2.</p> <p>(2) Territorial authorities must use the following principles and approaches when undertaking the assessment and classification required by subclause (1).</p> <p>(a)...</p> <p>...</p> <p>(f)</p>	Rewrite NPSIB to provide certainty and clarity	<p>SNAs must be identified as required by Clause 3.8, using the Appendix 1 assessment criteria. Only one criterion in Appendix 1 needs to be met to qualify a site as an SNA. We consider that 3.8 together with Appendix 1 mean the SNA assessment criteria are too broad and likely to capture areas that are not appropriately classed as SNA.</p> <p>We consider the principles set out in 3.8.2 should include a principle relating to the identification of any 'existing infrastructure' as a principle and approach when undertaking assessment and classification of a SNA.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<i>Implementation</i>	<p>3.9 (1) Except as provided in subclauses 2, 3 and 4 local authorities must ensure that, in relation to any new subdivision, use or development that takes place in or affects, an SNA</p> <p>a)the following adverse effects on the SNA are avoided:</p> <ul style="list-style-type: none"> <li>i. loss of ecosystem representation and extent:</li> <li>ii. disruption to sequences, mosaics or ecosystem function:</li> <li>iii. fragmentation or loss of buffering or connectivity within the SNA and between other indigenous habitats and ecosystems:</li> <li>iv. a reduction in population size or occupancy of threatened species using the SNA for any part of their life cycle; and</li> </ul> <p>b) the effects management hierarchy is applied to all other adverse effects.</p>	Rewrite NPSIB to provide certainty and clarity	<p>Clause 3.9 establishes a two-tiered approach to managing effects on SNAs, where certain effects must be avoided (loss of ecosystem representation etc) and in relation to other effects, the effects management hierarchy would apply. We think the ‘avoid’ approach would present an insuperable barrier to any development, including the provision of critical infrastructure. As discussed in Attachment 1 of our submission we think a more flexible and enabling approach needs to be taken in relation to infrastructure that is essential to people and communities and a consenting pathway needs to be provided, including within high value SNAs. Such a pathway might include the ability to offset or compensate for the effects identified within 3.9.1.</p> <p>We also have concerns that the terms ‘extent’, ‘disruption’ and ‘fragmentation’ could be interpreted narrowly e.g. would the removal of one tree constitute loss of ecosystem extent which we must avoid?</p> <p>We note that clause 3.9 does not apply to managing plantation forestry biodiversity areas. We consider that the National Environmental Standards for Plantation Forestry is very enabling and has interesting allowances when it comes to indigenous biodiversity and SNAs, these provisions should be echoed in the</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
			<p>NPSIB for critical infrastructure in a specific infrastructure chapter within the NPSIB.</p> <p>In 3.10 Managing adverse effects in plantation forests effects within a plantation forest biodiversity area and significant habitats is to be managed as opposed to avoided as per 3.9.1.</p>
<i>Implementation</i>	<p>3.9 (2) All adverse effects of a new subdivision, use or development must be managed using the effects management hierarchy if –</p> <p>a) the subdivision, use or development is to take place in, or affects, an SNA classified as Medium; and</p> <p>b) there is a functional or operational need for the subdivision, use or development to be in that particular location; and</p> <p>c) there are no practicable alternative locations for the subdivision, use or development; and</p> <p>d) the subdivision, use or development is associated with:</p> <ol style="list-style-type: none"> <li>i. nationally significant infrastructure:</li> </ol>	<p>Delete or amend NPSIB to provide a consent pathway for nationally significant infrastructure / critical infrastructure and to provide certainty and clarity</p>	<p>As discussed in Attachment 1 of our submission we think a more flexible and enabling approach needs to be taken in relation to infrastructure that is essential to people and communities and a consenting pathway needs to be provided, including within all SNAs.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
	<ul style="list-style-type: none"> <li>ii. mineral and aggregate extraction:</li> <li>iii. the provision of papakainga, marae and ancillary community facilities associated with customary activities on Māori land:</li> <li>iv. the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of tangata whenua.</li> </ul> <p>(4) Subclause (1) does not apply to managing adverse effects in the following circumstances:</p> <ul style="list-style-type: none"> <li>a) the adverse effects arising from a use or development that is for the purpose of protecting, restoring or enhancing an SNA:</li> <li>b) the adverse effects arising from a use or development that addresses a severe and immediate risk to public health or safety:</li> <li>c) an area comprising kānuka or mānuka and that is identified as an SNA solely because it is at risk from myrtle rust:</li> <li>d) indigenous vegetation or habitat of indigenous fauna established and</li> </ul>		

Topic	NPSIB Provision	Suggested Amendments	Powerco view
	<p>managed for a purpose other than the maintenance, restoration or enhancement of indigenous biodiversity, and the use or development is necessary to meet that purpose.</p> <p>(5) In subclause (2)(b) – functional need means the need for a proposed activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment</p> <p>operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.</p>		
<p><i>Implementation Existing Activities in SNAs</i></p> <p><i>Definition Existing Activity</i></p> <p><i>Definition New subdivision,</i></p>	<p>3.12 Existing Activities in Significant Natural Areas</p> <p>(2) Regional councils must make or change their policy statements to specify where, how and when plans must provide for existing activities that may adversely affect indigenous biodiversity.</p>	<p>Delete or amend NPSIB to provide certainty and clarity</p>	<p>As discussed in Attachment 1, we consider that the threshold tests of the NPSIB are too high, including in 3.12 in relation to the effects of existing activities within SNAs. We note the discussion document (p50) explains this policy:</p> <p>“If existing activities are taking place within an SNA, Part 3.12 of the proposed NPSIB would require local authorities to ensure the effects on biodiversity do not increase in character, scale or intensity, and ensure that continuing the</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p><i>use, or development</i></p>	<p>(3) In providing for existing activities in their policy statements and plans, local authorities must –</p> <p>a) ensure the continuation of an existing activity will not lead to the loss, including through cumulative loss, of extent or degradation of the ecological integrity of any SNA; and</p> <p>b) ensure the adverse effects of an existing activity are of no greater character, intensity or scale than they were before the National Policy Statement commencement date.</p> <p>Existing activity in this NPS means a subdivision, use or development that is</p> <p>a) Lawfully established at the commencement date; but</p> <p>b) Not a land use covered by s.10 of the Act</p> <p>New subdivision, use or development means a subdivision, use or development that is not an existing activity nor an activity captured by section 10 of the RMA</p>		<p>activity would not lead to the loss of extent or degradation of the SNA’s ecological integrity, or the cumulative loss of any ecosystem.”</p> <p>We are concerned that this policy would effectively prevent the operation, maintenance and upgrading of our infrastructure where located in areas that become identified SNAs.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p><i>Implementation</i></p> <p><i>3.13 General Rules applying outside SNAs</i></p>	<p>3.13 General Rules applying outside SNAs</p> <p>(1) Local authorities must take steps to maintain indigenous biodiversity outside SNAs, including by making or changing their policy statements and plans to do all the following:</p> <p>a) specify where, how and when controls on subdivision, use and development in areas outside SNAs are necessary to maintain indigenous biodiversity:</p> <p>b) apply the effects management hierarchy to adverse effects, except that biodiversity compensation may be considered as an alternative to biodiversity offsetting (and not only when biodiversity offsetting is not demonstrably achievable):</p> <p>c) specify where, how and when, for any area outside an SNA, the assessment and classification required by clause 3.8(1) is required.</p>	<p>Delete or amend NPSIB to provide certainty and clarity</p>	<p>We are concerned that the NPSIB includes provisions for the protection of indigenous biodiversity that does not meet the criteria for being identified as SNAs. We consider that these provisions will mean that infrastructure providers will face extensive consequential planning obligations.</p>

Topic	NPSIB Provision	Suggested Amendments	Powerco view
<p><i>Implementation 3.19</i> <i>Assessment of Environmental Effects</i></p>	<p>3.19 Assessment of environmental effects</p> <p>(1) Local authorities must change their plans to include a requirement that the following information be included in any assessment of environmental effects whether all or any part of the site covered by the application is in or affects –</p> <ul style="list-style-type: none"> <li>a) an SNA; or</li> <li>b) an area of indigenous vegetation; or</li> <li>c) a habitat of indigenous fauna; or</li> <li>d) an area identified as highly mobile fauna area (as described in clause 3.15), in which case it must include information about the use of the area by highly mobile fauna; or</li> <li>e) an area providing connectivity or buffering; or</li> <li>f) an area identified as or containing, identified taonga.</li> </ul> <p>(2) Local authorities must make or change their policy statements and plans to include a requirement that the assessment of environmental effects required by clause 7(1) of Schedule 4 the Act –</p>	<p>Delete or amend NPSIB to provide certainty and clarity</p>	<p>We do not consider that 3.19 provides any greater certainty or clarity to users of the RMA. For example, as written any work within a small area of Manuka would necessitate an AEE and the consequential planning obligations.</p>



Topic	NPSIB Provision	Suggested Amendments	Powerco view
	<p>a) for the purposes of clause 7(1)(c) of Schedule 4 of the Act –</p> <ul style="list-style-type: none"> <li>i. addresses effects of the proposal (if relevant) on the areas referred to in subclause (1)(a)(i) to (vi); and</li> <li>ii. includes sufficient information to demonstrate the effective management of adverse effects as required by this National Policy Statement; and</li> </ul> <p>b) for the purposes of clause 7(1)(d) of Schedule 4 of the Act, addresses –</p> <ul style="list-style-type: none"> <li>i. the effects on identified taonga; and</li> <li>ii. ecosystem services associated with indigenous biodiversity at the site; and</li> <li>iii. the site's role in maintaining the ecological integrity of and connections between it and the wider ecosystem; and</li> </ul> <p>c) uses biodiversity methodologies consistent with best practice for the ecosystem types present at the site; and</p>		

Topic	NPSIB Provision	Suggested Amendments	Powerco view
	d) considers including mātauranga Māori and tikanga Māori assessment methodology where relevant.		
<p><i>Appendix 3 (Principles for biodiversity offsetting)</i></p> <p><i>Appendix 4 (Principles for biodiversity compensation)</i></p>	Appendix 3 Offsets Appendix 4 Compensation	Delete or amend NPSIB to provide certainty and clarity	<p>NPSIB Appendices 3 or 4 do not provide methodologies to ensure that biodiversity offsetting and compensation are undertaken in a consistent manner. Both appendices set ambiguous outcomes, relying on the term “preferably” in several instances. We consider that in the absence of standardised methodologies, the outcomes of biodiversity offsetting and compensation actions will vary significantly within and between regions. This will reduce the efficiency, and may reduce confidence in the effectiveness, of the NPSIB.</p> <p>We note that there was a lack of agreement in how the principle 1 for both Appendices 3 and 4 should be formulated – whether “more than minor” residual adverse impacts would be addressed. We consider that ‘more than minor’ should be the threshold.</p>

NPSIB Provision	Content	Powerco view
<p><i>s.32 Evaluation and Cost Benefit Analysis</i></p>	<p>8.4.2 Opportunity costs for landowners, businesses and infrastructure providers – approach and assumptions</p> <p>...</p> <p>In terms of potential opportunity costs on nationally significant infrastructure, opportunity costs may take the form of needing to relocate planned infrastructure to avoid SNAs (if in fact there are alternatives) or considering alternate methods of development such as undergrounding pipes or cables. Because of the significant capital costs of national infrastructure, any modifications or adaptations (outside the preferred location, route or method) will potentially result in significant costs in dollar terms (but not necessarily significant in % terms relative to total costs). The case study analyses provide limited spatial context on potential impacts on existing and proposed national infrastructure, where this information was able to be sourced. Again, this analysis is limited to identifying the spatial incidence of these activities with the incidence of estimated high and medium SNAs (defined or indicative). How infrastructure companies might respond where there is a potential conflict under the NPSIB has not been investigated further, and so there are no estimates of opportunity costs in monetary terms. This is an area that will be explored further in the update of the CBA following public consultation.</p>	<p>In our opinion the costs involved in the NPSIB in its current form would be considerable. We can see that infrastructure providers will face extensive planning obligations and litigation due to the absence of a clear consenting pathway for critical infrastructure where there is no practicable alternative but to impact on SNAs and indigenous biodiversity. We think it is important that dialogue with us and other infrastructure providers take place such that the true costs of the NPSIB can be identified and evaluated.</p> <p>The NPSIB will require all councils to make changes to their plans, even those councils who already have extensive SNA provisions within their plans. This will necessitate a costly process that will require infrastructure providers, such as Powerco, to once again make submissions and enter into litigation in order to ensure the provisions of plans provide a consenting pathway for critical infrastructure.</p>

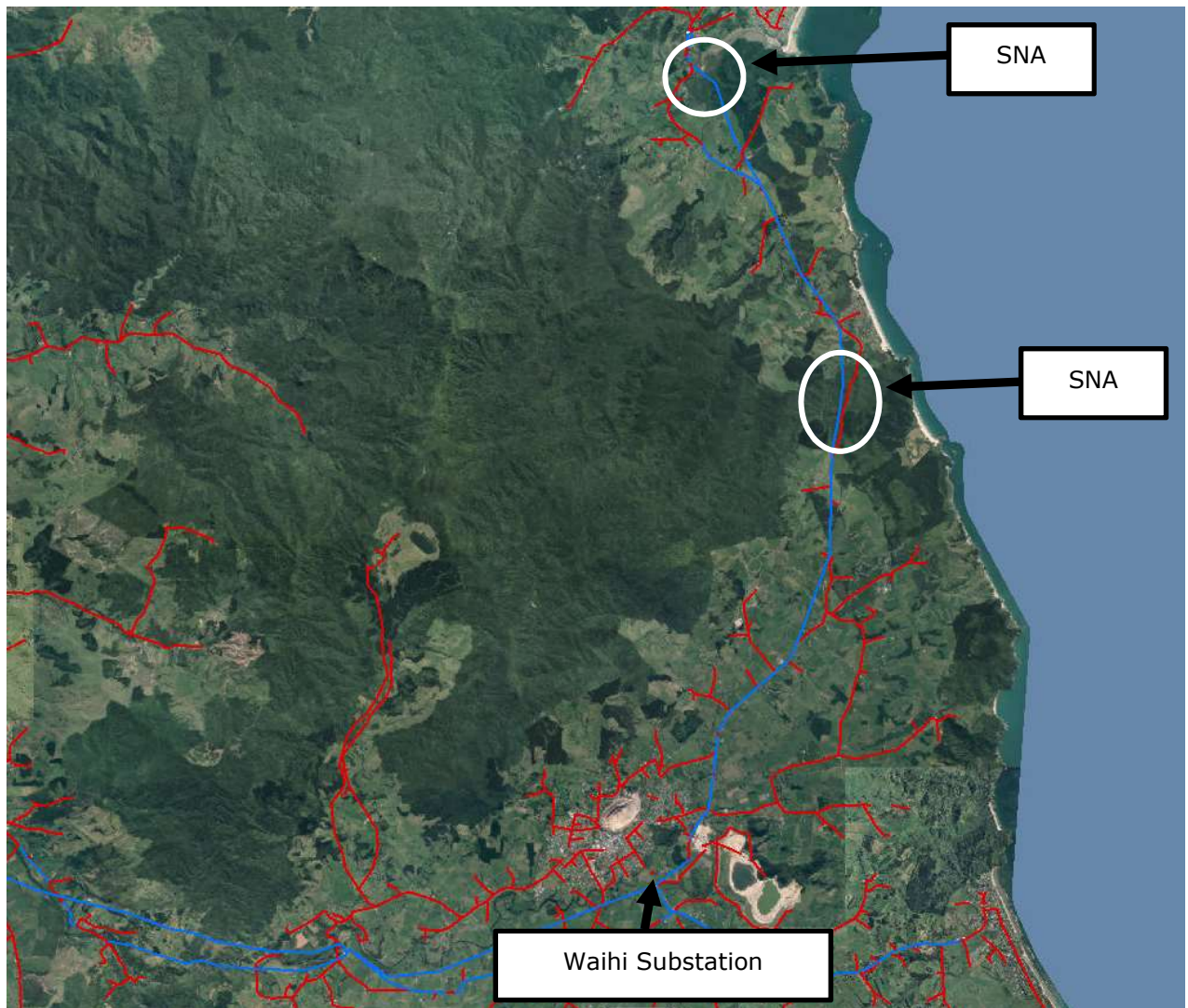
NPSIB Provision	Content	Powerco view
<i>Discussion Document</i>	<p>The Discussion document identifies 3 options for the identification and assessment of SNAs on Crown land. These options (in summary) are:</p> <ol style="list-style-type: none"> <li>1. Territorial Authorities keep responsibility for identifying and mapping all SNAs on public conservation land;</li> <li>2. All public conservation land being deemed as SNAs; or</li> <li>3. SNAs are not identified on public conservation land</li> </ol>	<p>We consider that Option 3 would achieve efficiencies. The Department of Conservation already manages public conservation land and it is inefficient for councils to have to prepare and notify plan changes to include such land within the SNAs identified in their plans. Such a process entails costly and sometimes litigious processes for infrastructure providers such as Powerco.</p> <p>In the alternative, Powerco considers that Options 1 is preferable to Option 2, as it does require the assessment of whether an area should be included within a SNA, rather than a blanket coverage of SNA protection. Such a blanket SNA classification could have consequences for the ability to operate, maintain and upgrade existing infrastructure or install new infrastructure.</p>

## Attachment 3

### Examples of Powerco Assets within Existing or Potential Future SNAs

Figure 1 illustrates the Waihi to Whangamata 33kV overhead sub-transmission line. This is the only line that provides supply to Whangamata. The line passes through areas identified as Significant Natural Areas in the Hauraki District Plan.

**Figure 1 Waihi to Whangamata 33kV Overhead sub-transmission line.**



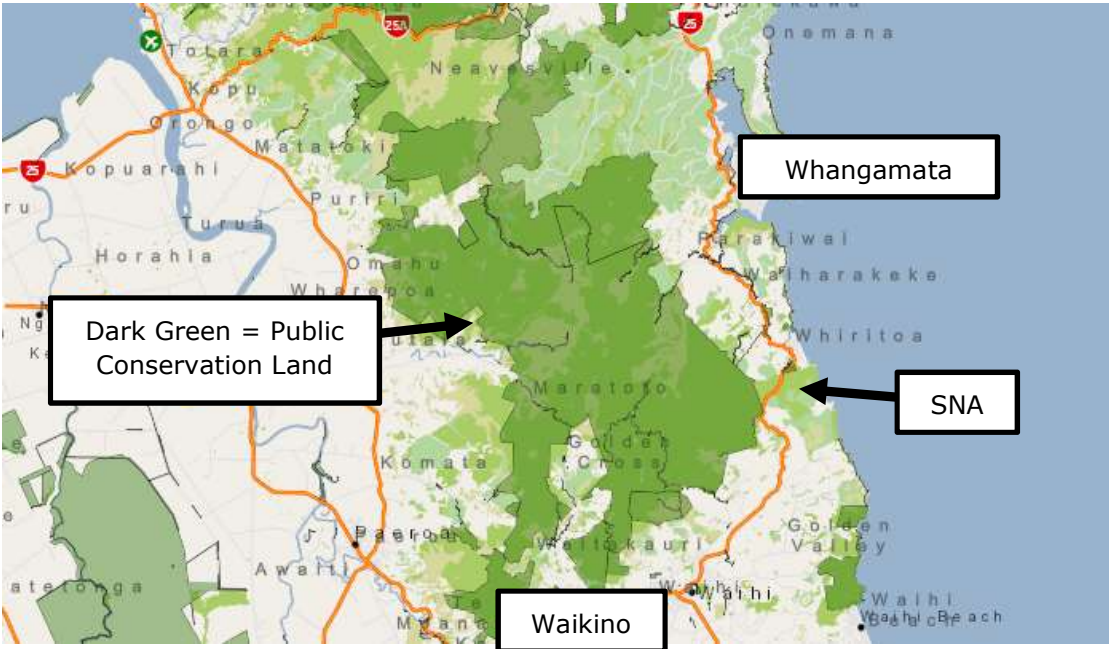
The Whangamata substation is currently supplied by a single 33 kV overhead network broadly following State Highway 25 from Waihi. This section of line is 22km in length and the radial nature of this supply (i.e. a line that originates from a single source) means that Whangamata substation will suffer loss of supply during faults or maintenance outages required on this section of overhead network.

As shown in Figure 3 below, Whangamata is largely surrounded by public conservation land and identified SNAs. The options for the identification of SNAs on public conservation land include (as option 2 in Table 7 of the Discussion document) that all such land be deemed to be SNA.

A recent project has involved the installation of a large grid scale battery paired with a state of the art diesel generator at Whangamata, which is cable of restoring electricity supply to around 1,000 of the 5,700 properties in Whangamata. This system cuts in automatically when the incoming 33kV power supply from Waihi is lost.

Powerco has previously advanced a proposal to improve supply reliability and network security by providing an additional source of electricity supply (33kV) to the Whangamata substation from Waikino. While currently on hold, there is a possibility that this project may be advanced again in the future. Powerco would be unable to deliver such a project without traversing a SNA. The NPSIB as currently written would present real challenges to Powerco in situations such as that illustrated in this example.

**Figure 2 Whangamata**

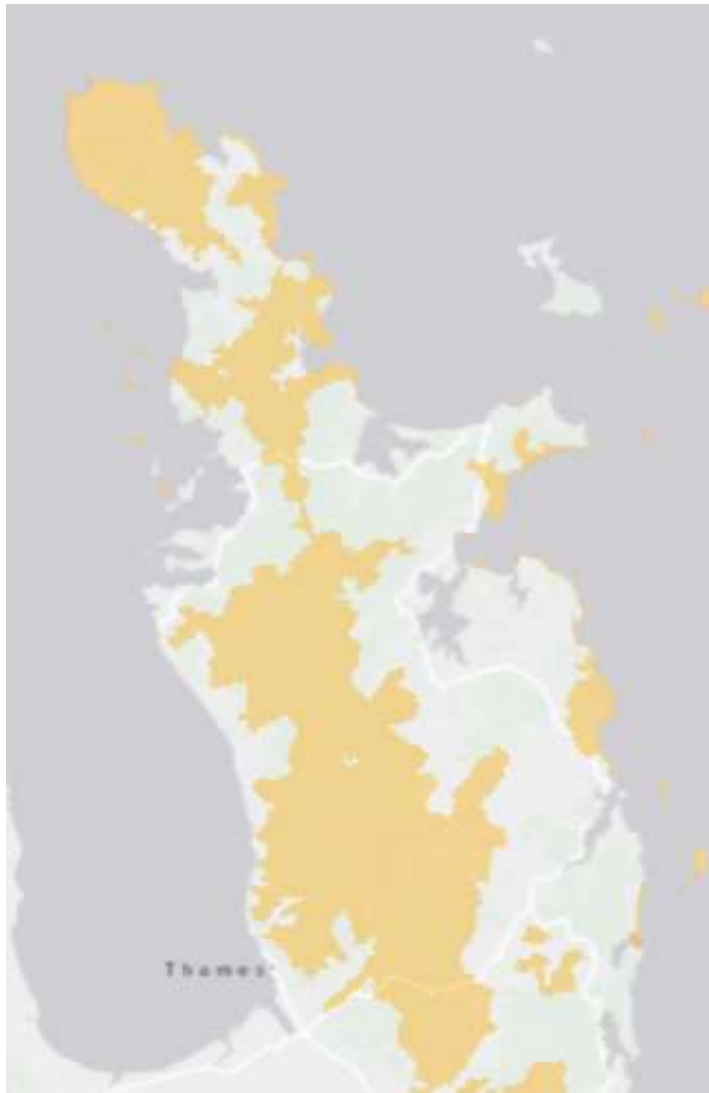


Map Source: <https://www.doc.govt.nz/map/index.html>

Figure 3 below shows that the backbone of the entire Powerco network route on the Coromandel Peninsula (a 66kV overhead sub-transmission line ring & spur) (blue lines) passes through the Outstanding Natural Features and Landscapes overlay in the Thames Coromandel District Council's (TCDC) Proposed District Plan. This supplies Taiura / Pauanui, Whitianga, Matarangi, Coromandel Town and all other settlements on the upper Peninsula.

Numerous 11kV distribution lines (red lines) also pass through the ONFL overlay. Powerco considers that this illustrates a potential problem should these ONFL overlays become a SNA under the implementation of the NPSIB. As drafted, the NPSIB would likely make challenging for these lines to be operated, maintained or upgraded once the NPSIB has been given effect to.

**Figure 3 Coromandel Peninsula – Powerco Network Route and Thames Coromandel District Council Outstanding Natural Features and Landscapes Overlay**



Maps sourced from TCDC Smart Maps Portal (Decisions Version Proposed District Plan Planning Maps, ONFL Layer) and Powerco GIS.