



INFRASTRUCTURE GROUP SUBMISSION

Overview

1. The Infrastructure Group supports efforts to reverse declining trends in indigenous biodiversity, and achieve better outcomes for our indigenous flora and fauna.
2. The Infrastructure Group is concerned the Proposed National Policy Statement on Indigenous Biodiversity (**Proposed NPS-IB**) is not targeting the right pressures on indigenous biodiversity and that it will prevent desirable and nationally significant infrastructure development.
3. The Infrastructure Group wants to work with Government to ensure the Proposed NPS-IB provides for the continued use of existing Nationally Significant Infrastructure (**NSI**), and allows proposals for new NSI within Significant Natural Areas (**SNAs**) to be fully considered by decision-makers.
4. In particular, an overall assessment of NSI projects should be undertaken including benefits, locational constraints, and measures to avoid, remedy, and mitigate adverse effects on indigenous biodiversity, including offsets and environmental compensation.
5. In its present form the Proposed NPS-IB does not provide for such an assessment and has the potential to significantly undermine both the Government's urban growth agenda and a transition to a low emissions economy.
6. The Proposed NPS-IB also fails to reflect practical realities arising from a lack of information on indigenous biodiversity at a national scale, and resourcing constraints.

Fundamental Issues with the Proposed NPS-IB

7. This section sets out the fundamental issues with the Proposed NPS-IB as agreed by the Infrastructure Group. There are other fundamental issues with the Proposed NPS-IB which the members of the Infrastructure Group will pursue through individual submissions.

Lack of consenting pathway for Nationally Significant Infrastructure

8. Expert ecologists advise that most areas of indigenous vegetation, and also exotic vegetation that provides habitat for at-risk species will qualify as "significant natural areas". Most SNAs will be rated as "high" value under the current proposal. The proposed NPS-IB directs that effects on such areas must be avoided. The consenting pathway for NSI only applies if the SNA is rated as "medium".

9. The Supreme Court *King Salmon* decision that “avoid” means “not allowing” or “preventing the occurrence of” is likely to mean effects on “high” value SNAs will be a prohibited activity and it will not be possible to apply for resource consents. At best they will be non-complying and face unacceptable consenting risk. In reality, the Proposed NPS-IB only provides a consenting pathway for NSI in medium SNAs.
10. In summary, the threshold for qualifying as an SNA is too low (the Appendix 1 criteria), and the threshold for protecting an SNA is too high (the Appendix 2 “high” attributes coupled with a requirement to avoid adverse effects on these areas in Clause 3.9).
11. The Infrastructure Group considers the costs to avoid SNAs rated as “high” will be considerable. For example, nine National Grid support structures crossing the Rangitata River were damaged by flooding. In order to ensure security of supply whilst the existing line is fixed, a new temporary line deviation and corridor is required adjacent to the existing line. The cost of the proposed route is around \$2.7 million (for approximately 3.5km of transmission line). The new temporary corridor is within an SNA in the Ashburton District Plan. The cost of an alternative route that avoids the SNA completely (a 24km length of temporary line) is estimated to be \$20million for the build only. The cost of a slightly shorter route to the south (11km) that does not avoid the SNA completely is estimated to be \$10million for the build only.¹
12. The prevention of NSI projects in such areas also means there will be lost opportunities for restoration and enhancement. The Infrastructure Group can provide numerous examples of positive indigenous biodiversity outcomes that have been achieved through NSI projects. For example, Contact Energy’s Hauāuru mā Raki Wind Farm, consented by a Board of Inquiry in 2011, committed Contact Energy to what the Board of Inquiry described as “a comprehensive range of offset mitigation proposals”. These included fencing of vegetation and regenerating bush, pest management, replanting, and replacement breeding programmes. This enabled the Board to conclude that overall there would be positive benefits from the project.

Creation of a “no effects” regime

13. The Proposed NPS-IB includes what is in practice a “no effects” management hierarchy. The first step is that adverse effects are avoided “where possible”. It will always be possible to avoid the adverse effect by declining the project or including constraints or specific requirements that would render the project uneconomic (or if it is economic then additional costs for the end users of that infrastructure, which raises affordability concerns). A “where practicable” test enables a decision maker to consider economic and other practical considerations.
14. The effects management hierarchy purportedly provides the ability to “offset” or where offsetting is not demonstrably achievable to “compensate” for any residual adverse effects on biodiversity attributes for “medium” value SNAs only.
15. The Infrastructure Group already recognises and provides for offsetting and compensation where and when appropriate. However, the Group are concerned the proposed offsetting and compensation criteria (set out in Appendices 3 and 4) are unworkable. For example, it is often very difficult to achieve “like for like” in the same ecological district.
16. Further, adaptive management approaches enable the effects of activities to be managed appropriately. For example, Port Otago Limited has applied adaptive management regimes to dredging and disposal projects in Otago. Port Otago undertook fixed turbidity monitoring prior to undertaking activities, and if environmental limits were exceeded, Port Otago would immediately take additional steps to determine whether the dredging activities were responsible and whether the exceedance had caused a significant effect, and then adapt its activities if this was required. This approach allowed effects to be managed appropriately while still enabling necessary infrastructure projects to proceed.

¹ Both estimates do not account for the cost of obtaining the necessary property rights, or the cost of relocating/undergrounding other existing overhead distribution lines (estimated to cost millions).

17. Another significant concern arises from the way the maintenance of indigenous biodiversity has been described. It requires at least no reduction in a number of matters such as the size of populations of indigenous species. Technically this means the death of one individual is not permissible as it will lead to the reduction of the size of the population.

If not amended the Proposed NPS-IB will cut across the Government’s urban growth agenda and NZ’s ability to transition to a low emissions economy

18. The Urban Growth Agenda (**UGA**) is stated as being “an ambitious programme that aims to remove barriers to the supply of land and infrastructure and make room for cities to grow up and out.” It includes legislative reform to ensure that the regulatory settings support UGA objectives. The UGA requires support from NSI to be realized.
19. At best the Proposed NPS-IB will significantly increase the costs of infrastructure development through increased information and assessment expectations. More likely it will prevent NSI operators from obtaining consent for critical infrastructure projects.
20. The Government has committed to a transition to a net-zero emissions economy. Increases in new renewable generation equivalent to between 50% and 100% of current electricity generation will be required by 2050 in order for New Zealand to transition to a low carbon economy (the Productivity Commission report on a “Low-Emissions Economy”, and the Transpower report ‘Te Mauri Hiko – Energy Futures’). These projects will need to be connected to end users by the National Grid and other distribution networks.
21. The Proposed NPS-IB is likely to prevent the realisation of many renewable generation projects. Most renewable energy projects including many wind farms, nearly all geothermal and hydro projects, as well as related National Grid projects have/or will have effects on indigenous biodiversity.
22. Another consequence of the Proposed NPS-IB is that ecologists will be inundated with work for local authorities to identify, assess, and map SNAs. This raises concerns about the consistency of assessment and implementation, resourcing constraints for applicants trying to deliver urban growth and renewable energy projects and Councils and other regulators trying to assess these in a resource constrained environment.

Key amendments sought by the Infrastructure Group

23. This section sets out the critical amendments the group collectively seeks. There are other issues with the Proposed NPS-IB and amendments sought which the members of the Infrastructure Group will pursue through individual submissions.

Need to enable operation, maintenance, and upgrading of existing Nationally Significant Infrastructure

24. The Infrastructure Group proposes the following policy in the Proposed NPS-IB (not an implementation requirement):

The operation, maintenance, and minor upgrading of nationally important infrastructure is enabled within SNAs and all other areas of indigenous biodiversity.

Workable consenting pathway is required for new Nationally Significant Infrastructure

25. The Infrastructure Group proposes the following consenting pathway for new NSI within SNAs based on the Biodiversity Collaborative Group version (amendments shown as underline and strike-out) and to be included as a policy in the Proposed NPS-IB (not an implementation requirement):²

² This is intended to replace Part 3.9 of the Draft NPSIB.

The adverse effects of the subdivision, use and development within a significant natural area ~~are on attributes assessed as medium value in accordance with Appendix 2~~ to be avoided, remedied, mitigated, offset or compensated where:

the subdivision, use and development is associated with either:

- i. nationally important infrastructure;
- ii. [any other activities the Government considers appropriate to include]; and

the activity is locationally constrained because it has a functional or operational need to operate in a particular location and there are no practicable alternative locations for the activity that would provide for its functional or operational needs to be met.

Signatories



Chris Drayton
Consenting Manager, Generation and Development
Contact Energy



Anthony Joines
Land and Planning Manager
First Gas



Karen Sky
RMA Team Leader
Genesis Energy



Rebecca Beals
RMA Team Leader
KiwiRail



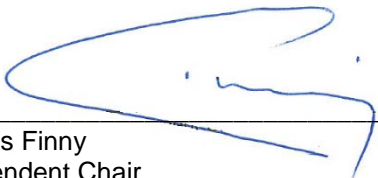
Kim Kelleher
Environment and Planning Manager
Lyttelton Port Company



Hamish Cuthbert
Head of Environment
Meridian Energy



Todd Dawson
Chief Executive Officer
Napier Port



Charles Finny
Independent Chair
Port Company CEO Group



Rhys Welbourn
Chief Executive Officer
Port Marlborough New Zealand



Kevin Winders
Chief Executive Officer
Port Otago



Gary Scholfield
Environmental Planner
Powerco



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Jo Mooar
Senior Corporate Counsel
Transpower New Zealand



Annabel Davies
Risk, Regulatory, and Stakeholder Manager
Trustpower