

Proposed Change 1 to the Wellington Regional Policy Statement: Hearing Stream 6 – Indigenous Ecosystems

Speaking notes of Murray Brass for the Director-General of Conservation Tumuaki Ahurei

1. These notes are intended to assist the Panel by a written response to matters which have arisen since I prepared my Evidence in Chief of 29 January 2024 (EiC). I have not summarised my EiC, but am available to answer questions on any aspect of it.

General comment

2. The Rebuttal Evidence of Ms Guest and Mr Wyeth recommends a significant number of changes from the s42A report. I am generally in agreement with the proposed changes, where they would improve clarity, address issues raised in evidence, and improve alignment with national direction. However, I do have some specific comments, outlined below.

Objectives 16 and 16A

3. Ms Guest has recommended adding the term “where appropriate” in regard to enhancement and restoration. I am generally opposed to such terms given the uncertainty they create, and consider they should only be used where there are related provisions which clarify the term (i.e. so that plan users can understand what is appropriate).
4. In this case Policy IE.3 could provide some assistance, but it is limited to non-regulatory measures and relies on future amendments to the RPS.
5. I therefore suggest that if the term “where appropriate” is used at this stage it should be seen as an interim measure, and when future changes under Policy IE.3 are implemented that Objectives 16 and 16A be revised to align with those new provisions.

Policies 24 to 24D

6. These policies represent a restructuring and revision of what was originally Policy 24. While there is a loss of simplicity, I agree with Mr Wyeth that this approach more clearly incorporates national direction, and various drafting matters have been improved.

New Policy 24D – REG and ET activities

7. In response to concerns raised in evidence for Meridian Energy and Transpower, Mr Wyeth has recommended a new Policy 24D, which would apply to both Renewable Electricity Generation activities and Electricity Transmission activities.

8. I agree it is appropriate to address the NPSIB 'carve out' in relation to these activities. I also consider it is efficient, and likely to be more effective, to use one common policy to address both types of activities given their relationship and similarities. I consider that the drafting in the 2023 Consultation Draft Proposed NPS-REG is an appropriate place to start, as it addresses both maintaining indigenous biodiversity and recognising the important benefits of REG (which would equally apply to ET).
9. Ms Foster for Meridian Energy in her evidence adopted Option 2B from the Consultation Draft, which would limit the final step in the effects management hierarchy to significant residual adverse effects on SNAs. Mr Wyeth has recommended using Option 2A, which would apply the final step to regardless of where the effects are located. I support Mr Wyeth's drafting, which would more effectively maintain indigenous biodiversity and would not rely on the prior identification of a location as an SNA.
10. More generally, I point out that the exemption for REG and ET in the NPSIB is only that – it means that the requirements of the NPSIB itself do not apply to those activities. It does not mean that s5, s6(c), s30(1)(ga) and s31(b)(iii) etc of the RMA cease to apply, and it does not mean that approaches used in the NPSIB cannot be applied.
11. Rather, my understanding is that those provisions of the RMA remain in force, and that how the RPS gives effect to those provisions for REG and ET is a matter to be determined on its own merits rather than being directed by the NPSIB. In this case, I note that when the proposed version of Change 1 was developed there was no NPSIB, now there is an NPSIB but it doesn't apply to REG and ET, so the situation for REG and ET is effectively unchanged. I therefore consider it is clear that the NPSIB 'carve out' cannot be used as an argument against provisions developed prior to the NPSIB, or developed more recently but based on wider evidence and not just in reliance on the NPSIB.

Murray Brass

19 February 2024