



SUBMISSION ON “STRENGTHENING NATIONAL DIRECTION ON RENEWABLE ELECTRICITY GENERATION AND ELECTRICITY TRANSMISSION”

Submitter Details

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1 Introduction

- 1.1 This is a submission on behalf of the Environmental Defence Society (**EDS**) on “*Strengthening national direction on renewable electricity generation and electricity transmission*”, a consultation document prepared by the Ministry of Business, Innovation & Employment (**MBIE**) and the Ministry for the Environment (**MfE**) (**Consultation Document**).
- 1.2 EDS is a not-for-profit, non-government national environmental organisation. It was established in 1971 with the objective of bringing together the disciplines of law, science, and planning to promote better environmental outcomes in resource management.
- 1.3 The chief objective of the proposed amendments to national direction on renewable electricity generation and transmission is to better enable the accelerated development and expansion of renewable electricity generation capacity – or to elevate the relative weight afforded section 7(j) of the Resource Management Act 1991 (**RMA**) vis-à-vis the matters of national importance listed in section 6, and other matters identified in section 7 of that Act.
- 1.4 EDS fully supports a well-informed, carefully designed, rapid and equitable transition to a low carbon, ecologically-resilient economy. We accept that renewable electricity generation has a key role to play in realising this transition, and our emissions reductions targets. But we do not accept the singular prioritisation of renewable electricity generation at the expense of the natural environment, which is very much at risk in the proposals put forward in the Consultation Document.
- 1.5 We set out the basis for this concern, among others, below.

2 Scope of proposed changes unclear

- 2.1 The National Policy Statement for Renewable Energy Generation (**NPS REG**) defines “renewable electricity generation” (**REG**) as “the generation of electricity from solar, wind, hydro-electric, geothermal, biomass, tidal, wave, or ocean current energy sources”.¹ However, the Consultation Document states that:²

“**The proposals to strengthen national direction for REG and ET do not amend policy in the current NPS-REG for consenting existing hydro-generation, and are instead focused on new wind and solar energy generation.** Addressing consenting issues for hydro-generation has been considered more appropriate through the proposed RM approach to freshwater allocation.”

- 2.2 To this end, it states that “[t]he proposals and options in Part B focus on key changes to some existing NPS-REG provisions, while retaining others. For example, there is no change proposed to Policy E2 relating to hydro-generation and the intent of the preamble in that policy statement relating to water allocation.”³
- 2.3 However, references to the retention of some existing provisions are confusing as the amended draft NPS-REG does not appear to expressly bring this content across.
- 2.4 Further, with the exception of clause 1.4 (which provides that in relation to hydro-electricity generation assets, the National Policy Statement for Freshwater Management (**NPS FM**) prevails over the NPS REG in the event of conflict), and Policy 9 and clause 3.9 (enabling the upgrade and repowering of existing wind and solar REG assets), the proposed amendments apply to all types of REG.
- 2.5 If the intention of the proposed amendments were to better enable wind and solar, they should be expressed and limited accordingly. The implications of a more enabling approach to *all* renewable generation types, which have widely different environmental effects and land-use impacts, are not properly scoped in the Consultation Document.

3 “Recognising and providing for the national significance of REG”

Proposals will not deliver “a ‘win-win’ for both a low-emissions economy and the natural environment”⁴

- 3.1 The Consultation Document makes a number of statements regarding the need to develop new generation capacity in a “balanced way that minimises effects on the environment”.⁵ These include that:

¹ Draft amended NPS REG, clause 1.3, at 3.

² Consultation Document, at ii.

³ Ibid, at 22.

⁴ Ibid, at 8.

⁵ Ibid.

- (a) “There is a risk that **strengthening the policy statements for renewable electricity could weaken existing protections for the natural environment**”;⁶
- (b) “It is important that new renewable electricity capacity is developed in a **balanced way that achieves a ‘win-win’ for both a low-emissions economy and the natural environment**”;⁷
- (c) “The Emissions Reduction Plan recognises that **the climate crisis and the biodiversity crisis can’t be separated. Aligning work on climate change and biodiversity provides an opportunity to take strong integrated action in both areas.** This approach will support our response to the climate crisis and improve the resilience of our native species and ecosystems and avoid them being lost destroyed. **Climate policy, planning and regulation should protect, enhance and restore nature, and any impacts on nature should be reduced as much as possible.**”⁸
- (d) “**It is reasonable for renewable electricity projects to have to go through a thorough and effective consenting process** and for some projects to be refused consent if they are in inappropriate locations and or have too great adverse effects on significant values.”⁹

3.2 We agree with these statements, and further submit that restoring and protecting ecological resilience is critically important to our ability to survive a warmer future. We cannot focus on climate mitigation at the expense, and to the material detriment, of our natural environment.

3.3 However, the proposed changes to this national direction are not “balanced”, essentially pitting (and favouring) climate mitigation against biodiversity and landscape protection in the event of conflict, and therefore not at all consistent with a synergistic, ‘win-win’ approach. To this effect, whilst the draft amendments expressly recognise the benefits of REG (clause 3.2), they do “not explicitly provide for environmental co-benefits.”¹⁰ Indeed, the proposed changes focus exclusively and expressly on realising “[t]he benefits of increasing REG at any scale”.¹¹

3.4 In its assessment of the proposed changes in relation to environmental outcomes - one of the criteria for which asks “*Will the option provide environmental co-benefits?*”¹² - the Consultation Document justifies this exclusion on the basis that:

⁶ Ibid.

⁷ Ibid.

⁸ Ibid, at 8-9.

⁹ Ibid, at 9.

¹⁰ Ibid, at 26.

¹¹ Draft amended NPS REG, Policy 1.

¹² Ibid, at 11.

- (a) “it does not *preclude* this to occur in practice through design, consenting, environmental management and implementation”¹³ (emphasis added); and
 - (b) “[t]he proposal provides for positive environmental outcomes with respect to reducing emissions which will benefit the natural environment over time.”¹⁴ It suggests that “REG is a key means of mitigating the adverse effects on [significant environment values] caused by climate change.”¹⁵ In other words, REG projects with adverse effects on significant environment values now are defensible on the basis that they will reduce adverse effects caused by climate change.
- 3.5 By not expressly providing direction in support of co-benefits, or even just to the need to protect significant environmental values generally, its consideration is simply left to chance (or management through the effects management hierarchy). This is no way to secure synergistic climate and biodiversity outcomes.
- 3.6 Adopting such a selective, siloed, one-or-other (but not both) approach to climate policy and protection of the natural environment overlooks that adverse effects on significant environmental values will weaken the resilience of the natural environment to withstand and adapt to gradual onset changes (warming temperatures and sea level rise) and sudden shocks (increasingly regular high-intensity weather events) associated with climate change.
- 3.7 The over-emphasis on increasing the speed and scale at which land conversion can occur for wind and solar electricity generation to reduce emissions ignores the biophysical complexities of landscapes as living systems. When the land is damaged – or subject to “adverse effects”, so too are the critical ecological processes and life-supporting functions that those (undisturbed) landscapes support, with consequential impacts on both climate regulation (e.g. cooling and moderating temperatures, absorbing and storing moisture) and climate resilience.¹⁶
- 3.8 Recognising the interrelated nature of the climate and biodiversity crises, and the importance of restoring and protecting ecological and landscape resilience in addressing both, developers and decision-makers should be expressly directed to secure positive outcomes for climate, ecological and landscape resilience wherever *possible* (not *practicable*).
- 3.9 Relatedly, we note that:
- (a) The draft NPS REG excludes any reference to the precautionary principle, or the need for an adaptive management approach. Some of the environmental effects associated with small and large scale REG activities are not yet well understood or

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid, at 33.

¹⁶ <https://www.resilience.org/stories/2023-05-15/fast-tracking-extinction-the-rush-to-streamline-permitting-for-green-energy/>

are still emerging. While that is the case, a precautionary approach should be brought to bear on REG decision-making, and thus expressly provided for in the amended NPS REG;

- (b) A “benefit of renewable electricity generation” to which local authorities are directed to expressly recognise is “the reversibility of the adverse effects on the environment of some renewable electricity generation technologies” (clause 3.2(1)(c)(vi)). We do not consider that this “benefit” is consistent with the precautionary principle, given the reversibility of adverse environmental effects is likely to be entirely context specific, variable as to time and likelihood, and therefore inherently uncertain; and
- (c) Decision-makers are required, under draft clause 3.3(1)(a), to “recognise that in order to significantly increase renewable electricity generation output: *the cumulative increase in renewable electricity generation output, at any scale and in any location, is important for achieving the objective of this National Policy Statement and should be enabled*”. However, there is no express countervailing obligation on decision-makers to consider the cumulative *effects* of such increase on significant environment values.

4 “Enabling REG in areas with significant environment values”

How much of a problem is there?

- 4.1 The Consultation Document suggests that, under the status quo (pursuant to which it is suggested that protection of the natural environment is a barrier to new REG), Aotearoa New Zealand will not secure additional REG capacity at the scale and speed necessary to meet our emissions reduction targets.
- 4.2 However, we note that:
 - (a) The Consultation Document also observes a trend of increasing investment, with “[a] recent survey indicates that investment is now roughly 2.5 times the average rate achieved last decade. There is also a substantial amount of actively pursued generation that could be in service by 2025 – around 8,000 GWh/yr”;¹⁷
 - (b) Large scale solar and wind farms are being consented under the status quo, including recently the country’s largest solar¹⁸ and wind¹⁹ farms;
 - (c) Analysis excludes the potential and relative contribution of offshore REG activities to meeting our emissions targets. Further, it is not clear whether the potential and

¹⁷ Ibid, at 6.

¹⁸ <https://www.stuff.co.nz/environment/300735444/green-light-to-create-new-zealands-largest-solar-farm-with-900000-panels>

¹⁹ <https://www.nzherald.co.nz/business/mercury-flicks-the-switch-on-nzs-biggest-wind-farm/YJQU2YEQZRHRRAIDZCAMBCNOA/>

relative contributions of small and community scale, consented-but-undeveloped, and upgrading of existing REG capacity have been taken into account;

- (d) The implications of the future of the Tiwai Aluminium Smelter on REG demand and requirements for additional capacity are not expressly considered. Although Tiwai's future may not impact REG supply and demand requirements during the transitional period, it is likely to have a material impact on requirements to meet our longer-term targets (e.g. 2050);
- (e) Consideration of 'use-it-or-lose-it' conditions for consented but undeveloped REG projects suggests that barriers to increasing and accelerating REG capacity are not necessarily, or exclusively, consenting issues;²⁰ and
- (f) The Consultation Document acknowledges the reasonableness for REG projects to be subject to a thorough and effective consenting process and for some to be refused if they are in inappropriate locations or have significant adverse environmental effects.

4.3 In light of these factors, and the absence of a broader and clearer quantification of the problem statement, the Consultation Document provides little evidence that avoidance of areas of significance ecological and landscape value are hindering appropriate REG development.

Incomplete information basis for assertion that REG activities cannot avoid significant environmental areas

4.4 The Consultation Document:

- (a) States that "[a]nalysis commissioned by MBIE in 2021 and feedback from REG developers during previous consultation is that conflicts between larger-scale REG activities and areas with 'significant environment values' is **inevitable**";²¹ and
- (b) Proposes "policy direction requiring decision-makers to recognise that meeting New Zealand's emissions reduction targets and emissions budgets **requires** the development of some REG projects that have unavoidable adverse effects on areas with significant environment values".²²

²⁰ For example, the New Zealand Wind Energy Association website states that there are 9 consented but currently undeveloped windfarms with a potential generation capacity of up to 1903.9 MW, noting that "Not all projects with a consent will be built. Many consented projects are currently on hold as the developer waits for market conditions and demand for renewable electricity to increase to make the wind farm commercially viable." By way of comparison, the website notes that there are 17 existing wind farms with a combined installed capacity of 690 MW. <https://www.windenergy.org.nz/consented-wind-farms>

²¹ Consultation Document, at 28.

²² Ibid, at 30.

- 4.5 The assertion that REG activities cannot avoid areas with significant environment values is based on incomplete information and is, therefore, premature and probably wrong. The Consultation Document’s Impact Assessment acknowledges that:²³

“there is ... currently insufficient spatial analysis on the extent to which areas protected by section 6 matters present resource/geographic barriers for future REG and ET development. In the near term, it may be possible for new REG projects to avoid these areas once further spatial analysis has been completed to complement regional spatial strategies and natural and built environment plans under the new RM system. ... We have initiated this task and are working to improve evidence on spatial constraints to inform how the consenting environment can be improved. **Due to these uncertainties, it is difficult to determine with high levels of confidence whether the proposals sufficiently balance the imperative to increase REG output with the protective policies provided by the NPS FM, the proposed NPS IB and the NZCPS.”**

- 4.6 A “stronger spatial planning approach”²⁴ to identify areas suitable for renewables was considered as a possible way forward by MBIE in its 2019 *“Discussion Document - Accelerating renewable energy and energy efficiency”*. In that report, MBIE suggested amending the NPS REG to provide clearer direction on the location of REG activities, including requiring councils to identify existing and potential REG sites, and **“areas where facilities for certain types of renewable energy (e.g. wind energy) definitely should not be developed (for purposes such as aviation and conservation).”**²⁵ The process for this:²⁶

“would involve government agencies, local government, and energy sector organisations collaborating, and working with iwi and communities, to plan for the future strategic mix of activities and values in an area. This could, for example, involve looking at potential renewable energy sites in relation to transmission links, future energy demand areas, and the biodiversity and landscape values.”

- 4.7 The result of adopting a spatial planning approach that would identify suitable renewables sites, and/or ‘no go’ zones, would “give increased certainty for resource consent applications”,²⁷ and enable councils “to have quite permissive rules for consenting of renewables in defined areas through rules on activity status, depending on the environmental effects of the activities concerned.”²⁸ We fully support that approach.
- 4.8 Spatial planning is a key feature of the proposed resource management reforms. Regional spatial plans will systematically and clearly identify and map places of national importance,

²³ Ibid, at 105.

²⁴ MBIE (December 2019), *“Discussion Document – Accelerating renewable energy and energy efficiency”*, at 64.

²⁵ MBIE (December 2019), *“Discussion Document – Accelerating renewable energy and energy efficiency”*, at 59.

²⁶ Ibid, at 64.

²⁷ Ibid, at 65.

²⁸ Ibid.

which will be protected from activities having “more than trivial” adverse effects on their qualifying attributes.

- 4.9 While we understand the rationale for bringing forward changes to existing national direction during the transitional period (i.e. until those reforms are fully in place), investment and land-use decisions locked in over the next 7-10 years should pre-emptively align with clearly signalled principles and approaches, particularly given the intention to integrate or subsume this national direction into the national planning framework that is currently under development.
- 4.10 To ensure that:
- (a) The information basis upon which decisions in relation to the appropriate location of REG activities are made vis-à-vis existing, proposed and potential generation capacity, and the protection of (and ability to avoid – or not) significant environmental areas, is robust and complete;
 - (b) Investment and consenting decision-making are quicker, less complex and more certain; and
 - (c) The principles and approaches of national direction adopted during the transitional period anticipate, sufficiently align and can be easily rolled into the future national planning framework;

we **strongly recommend** that the task of **constraints mapping is urgently completed** before REG activities (and any adverse effects) are, perhaps unnecessarily and detrimentally, approved in areas with significant environmental values.

- 4.11 That exercise should include the potential contribution of offshore,²⁹ small and community-scale, consented-but-undeveloped, and upgrading of existing, REG capacity, all of which could materially affect the footprint of new, large-scale onshore REG activities. A siloed approach to considering existing and potential REG capacity could give rise to avoidable adverse effects, and should thus be considered in the round and across all REG types.

²⁹ The Consultation Document excludes consideration of offshore renewable electricity generation, which is subject to separate consultation (page 16 refers). Although, depending on its location, offshore renewable electricity generation may be governed by different legislation and involve additional complexities that onshore REG does not, its viability and potential contribution to generation capacity is entirely relevant to onshore constraints mapping and the avoidance of REG activities on significant environmental areas. Indeed, MBIE’s “Electricity Demand and Generation Scenarios 2023” acknowledges that “multiple firms have announced their intention(s) to apply for consent to construct offshore wind farm facilities within New Zealand’s waters” and that offshore wind “has considerable potential to help New Zealand meet its renewable energy goals” (page 27 refers). Accordingly, we think the regulatory frameworks and national direction for onshore and offshore REG should be considered and addressed together (particularly as the Consultation Document states that the former will likely inform the latter anyway).

Managing effects on the environment

4.12 Policy 4 of the draft amended NPS REG currently provides for express recognition that:

“REG activities may need to take place in areas with significant environment values and, where adverse effects remain after applying the effects management hierarchy, REG activities are enabled if the national significance and benefits of the REG activities outweigh those remaining adverse effects.”

4.13 First, as noted above in paras 4.6 – 4.11, until constraints mapping of existing and potential REG capacity and significant environmental areas is completed, we do not support the assertion in draft Policy 4 that REG activities may need to take place in areas with significant environment values.

4.14 Nor do we support the reference to enabling those activities if, having applied the effects management hierarchy (**EMH**), adverse effects remain but “the national significance and benefits of the REG activities outweigh those remaining adverse effects.” We set out why in relation to the effects management proposals put forward in the Consultation Document.

‘Standard’ vs ‘REG-specific’ EMH

4.15 The Consultation Document proposes two principal options in relation to managing adverse effects on the environment from REG activities:

- (a) Option 1 is described as providing a ‘standard’ EMH for REG projects with adverse effects on significant environment values, consistent with that expressed in other NPSs, such as the NPS FM and draft NPS IB. Specifically, it:
 - (i) Includes the draft NPS IB’s three gateway tests, including that “there are no practicable alternative locations” for the activities;
 - (ii) Applies to all areas with significant environmental values;
 - (iii) Allows for offsetting where “demonstrably possible” (assuming incorporation of the draft NPS IB wording), and compensation if “appropriate” subject to carefully defined principles (and therefore limits) to determine the ‘appropriateness’ thereof; and
- (b) Option 2 is described as providing a ‘REG-specific’ EMH. Three variations are proposed, involving differing degrees of enablement and environmental protection:
 - (i) All three REG-specific EMH exclude the “practicable alternative locations” gateway test on the basis that, where a resource (e.g., wind and sun) is

widely distributed throughout Aotearoa New Zealand, “it is easy to argue there is always another ‘practicable alternative location’”;³⁰

- (ii) All three REG-specific EMH allow for offsetting “where *practicable*”; however
- (iii) All three REG-specific EMH introduce a further step of weighing and balancing positive effects against adverse effects after it is determined that compensation is not appropriate to address any residual adverse effects, but with the following variations:
 - Option 2A only allows for this balancing exercise if the residual effects on all/any significant environmental values are not significant. The REG activity will be enabled if the benefits of the REG activities are greater than the (not significant) residual adverse effects;
 - Option 2B allows for the balancing of benefits even if the residual adverse effects are significant, except on significant natural areas (in respect of which the balancing of benefits is only allowed if the residual adverse effects are not significant); and
 - Option 2C allows for the balancing of benefits even if the residual adverse effects are significant on any significant environmental values.

4.16 Of the options proposed, we prefer Option 1, subject to some qualifying comments below.

4.17 The Consultation Document suggests that Option 1 would provide more certainty for developers and local authorities “to direct development away from [areas with significant environment values]”³¹ whilst providing some enabling direction for REG activities in relation to landscapes outside the coast and historic heritage areas. A clearer and more efficient way to strategically direct where REG should go, and where a more permissive consenting approach could apply, would be to complete the constraints mapping exercise recommended above.

Practicable alternative locations gateway criteria

4.18 Until constraints mapping is completed, we support retention of the “practicable alternative locations” gateway test in Option 1 in alignment with the draft NPS IB.

4.19 We do not think it should be necessary to constrain this test by reference to a region or district, or specific distance from the proposed point of connection as satisfying the

³⁰ Ibid, at 33.

³¹ Ibid, at 38.

“functional or operational” need gateway test could inform the “practicable alternative locations” in this way.

Approach to offsetting and compensation

- 4.20 The approach to offsetting and compensation in Option 1 should also align with that agreed to in the draft NPS IB, where those terms are carefully and contextually defined, and their appropriateness circumscribed according to principles, criteria and limits. Compensation for adverse effects on significant environment values is unlikely to be “appropriate” in many scenarios. And it should be made clear that if the steps of the EMH are exhausted, and compensation is not appropriate, the activity is avoided.

Reintroducing an ‘overall broad judgment’

- 4.21 The ‘standard’ EMH (under Option 1) requires the avoidance of an activity in respect of which adverse effects cannot be avoided, minimised, remedied, demonstrably offset where possible, or appropriately compensated for. This is the approach under the draft NPS IB, and one we support.
- 4.22 We strongly oppose the proposal in Option 2 to add a further step to the EMH allowing for a balancing of positive and adverse effects. This is reminiscent of the ‘overall broad judgment’ approach, which was rejected in *King Salmon*³² (except in limited circumstances), noting that this would be unlikely to address concerns in relation to consenting certainty, complexity, delay, or litigation risk.³³
- 4.23 We strongly oppose the implication in Options 2B and 2C that there would, in effect, be no requirement to avoid significant adverse effects on areas with significant environment values (2C), except - in the case of 2B - for significant natural areas, but rather a need to ‘balance’ those significant adverse effects with the benefits of REG activities.
- 4.24 Such a balancing exercise would not, of course, be “balanced” at all in the absence of comparable national direction on the protection of landscape values or (until approved by Cabinet) indigenous biodiversity. The overall effect of these proposals would be to fundamentally undermine the EMH (which is already a concession to adverse environmental effects and therefore a weak form of environmental protection, and is premised on activities being declined if they cannot satisfy the successive stages of the EMH) in respect of REG

³² *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38.

³³ In light of the Supreme Court’s judgment in *King Salmon*, it is questionable whether it is open to Ministries to propose using this approach again in the manner suggested in the Consultation Document. The characterisation of the *King Salmon* judgment and environmental bottom lines in the Consultation Document as impediments to REG fails to acknowledge that the overall broad judgment approach to conflicting values under the RMA had been incorrect, and that environmental bottom lines are crucial to protecting the natural environment.

activities, and, consequently, the ability to protect significant environment values from significant harm.

- 4.25 We are already exceeding environmental limits. Rather than enabling the trading off of outcomes as is plainly proposed here, national direction should expressly support synergies to resolve conflicts, to benefit both human wellbeing and the natural environment, and avoidance where they cannot.

5 Enabling effects on local amenity values

- 5.1 Draft Policy 5 and clause 3.7 are designed to dilute the requirement under section 7(c) of the RMA to have “particular regard” to the maintenance and enhancement of amenity values. To this end, they propose to:

- (a) Enable REG activities in areas that do not have significant environment values, provided any adverse effects on those area’s values – including local amenity – are avoided, remedied, or mitigated “*to the extent practicable*”; and
- (b) Direct decision-makers to recognise that:
 - (i) Changes in amenity values are not, of themselves, an adverse effect;
 - (ii) Changes that may detract from amenity values appreciated by some people may result in amenity values appreciated by others; and
 - (iii) The changes are likely to have wider benefits to the wellbeing of people and communities, including future generations.

- 5.2 We agree that spurious claims in relation to amenity effects motivated by NIMBYism should not impede REG activities. However, read together, the weighting of these provisions (which clearly favour REG activities) suggest it would be difficult for REG activities to ever be declined on the basis of adverse amenity effects. We think a more nuanced/balanced approach is warranted that enables proper consideration of the *extent of* the effects on amenity values and recognises that these are not limited to visual effects (for example, noise and vibration effects associated with turbines may be relevant amenity impacts).

- 5.3 “To the extent practicable” sets a low bar for managing adverse effects.

6 Upgrading and repowering existing wind and solar generation

- 6.1 Upgrading³⁴ existing REG activities enables the efficient increase of generation capacity using existing infrastructure within the same or “similar”³⁵ environmental footprint. The Consultation Document states that “[t]his will generally result in fewer significant adverse

³⁴ Which does not appear to be defined in the draft NPS definitions, though “repowering” is.

³⁵ This is a subjective and therefore uncertain reference.

environmental effects than developing a new REG site and activity”.³⁶ We agree that upgrading and repowering existing and proven assets could reduce pressure on other areas.³⁷

- 6.2 At the same time, the Consultation Document acknowledges that “[m]ore substantial upgrades can significantly change the nature or increase the scale of the infrastructure and therefore of its environmental effects.”³⁸
- 6.3 Proposed clause 3.9(2)(a) requires that decision-makers “must ... *consider only the additional adverse effects on the environment of the upgrade or repowering* (and not any adverse effects from the existing consented activities)”. We are uncertain about the extent to which any “additional adverse effects on the environment” from the upgrade or repowering can, or should, be divorced from (considering) any adverse effects from the existing consented activities. Ultimately, the cumulative effect should be the focus.
- 6.4 MBIE also proposes to develop national environmental standards to govern the upgrading and repowering of wind and solar generation. However, as the Consultation Document states that “[t]he environmental effects of upgrades can vary significantly depending on the scale, type of generation, type of upgrade, and location” it is not clear whether these activities easily lend themselves to the certainty and specificity required for standardised rules of national application.
- 6.5 The Consultation Document suggests that national environmental standards could be categorised according to their scale. We do not propose to comment on how the thresholds for these categories were determined or their adequacy other than to note:
- (a) The importance of selecting these from an environmental effects perspective;
 - (b) It is not the scale of the activity that matters *per se*, but the scale of *effects*; and
 - (c) We do not support the proposed standards allowing plan rules to be more lenient, and not more stringent, as currently suggested.

7 Small and community-scale REG

- 7.1 We support the proposal to better enable small and community-scale REG activities, subject to adverse effects being avoided, remedied, or mitigated. We do not support the qualifier “to the extent practicable” which sets a potentially low compliance threshold and is highly subjective.
- 7.2 The Consultation Document provides that “[t]he scope of REG activities would apply to all forms of REG, excluding containment hydro (i.e. damming waterways) [but including]

³⁶ Consultation Document, at 48.

³⁷ *Ibid*, at 53.

³⁸ *Ibid*.

[e]mbedded hydro, 'run-of-river hydro', instream or micro-generation",³⁹ and asserts that these activities "have limited effects on waterways."⁴⁰ We assume there is a sound ecological evidence-base in support of this statement.

- 7.3 MBIE is proposing to develop nationally consistent rules for small and community-scale onshore wind and solar photovoltaic generation based on existing "good practice" and plan provisions. Separate standards and rules are to apply to:
- (a) Roof-mounted wind turbines and solar generation;
 - (b) Free-standing small scale wind turbines and solar generation; and
 - (c) Community scale REG activities.
- 7.4 Provided these rules are designed with regard - and activity status calibrated and attributed according - to the relative risk and scale of associated adverse environmental effects, we agree with the expectation that enabling small and community scale REG will "reduce pressure on the need for large scale projects where adverse environmental effects are likely greater".⁴¹
- 7.5 We agree that "it is not appropriate to provide for a 100m or higher turbine as a permitted or controlled activity given the likely environmental effects, particularly on surrounding properties and when viewed from sensitive viewpoints."
- 7.6 We agree that rules for small-scale free standing and roof-mounted exclude residential zones. We disagree with the proposal that rules could enable plans to apply a more lenient application of the rules to these activities.

8 Other issues

Nationally consistent rules for large scale wind and solar PV generation

- 8.1 We are not in a position to comment on whether the nature of, and effects associated with, large-scale wind and solar PV REG activities are sufficiently well known and common across sites such that they can, and should, be governed by nationally consistent environmental standards. However, to the extent that they are, the matters of discretion to which decision-makers must have regard should provide for broader consideration of environmental effects regardless of location (which they currently do not), and the activity status set according to the scale of effects and with regard to the precautionary principle.

³⁹ Ibid, at 59.

⁴⁰ Ibid, at 59.

⁴¹ Ibid, at 64.

- 8.2 We disagree with the proposal to enable plans to be more lenient but not more stringent than any such standards.

Battery storage

- 8.3 We support the enablement of battery storage activities, subject to the avoidance or mitigation of adverse environmental effects.

9 Strengthening national direction for electricity transmission

- 9.1 We acknowledge the national significance and benefits of an effective, efficient, resilient and safe electricity transmission network (ETN).

- 9.2 We also recognise that in some areas it may not be practicable to find a site or route that avoids areas with significant environment values. In those limited areas (like the Queenstown-Lakes district), we acknowledge that some concessionary override with respect to the EMH is justified to ensure network resilience. We support the direction in proposed clause 3.5(1) requiring decision-makers to “consider the extent to which any adverse effects have been avoided, minimised, or remedied by the route, site, and method selection” when considering the environmental effects of ETN activities.

- 9.3 We agree with replacing the permissive “seek to avoid” approach and ensuring the EMH applies to all areas with significant environment values. However, for all other purposes, and to the extent that the proposed amendments to the National Policy Statement on Electricity Transmission mirror those provisions set out in the proposed amendments to the NPS REG, our comments regarding the latter can be taken to apply to the former.

- 9.4 We agree for the need to enable minor ETN activities to occur in a timely and efficient way, but query:

- (a) why there is a requirement to avoid or mitigate adverse effects but not “remedy” them;
- (b) the reference to having no more than minor effects “over time” and how that would be measured or established; and
- (c) how the reference to upgrades or changes to ETN assets not occupying a physical space “not significantly greater than” existing assets is capable of certain application.

- 9.5 In its environmental assessment of the proposed drafting for minor ETN activities, the Consultation Document notes:⁴²

⁴² Consultation Document, at 82.

With more activities being enabled to help support existing infrastructure, it is unlikely that environmental outcomes will improve as a result from either of the options. While there is potential that the less stringent Option 1 could result in some adverse environmental outcomes, this risk is low given the typical adverse effects of the minor ETN activities provided for which can be effectively managed through industry standards and operating procedures.

This approach relies entirely on the efficacy and robustness of industry standards and operating procedures to manage adverse environmental effects.

- 9.6 With regard to the effects of ETN development activities on local amenity values, we cross-refer to our comments in section 5 above vis-à-vis REG activities, observing in addition that changes affecting local amenity values associated with ETN development activities are, by their nature, unlikely, or certainly less likely to be “appreciated” by people in the way suggested by draft clause 3.9(2) and should be assessed accordingly.

10 Amending the National Environmental Standards for Electricity Transmission Activities (NES-ETA)

- 10.1 The Consultation Document notes that the “NES-ETA has generally been effective in achieving its objective”⁴³ by:
- (a) Facilitating the operation, maintenance and upgrading of the existing transmission network;
 - (b) Replacing locally variable rules with a nationally consistent set of regulations for electricity transmission activities relating to existing transmission lines; and
 - (c) Reducing the time and cost of resource consent processes and resulting in fewer and less complex consent requirements to approve electricity transmission projects compared to before the NES-ETA came into effect.

In short, it appears to be working well.

- 10.2 Nevertheless, in its problem statement regarding the NES-ETA, MBIE refers to an NES-ETA evaluation report identifying that the NES-ETA “had less impact on streamlining consent processes for projects located in more sensitive areas or requiring more significant structural changes.”⁴⁴ However, this outcome is entirely appropriate in these two scenarios.
- 10.3 In light of the uncertainty regarding the problem statement’s concern that the NES-ETA “*may* not be enabling enough to support New Zealand’s renewable electricity and emissions

⁴³ Consultation Document, at 87.

⁴⁴ Ibid.

reduction targets”,⁴⁵ and acknowledgement that the current NES-ETA is an effective regulatory tool, we:

- (a) Are cautious about the proposal to provide a more enabling framework for activities with mainly visual effects (Option 1);
- (b) Do not understand why a more permissive regulatory framework applying to a wider range of transmission operation and upgrade activities, and that could result in adverse environmental effects, have implications for landowners, and/or for which there is insufficient evidence of a problem, is being contemplated (Option 2). Some of the changes proposed in Tables 25 – 28 are significant (and therefore their likely environmental effects). We would like to be advised and involved if these are to be further workshopped (as suggested on page 96); and
- (c) Suggest any ‘improvements’ to the NES-ETA should be progressed through the NPF in light of there being no immediate issues with its effectiveness and to facilitate alignment with, and integration under, the new reforms.

11 Final comments

- 11.1 The Consultation Document’s proposals have implications for a number of important and interrelated issues: climate change mitigation and adaptation, and the resilience and protection of landscapes, significant natural areas, and indigenous biodiversity.
- 11.2 As they are interrelated, they should – and we believe *can* - be addressed together, not in the either/or fashion proposed.
- 11.3 Where possible, we have offered solutions and invite officials to engage with us further, to identify common ground and a way forward that could achieve an increase in REG capacity, emissions reductions, whilst simultaneously protecting and restoring our landscapes and biodiversity.

⁴⁵ Ibid, at 88.