New Zealand Law Society
Te Kāhui Ture o Aotearoa

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National Direction Programme
Ministry for the Environment
Wellington

By email: ndprogramme@mfe.govt.nz

Consultation on updating RMA national direction

1 Introduction

1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to provide the Ministry for the Environment with feedback on updated national directions under the Resource Management Act 1991 (**RMA**). This submission has been prepared with the assistance of the Law Society's Environmental Law Committee.[1]

1.2 The Law Society's submission addresses Package 1 and Package 2 of the consultation. As detailed below, tables containing drafting feedback on new proposed national direction provisions are provided in Appendices 1 and 2.

1.3 The Law Society will review and consider providing feedback on proposed changes to the freshwater package of the National Direction Programme (including the National Policy Statement for Freshwater Management 2020 (NPS-FM) and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)) when an exposure draft of new provisions is released, as we understand is subsequently intended.

2 Package 1: Infrastructure and development

2.1 Appendix 1 gives feedback on:

(a) Attachment 1.1: Proposed provisions – New National Policy Statement for Infrastructure.

(b) Attachment 1.2: Proposed provisions – Amendments to the National Policy Statement for Renewable Electricity Generation 2011.

(c) Attachment 1.3: Proposed provisions – Amendments to the National Policy Statement on Electricity Transmission 2008.

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1 More information about our law reform committees is available on the Law Society's website: https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/.

(d) Attachment 1.4: Proposed provisions – Amendments to the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.

(e) Attachment 1.5: Proposed provisions – Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016.

(f) Attachment 1.7: Proposed provisions – New National Environmental Standards for Papakāinga.

(g) Attachment 1.8: Proposed provisions – New National Policy Statement for Natural Hazards.

3 Package 2: Primary sector

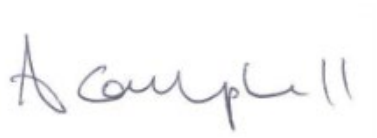
3.1 Appendix 2 gives feedback on:

(a) Attachment 2.3: Proposed provisions – Amendments to the New Zealand Coastal Policy Statement 2010.

4 Next steps

4.1 We hope the attached feedback is useful. Please feel free to get in touch with me via the Law Society's Senior Law Reform and Advocacy Advisor, Claire Browning (claire.browning@lawsociety.org.nz), if you have any questions or wish to discuss this feedback further.

Nāku noa, nā



David Campbell
Vice President

Appendix 1

PACKAGE 1		
Attachment 1.1: Proposed provisions – New National Policy Statement for Infrastructure		
Proposed provision	**Issue**	**Recommendation**
Definition – D2 Buffer	Minor typographical error in first line where it appears the word "rule" may have been omitted. Also, there is no reference to regional plans. Is it intended that buffers can only be used in district plans?	Amend to "an overlay, a specific control layer, or **rule** in a district plan…" Clarify whether buffers can also be used in regional plans.
Definition – D7 Infrastructure	Refers to and defines (in brackets) the Resource Management Act 1991 as the RMA when the abbreviation "the Act" is used elsewhere. Omits reference to the relevant RMA section.	Amend reference to "**the Act**" to be consistent with usage in other definitions and/or readdress the consistency of usage of "the RMA" and "the Act" respectively, throughout the draft. Consider including section reference for clarity.
Definition – D8 Infrastructure activities	It is not clear whether the words "unless otherwise specified" apply to the first sub-clause, the second, or both.	Suggest clarifying which sub-clause(s) the words "unless otherwise specified" apply to.
Definition – D9 Infrastructure supporting activities	The definition of "infrastructure activities" proposed at D8 already includes ancillary activities. This makes the inclusion of ancillary activities in the infrastructure supporting activities definition confusing. In the Law Society's understanding, infrastructure supporting activities were intended to be separate from the infrastructure activity itself and almost certainly carried out by some other entity (quarrying, as noted, is a good example, but there could be others). "Such as" would indicate that quarrying is an example more clearly than the currently proposed wording "may include".	Amend the definition as follows, by deleting the words "~~**or ancillary activities, and may include**~~" and providing that "infrastructure supporting activities" means: "activities needed to support infrastructure activities that are not undertaken by the infrastructure provider**, such as** quarrying activities."
Definition – D10 Maintenance and minor upgrade	Focusing the definition of "minor upgrade" solely on post-construction effects means that infrastructure upgrades that have significant adverse construction effects but relatively minor ongoing	Consider including a 'no more than minor adverse effects' test in relation to construction effects. Consider deleting the words "after the upgrade is complete" from (d).

	adverse effects and that are not 'minor' on the normal understanding of that adjective (e.g. major roading improvements) qualify as such. The Law Society queries whether this is intended? The reference in (d) to "after the upgrade is complete" is unclear and could be read as meaning that the effects of the upgrade should be excluded.	
Definition – D13 Planned infrastructure	It is not clear whether the reference to long term plans or strategies prepared under the Local Government Act include proposed plans or only plans and strategies once approved.	Clarify the intent and, if the intent is to cover only approved documents, amend as follows: "… prepared **and approved** under the Local Government Act 2002".
Definition – D15 Provisions	Provisions in plans and policies are not limited to objectives, policies and rules but also include introductions, issues, explanatory text and methods. The definition uses the term "includes" so the meaning could extend to all text. If that is not the intention, suggest clarifying.	Clarify whether the intention is to exclude other matters from the definition of provisions, by deleting the word "includes", and/or adding "**but excludes introductory text, issues, explanatory text and methods other than rules**".
Definition – D19 Sensitive activities	While residential activity is defined inclusively, for clarity and given it is a specific type of residential activity, it would be clearer if reference to papakāinga were included. The Law Society considers the clause should be amended and reordered to make it clear that the reference to residents being "detained" on site relates only to custodial accommodation, whereas other types of accommodation involve residents living, being cared for or educated there. It should also be clearer whether the definition is intended to cover residents of supervised accommodation (e.g. schools, university hostels) who are not necessarily 'detained'. At best, the present drafting ("custodial or supervised accommodation where	Reconsider the definition of sensitive activities. Depending on policy intent, consider amending as follows (italics indicate query about the intended policy): "**Include:** **(a)** residential activities (including visitor accommodation and retirement accommodation)**;** **(b) papakāinga, marae, places of worship,** care facilities, childcare facilities, schools, hospitals ***or other supervised accommodation*** **where residents live, stay, are cared for, or are educated;** **(c)** custodial ~~***or supervised***~~ accommodation where residents are detained on site~~, marae or place of worship~~."

	residents are detained on site") is unclear and risks excluding some accommodation types: is this the intent? Residential activities and places of worship (plural) should be referenced, consistently with the use of the plural for the rest of the list.	
Definition – D20 Stormwater network	The Law Society queries whether this definition should exclude stormwater collection and management on an individual property in the same way that the management of electricity networks under the proposed NPS-EN stops at the private property boundary of individual customers. Otherwise, the NPS is purportedly treating as nationally significant (e.g.) the guttering on a standalone domestic residence.	Consider exempting facilities used to collect, treat, store, reuse or discharge stormwater occurring on an individual urban property.
Definition – D21 Strategic planning document	Same issue as for D13 above – suggest clarifying whether it includes proposed or only adopted documents.	As for D13 above.
Definition – D22 Upgrading infrastructure	The Law Society queries whether this definition should specify the location of upgrading infrastructure and limit it to the location of the existing infrastructure or an existing consented infrastructure corridor. Otherwise, the definition is broad enough to cover new roading infrastructure projects (e.g. Transmission Gully, the proposed second Mt Victoria tunnel) and rail (e.g. the expansion of the Auckland rail network nearing completion) that are additions to existing infrastructure that increases its capacity and efficiency. In combination with the focus of the definition of minor infrastructure only on post-construction effects (discussed above), this could result in such projects being classified as 'minor upgrades', undermining the policy rationale for favourable	Insert a qualification of this term to restrict it to additions and expansions of existing infrastructure that occur at the same location as existing infrastructure, in close proximity thereto, or within an existing consented infrastructure corridor.

	treatment of genuinely 'minor' upgrades.	
Objective OB1(e)	While value for money is a legitimate public policy goal, this is not something that RMA decision-makers have historically taken into account and arguably trespasses into the prerogative of infrastructure providers (and central and local government) because it invites an inquiry into the economic merit of infrastructure projects, requiring proof that the economic 'return' is greater than the cost. An inquiry of that nature could also prove highly contentious (is a new motorway value for money compared for instance to new cycleways?).	Suggest Objective 1(e) be deleted.
Objective OB1(f)	Reference to "managing" adverse effects is ambiguous without any indication as to how such effects are managed, and to what end result. In the context of an objective, the issue might be addressed by adding the qualifier "appropriately", on the basis that the policies and implementation methods will determine what appropriate management requires.	Suggest addition of "**appropriately**" to qualify "managing".
Policy P1(1)	Not every infrastructure project will provide all of the specified benefits. Some infrastructure projects will arguably be contrary to achievement of some of those benefits: e.g. it is difficult to categorise an expansion or upgrade of the natural gas distribution network as supporting the country's emission reduction targets.	Amend the opening words to say that the benefits of infrastructure "**can include some or all of the following**".
Policy P1(1)(d)	Raises the same issues noted above in relation to Objective 1(e).	Suggest Policy 1(1)(d) be deleted.
Policy P1(2)	This policy assumes that infrastructure will have "widespread, dispersed and ongoing" effects. Clearly some infrastructure will do so but, equally clearly, some will not. It is a contradiction in terms to speak of widespread and dispersed	Suggest this policy refer to "**any** widespread, dispersed **or** ongoing … benefits …".

	local benefits. Also, some infrastructure will have widespread and dispersed effects that are not ongoing, and vice versa.	
Policy P1(3)(a) and (b)	These sub-policies assume that the risks, impacts, and benefits described will occur in every case. This would appear unlikely in practice.	Amend policy 1(3)(a) and (b) to refer to risks and benefits that "**can**" occur and "the significant benefits ~~**of**~~ infrastructure **may have** …" respectively.
Policy P2(e)	Has consideration been given to how recognition and provision might be given in practice to infrastructure whose location has not been identified, even indicatively? This would seem to be problematic, inviting generalised provisions that are of little practical use to infrastructure providers.	Consider amending the policy to read as follows: "locate where the services are required, ~~**whether or not**~~ **including where possible when** the infrastructure has **not** been spatially identified in advance".
Policy P3(1)(a)	The Law Society queries what result the recognition directed is intended to have. The primary direction is to have regard to "the extent" to which infrastructure has been defined. If and to the extent that infrastructure has not been defined, that policy consideration would fall away. The additional words are unnecessary and create ambiguity about what decision makers are required to do.	Suggest the words after "strategies" be deleted.
Policy P3(1)(b)	This policy includes reference to the "consenting authority", which is a category of decision maker as defined in this document. For consistency, it may be clearer to use the term "decision maker".	Amend (b) to replace the reference to the "consenting authority" with "**decision maker**".
Policy P4(2)(a)	This policy is unclear. It implies that the infrastructure provider's decision as to location or route cannot be called into question irrespective of the degree of rigour, or lack thereof, prompting that decision. There is a legitimate view that the infrastructure provider, who carries the cost risks for its choices, should not be second-guessed at the margins. Equally, however, the infrastructure provider should be able to demonstrate that it has considered factors other than cost and given them appropriate weight.	Suggest consideration be given to qualifying this policy, to require that infrastructure decisions as to location and route be transparent and not unreasonable.

Policy P5(c)	The reference to "in appropriate circumstances" raises the question as to what those may be. Given that the policy is referring to opportunities for tāngata whenua involvement, qualifying by reference to appropriate circumstances is not necessary, and would appear to be in conflict with section 6(e) which requires recognition and provision of relationships with sites.	Delete reference to "in appropriate circumstances".
Policy P6(1)(a)	At present, this excludes any reference to "offset or compensated for". The Law Society queries whether this is intentional or whether that should be provided for, for consistency with other NPSs like the NPS-IB.	Consider including "**offset or compensated**" in the policy.
Policy P6(1)(c)	The wording is unclear. It appears to be intended to limit the consideration of environmental effects for existing infrastructure to any change or increase as a result of the proposal.	Suggest amending for clarity as follows: "**when considering a proposal to maintain, upgrade or replace existing infrastructure, limit their consideration of adverse effects to any new or increased adverse effects beyond those currently associated with the existing infrastructure**".
Policy P6(1)(e)	The reference to proportionality is ambiguous: proportionate to what?	Suggest this policy be clarified.
Policy P7	The phrasing of this policy means that each element is an alternative open to the infrastructure provider. This means, for example, that effects need not be avoided where avoidance is a practicable option. It is unclear why that that should be the case, and this approach is contrary to the approach (e.g.) of the NPS-IB which requires a sequential approach to effects management – i.e. first avoid where practicable, then remedy where avoidance is not practicable, then mitigate where neither avoidance not remediation is practicable, then offset or compensate to the extent required to address the effect.	Suggest the policy be redrafted to provide a sequential and proportionate approach to effects management, along the following lines: "… provided that adverse effects are avoided**, ~~where practicable,~~** remedied, **~~where practicable or,~~** mitigated, **~~where practicable,~~ offset or compensated, in that order, in each case to the extent practicable and in a manner proportionate to the nature and extent of the adverse effect**".
Policy P8	This policy raises the same issue as Policy 7 and also raises a further question. If this is the policy direction where section 6 and/or another NPS is not engaged, what should decision makers do when	Suggest this policy be amended in the same way as suggested for Policy P7 above, and that an additional policy worded along the lines described be added to provide direction for the situation when section 6 and/or another NPS are engaged.

	section 6 and/or another NPS are engaged? While silence could be taken to mean that the direction provided by the Supreme Court would cut in, the direction that infrastructure activities be enabled in that circumstance could be taken to be definitive. It would be more helpful if the proposed NPS gave some indication as to what is intended – e.g. by saying that the objectives and policies of this NPS be considered together with the direction provided by section 6 and/or the other relevant NPS.	
Policy P9(2)(a)	This policy requires "local authorities" to "engage" with infrastructure providers. It is not clear why the term "local authorities" is used here, when "decision makers" is used elsewhere. It is also not clear when such engagement is to occur: at the planning or consenting stage, or both.	Consider changing "local authorities" to "**decision makers**" and clarify the time for engagement.
Policy P9(2)(c)	No mention is made of infrastructure supporting activities.	Suggest including a new (i) "**enabling infrastructure supporting activities**", and consequential renumbering of the subparagraphs that follow.
Matters for consideration	The reference to section 104D, while accurate, does not address the issue of objectives and policies from NPSs inserted into regional policies and plans. This could be clarified with a consequential legislative change to section104D to refer to any objectives and policies of key national direction documents, or by amending section 55. Further, it may be useful to consider adding a mechanism for conflict resolution/prioritisation as between NPS-I and other instruments.	Consider making a consequential legislative change to section 104D(1)(b) to add a new (iv) relating to any objectives and policies of [certain] national direction documents, or amending section 55. Also consider whether to include a conflict resolution mechanism.
IT1	It is not clear what this adds, as it does not appear to be any different from the existing legislative requirement in section 104(1)(b). If the intention is to better enable fast and effective implementation, then	Clarify the intent.

	this provision may need to be amended to reflect that.	
IT2	As per the comment provided in the earlier row: "matters for consideration".	As per "matters for consideration": 2 rows above.

Attachment 1.2: Proposed provisions – Amendments to the National Policy Statement for Renewable Electricity Generation 2011		
Proposed provision	**Issue**	**Recommendation**
Definition – D4 Decision-makers	This proposed definition ("any person exercising functions or powers under the Act") might be contrasted with the definition of the same term in the NPS-I ("any person making a planning decision under the Act") and the further definition proposed for the NPS-ET ("means all those persons making planning decisions under this National Policy Statement"). Consistency is needed. In the Law Society's view, the wording "under the Act" should be preferred to "under this National Policy Statement", as planning decisions are not made **under** this or any other NPS. Rather, the NPS is relevant to planning decisions made under the Act. In this context, "planning decisions" (as proposed in the NPS-I) is preferable to "persons exercising functions and powers".	Amend the definition to be consistent with that in the proposed NPS-I.
Definition – D6 Environmental footprint	Focusing this definition on the spatial extent of existing assets and activities as defined in applicable resource consents may not provide for wind farm repowering (as intended) if those consents define existing turbine locations. Repowering proposals in the Tararua Ranges have demonstrated that repowering may involve a smaller number of larger more widely spaced turbines. This could be addressed if the separately defined term 'REG site' were used.	Consider amending to refer to the "**horizontal spatial extent of the REG site as defined in any applicable resource consent(s)**".
Definition – D12 Renewable electricity generation	The proposed definition includes reference to the storage of generated electricity without specifying that the means of generation is renewable electricity	Consider amending (b) to read, "the storage of **electricity** generated ~~electricity~~ **from REG sources**".

activities (REG activities)	generation (REG). While implicit, it is suggested that this might be made clear.	
Definition – D13 REG assets	This definition lacks the clarity of that for REG activities as to where an asset ceases to be an REG asset at the interface with an electricity network. It is suggested that the reference to conveyance of generated electricity "to electricity networks" might be clearer if it referred to "the point at which generated electricity enters an electricity network".	Consider amending (b) to read, "… generated electricity to **the point at which generated electricity enters an** electricity network …".
Objective 1(c)	Reference to "managing" adverse effects is ambiguous without any indication as to how such effects are managed, and to what end result. In the context of an objective, the issue might be addressed by adding the qualifier "appropriately", on the basis that the policies and implementation methods will determine what appropriate management requires.	Suggest addition of "**appropriately**" to qualify "managing".
Policy A(a)	It would be clearer if the recognition of the national significance were separated out from the benefits of REG activities. Further, the wording of the chapeau to (a) is different to that in a similar policy in the NPS-EN, which includes reference to the benefits "to be realised" at a national, regional or local scale. The wording should be consistent. In the Law Society's view, reference to the benefits being realised makes clearer what is being sought. Sub-policy (vi) does not fit with the balance of the policy. The fact that some REG is temporary and reversible is a factor reducing the scale of adverse effects it might otherwise be considered to have. It is not a 'benefit' in any normal sense. Nor is it clear how this 'benefit' might be 'provided for'.	Amend the wording of (a), create a new (b), and renumber existing (b) as (c) as follows: "(a) Decision-makers must recognise and provide for: **(i)** the national significance ~~**and benefits of**~~ REG activities; **(ii) the benefits of REG activities to be realised** at a national, regional and local scale. **(b)** The benefits of REG activities … ~~**(b)**~~ **(c)** The additional benefits of REG activities …" It would be better for (a)(vi) to be shifted into a separate category of matters to be considered and given weight in the decision-making process.

Policy A(b)	Drafting amendment is needed. The proposed drafting is grammatically incomplete and will be unworkable, because it lacks a verb indicating what policy direction is intended.	Clarify the intent and correct drafting of this sub-policy.
Policy B(1)	This policy emphasises the importance of REG at any scale. This implies that provision of a small amount of REG is just as important as the provision of a large amount of REG. Is that intended? Drafting to reflect that a proposed new REG facility generating 500MW is more important than a new facility generating 5MW might be possible without implying that the latter is unimportant.	Consider what this policy is trying to achieve and how it is expressed.
Policy B(2)	The word "potential" appears to be in the wrong place in this sub-policy. What decision makers need to be concerned about is the potential reduction in REG. Utilisation of renewable energy resources is occurring already.	Suggest amending to read: "… decision-makers must have regard to ~~a~~ **the potential** reduction in the ~~**potential**~~ utilisation of renewable electricity resources resulting from inappropriate subdivision, use and development".
Policy 2(1)	This policy gives rise to four issues. First, the terminology 'enable' in an RMA policy document normally equates to a Permitted Activity rule status (or Controlled Activity at worst). Is that what is intended, noting that such a favourable rule status might be inconsistent with the direction provided by other NPSs? The language normally used where Permitted (or Controlled) status is not necessarily intended in every case, but the activity needs a positive 'push', is "provide for". Is that the intent? Second, the phrasing of this policy means that each element is an alternative open to the REG provider. This means, for example, that effects need not be avoided where avoidance is a practicable option. It is unclear why that should be the case, and this approach is contrary to the approach (e.g.) of the NPS-IB which requires a	Suggest: • Substituting "**provide for**" for "enable". • Redrafting the policy to provide a sequential approach to effects management – in other words, first avoid where practicable, then remedy where avoidance is not practicable, then mitigate where neither avoidance not remediation is practicable, then offset or compensate. • Considering whether very high (dominating) adverse visual effects be provided for as an exception to the otherwise enabling direction; alternatively, whether appropriate compensation should be required for very high adverse visual effects on neighbouring residents. • Adding an additional policy worded along the lines described, to provide direction for the situation when

	sequential approach to effects management (i.e. first avoid where practicable, then remedy where avoidance is not practicable, then mitigate where neither avoidance not remediation is practicable, then offset or compensate). Third, use of a practicability test for all adverse effects not addressed in section 6 and/or other NPSs has the potential to create an issue in at least one specific instance. Erecting wind turbines too close to neighbouring residents has the potential to give rise to significant adverse effects on those residents that cannot in practice be mitigated. The recent Mt Munro Environment Court decision[2] found that high adverse effects were acceptable provided they were appropriately mitigated. The Court did not have to address the issue, because it did not arise, but recorded that the expert evidence before it was that even higher (dominating) adverse effects would have been unacceptable. The proposed policy would appear to allow for such adverse effects. It is suggested that this potential be considered further, and that at a minimum appropriate compensation be required in such cases. Fourth, if this is the policy direction where section 6 and/or another NPS is not engaged, what should decision makers do when section 6 and/or another NPS are engaged? While silence could be taken to mean that the direction provided by the Supreme Court would cut in, the direction that REG activities be enabled in that circumstance could be taken to be definitive. It would be more helpful if the proposed NPS gave some indication as to what is intended – e.g. by saying that the	section 6 and/or another NPS are engaged.

2 *Meridian Energy Ltd v Tararua District Council* [2025] NZEnvC 044.

	objectives and policies of this NPS be considered together with the direction provided by section 6 and/or the other relevant NPS.	

Attachment 1.3: Proposed provisions – Amendments to the National Policy Statement on Electricity Transmission 2008		
Proposed provision	**Issue**	**Recommendation**
Definition – D4 Decision-makers	See comments on the same definition for the NPS-REG (attachment 1.2, D4). To be accurate and consistent, "under the NPS" should be changed to "under the Act".	Use the same definition as in the proposed NPS-I
Definition – D18 Routine EN activities	The word "that" makes the definition grammatically incorrect. (b) is missing some words to read correctly. In (d), the word "activity" appears incorrect as a reference back to the upgrade/change. Suggest "action" be substituted.	Amend to read: "means ~~**that:**~~ a) [no change] b) **activities that implement**~~**implements**~~ the modern equivalent… c) [no change] d) other upgrades of existing EN assets where the upgrade or other change will, once the ~~**activity**~~**action** is complete …"
Definition – D19 Sensitive activities	This definition should be amended to be consistent with the definition used in other proposed NPSs, and include reference to papakāinga. See further comments above on the same proposed definition in the NPS-I (attachment 1.1, D19).	Amend the definition of sensitive activities as proposed for D19 of the NPS-I (attachment 1.1).
Policy P1(1)	It would be clearer if the recognition of the national significance were separated out from the benefits.	Amend the wording of (1) and create two sub-paras as follows: "(1) Decision-makers ~~**on EN activities**~~ must recognise and provide for: **(a)** the national significance ~~**and benefits of**~~ **EN activities**; and **(b)** the benefits of EN **activities** to be realised at a national, regional and local scale.
Policy P1(2)	This policy is stating as a fact that all electricity network (EN) activity includes all of the listed benefits. This does not appear to be correct – e.g. not all EN developments involve storage of electricity.	Amend to state that the benefits of EN "**can**" include those listed. Insert "a" after "providing" in (c) so that it reads, "providing **a** safe …".

	Sub-policy (c) is missing an article. The last two lines are unnecessary. The definition already says that benefits are not limited to those listed.	Delete the following: "~~**The above list of benefits is not intended to be exhaustive and a particular project or development may have other benefits."**~~
Policy P4(1)(ii)	This policy is unclear. It implies that the EN provider's decision about location or route cannot be called into question irrespective of the degree of rigour, or lack thereof, prompting that decision. There is a legitimate view that the EN provider, who carries the cost risks for its choices, should not be second-guessed at the margins. Equally, however, the EN provider should be able to demonstrate that it has considered factors other than cost and given them appropriate weight.	Suggest consideration be given to qualifying this policy to require that EN provider decisions as to location and route be transparent and not unreasonable.
Policy P6	The terminology "enable" in an RMA policy document normally equates to a Permitted Activity rule status (or Controlled Activity at worst). Is that what is intended, noting that such a favourable rule status might be inconsistent with the direction provided by other NPSs, particularly given that the definition of "routine EN activities" excludes consideration of construction effects? The language normally used where Permitted (or Controlled) status is not necessarily intended in every case, but the activity needs a positive 'push' is "provide for". Is that the intent? Also, the phrasing of this policy means that each element is an alternative open to the REG provider. This means, for example, that effects need not be avoided where avoidance is a practicable option. It is unclear why that should be the case, and this approach is contrary to the approach (e.g.) of the NPS-IB which requires a sequential approach to effects management (i.e. first avoid where	Suggest: • Substituting "**provide for**" for "enable". Alternatively, the definition of "routine EN activities" might be amended to require no more than minor adverse construction effects. • Redrafting the policy to provide a sequential approach to effects management – first avoid where practicable, then remedy where avoidance is not practicable, then mitigate where neither avoidance not remediation is practicable, then offset or compensate.

	practicable, then remedy where avoidance is not practicable, then mitigate where neither avoidance nor remediation is practicable, then offset or compensate).	
Policy P7	The commentary suggests that this policy is intended to address non-routine EN activities. Suggest this be made clear on the face of the policy.	Suggest this policy be amended to read: "In rural environments, planning and development of the EN **not the subject of Policy 6** should seek …".
Policy P9	Query the evidence to support Policy 1(c). It sems likely that some minor EN activities could be carried on without having any adverse effects. Suggest therefore that this be qualified. (d), suggesting that EN activities may be appropriate "when protecting historic heritage" contains something of a non-sequitur, unless the intention is that the only appropriate EN activities are those that do protect historic heritage. Assuming that is not the intention, the wording should be amended to clarify it.	Suggest: • Amending sub-policy 1(c) to read: "recognise that it is **likely** not practicable to avoid all adverse effects of EN activities". • Amending sub-policy 1(d) to read: "recognise that the effective and efficient development, operation, maintenance, and upgrade of the EN may be appropriate use and development when **seeking to** protect~~ing~~ historic heritage".
Policy P10	Decision makers cannot avoid the effects third parties may have on the EN. Only the third parties can do that. Policy 10 of the NPS-ET recognises this by directing decision-makers to manage third party actions to have the desired effect. Suggest the opening words of sub-policy 1 be amended to correctly capture what the different players can do. Sub-policy 2 raises a similar issue. It also implies that adverse effects of third parties will be avoided if the listed actions are taken, which may or may not be the case.	Suggest: • Amending sub-policy 1 to state: "Decision-makers must **manage third party activities to** avoid ~~the~~ adverse effects ~~of third parties~~ on the EN, including by …". • Amending sub-policy 2 to state: "In order to ~~avoid~~**assist avoidance of** the adverse effects of third parties on the EN, local authorities must …".

Attachment 1.4: Proposed provisions – Amendments to the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009		
Proposed provision	**Issue**	**Recommendation**
Definition – D32 Routine EN activity	This definition raises some but not all of the issues identified in relation to the definition of the same term in the proposed NPS-EN.	Amend to read: "means: a) [no change] b) **activities that implement** ~~**implements**~~ the modern equivalent … c) [no change] d) other upgrades of existing EN assets where the upgrade or other change will, once the ~~**activity**~~**action** is complete …"
Definition – D33 Sensitive activity	This definition raises the same issues identified in regard to the same term in the proposed NPS-I and NPS-EN.	Amend the definition of sensitive activities as proposed for D19 of the NPS-I (attachment 1.1).
Regs 6 and 10	The Law Society queries the suggested noise limits, which impose less restrictive limits in residential zones than in other zones. This appears counter-intuitive given that residential zones are more sensitive to noise than other zones.	Suggest the specified noise limits be checked.

Attachment 1.5: Proposed provisions – Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016		
Proposed provision	**Issue**	**Recommendation**
Definition – D3 Sensitive activity	This definition raises the same issues identified in relation to the definition of the same term in the proposed NPS-I and proposed NPS-EN.	Amend this definition as required to align with the definition of the same term in the NPS-I and NPS-EN.

Attachment 1.7: Proposed provisions – New National Environmental Standards for Papakāinga		
Proposed provision	**Issue**	**Recommendation**
Definition – D4 Conservation activities	At present, the definition excludes the reintroduction of indigenous species to an area. Such activities can occur on Māori ancestral land, such as occurred at Parininihi in Taranaki. Further, no mention is made of reconstructed or replacement habitats such as bat roosts, eel housing made with rip rap, etc. The construction of such habitats are common measures to assist with addressing ecological effects of activities on fauna.	Consider expanding the definition to include reintroduction of indigenous species, and construction of reconstructed or replacement habitats.
Definition – D13 Mātauranga	The term "mātauranga" is not qualified by the addition of the word Māori. Given its use in the education sector, adding the word "Māori" would assist to clarify its usage here. The definition also refers to traditional Māori knowledge, which does not capture its full meaning, or reflect that the body of knowledge continues to be added to today. The Law Society recommends its amendment to better reflect what the term encompasses, for example by using the definition in Te Aka – which is noted as a reference source in other definitions for this NPS.	Amend as follows (or similar): "Mātauranga **Māori** means ~~**traditional**~~ Māori knowledge **– the body of knowledge originating from Māori ancestors, including the Māori world view and perspectives, Māori creativity and cultural practices**".
Definition – D14 Papakāinga development	It is unclear why the reference to "in perpetuity" is included. While that may be the goal, if a development is not intended to be there forever, does that mean it is not a papakāinga development? Further if the rationale for including reference to "in perpetuity" was to prevent the land once developed being sold for other purposes, that is not a realistic prospect, given the restrictions on alienation of Māori ancestral land and Treaty settlement land, and the whakapapa relationship Māori have with their land. Accordingly, suggest	Amend the definition as follows: "means the use of housing and ancillary activities on Māori ancestral land or Treaty settlement land that enables the owners to use their land and live in accordance with their culture~~**, in perpetuity. Sometimes papakāinga are located near a marae**~~".

	deleting the reference to "in perpetuity". While the explanatory statement that papakāinga are sometimes located near a marae is correct, it seems unnecessary, given it is not a qualifier for the definition, and given there are occasions when papakāinga are standalone developments. That sentence could be deleted.	
Policy PAS3	Should the reference to setbacks from rail corridors be expanded to apply to all infrastructure? It is difficult to understand why, for instance, relevant local plan provisions relating to rail corridors are applicable, but not those for gas pipelines, electricity lines, etc.	Consider whether the reference to rail corridors should be broadened.
N1 Limited notification	The intention appears to be to require notification of 'relevant' iwi authorities and local authorities. Consider whether those terms should be qualified by the addition of the word "relevant". The meaning of the term "joint management entities" is unclear and should be defined.	Consider making clarifying amendments.

Attachment 1.8: Proposed provisions – New National Policy Statement for Natural Hazards		
Proposed provision	**Issue**	**Recommendation**
Infrastructure and primary production	The NPS-NH states it does not apply to infrastructure as that term is defined in the RMA. It is noted that the NPS-I applies a broader definition of infrastructure – some of which may also have a need to locate in hazard areas (e.g. stormwater networks).	Consider whether this NPS should include some or all of the "additional infrastructure" defined in the NPS-I.
Policy P4	Minor typo. The word "the" is missing.	Amend to read "Local authorities must use **the** best available information …".
Policy P6	The wording in the policy heading refers to where information "is limited or unclear", however, the policy itself refers to where information "is uncertain or incomplete". Using the same wording would be clearer.	Consider amending the wording in the policy heading to reflect that used in the policy itself.

Appendix 2

PACKAGE 2		
Attachment 2.3: Proposed provisions – Amendments to the New Zealand Coastal Policy Statement 2010		
Proposed provision	**Issue**	**Recommendation**
Policy P6	The intention behind amending the drafting of Policy 6 is to achieve more directive language, to elevate the importance of priority activities in decision-making and soften how the 'avoid' policies are applied. This is with the overall goal of making it easier to consent priority activities in the coastal environment, including in areas with important coastal values. The proposed drafting does not achieve the stated intention as well as it could. Some examples of this include: • 6(1)(a) "… which <u>may</u> be required …" • 6(1)(g) "… <u>recognise</u> the potential of renewable resources …"	Consider redrafting to better achieve the stated policy intent