

**Appendix to TCF submission on the Planning Bill and Natural Environment Bill: table of detailed submission points and amendments**

Topic	Submission	Proposed drafting amendment
<b><u>Fundamentals</u></b>		
<b>Explanatory note</b>	Ensure that the explanatory note is fully consistent with the legislation.	
<b>Transition</b>	The Companies are concerned that the Government's intention for transition to the new system to be quick may result in poor outcomes through insufficient work going into creating national instruments and combined regional plans. Because of this, the Companies ask that the Government allocates sufficient resource to the transition to ensure that the first set of national instruments is robust and thorough, and that sufficient time is taken through the plan-making process to ensure high-quality decisions can be made under the new system from the outset.	Refer to paragraph 28 for commentary on transition timeframe change ideas for discussion.
<b>Goals</b>	<p>The Companies are pleased to see the inclusion of a goal specifically in relation to infrastructure. While there is no hierarchy between the goals, the Companies consider that there is a likelihood that a hierarchy will be read into the goals based on the strength of language used. Because of this, the Companies ask that the goal to provide for infrastructure in the Planning Bill be strengthened.</p> <p>The Companies also seek that the protection of infrastructure is also incorporated into the goal, to ensure that incompatible development is not enabled in areas that inhibit the operation and development of infrastructure.</p> <p>The Companies also wish to seek clarification of the goals in the Natural Environment to acknowledge that environmental limits may be breached by infrastructure and that this is in line with the goals of the Natural Environment Bill.</p>	<p><b>Planning Bill cl 11</b></p> <p>{e) To plan, <del>and provide for</del> <u>enable, and protect</u> infrastructure <u>in all areas</u> to meet current and expected demand.</p> <p><b>Natural Environment Bill cl 11</b></p> <p>(a) To enable the use and development of natural resources, within environmental limits <u>where required</u>.</p>

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<b>Procedural principles</b>	<p>The Companies support the procedural principles and the requirement to:</p> <ul style="list-style-type: none"> <li>- Act in an enabling manner;</li> <li>- Act in a timely and cost-effective way;</li> <li>- Act proportionately to the scale and significance of the matter;</li> <li>- Ensure all documents are succinct and in plain language.</li> <li>- Ensure there is enough information to understand the implications of a decision; and</li> <li>- Avoid unnecessary repetition in instruments</li> </ul>	
<b>Relationship between key planning instruments - cl 12 both bills</b>	<p>The Companies support the intention of not re-litigating higher order goals at the consenting stage in lower-level processes. Any potential conflicts should be addressed in National Direction to the greatest extent possible to avoid re-litigation of the goals relationship later</p>	
<b>Definitions</b>	<p>The Companies ask that a streamlined single definition for "infrastructure" be included in both Bills, with a second central definition for "key"/"core"/"significant" infrastructure. Both of these definitions should be in cl 3 of both Bills. As currently drafted, the range of infrastructure terms used throughout the Bills is confusing and unworkable. The Companies also ask that the definitions used are amended to clearly include individual parts of telecommunications networks, as the component parts of a network are essential to create a workable network.</p> <p>The Companies support the definition of "long-lived infrastructure" in the Natural Environment Bill.</p>	<p><b><u>Planning Bill sch 5, cl 9</u></b></p> <p><b>Core infrastructure operator</b> means a person who...</p> <p>(b) operates or proposes to operate <u>any part of</u> a network for the purpose of–</p> <p>(i) telecommunications as defined in section 5 of the Telecommunications Act 2001...</p> <p><u>and</u></p>

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	<p>The Companies support the inclusion of <i>(b) a person who provides infrastructure in the region</i>, in the definition of “qualifying resident” given they install and maintain essential network infrastructure through New Zealand.</p>	<p>Relocate definition to cl 3 – Interpretation.</p> <p><b>Natural Environment Bill cl 3</b></p> <p><b>Long-lived infrastructure</b> means...</p> <p>(b) <b>any part of</b> a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001...</p>
<b>Scope of effects</b>	<p>The Companies strongly support limiting the effects that are relevant to consent considerations to "externalities" and excluding effects such as landscape effects, visual amenity, and less than minor effects. It is supported that effects of any matter where the land use effects of an activity are dealt with under another piece of legislation be excluded from consideration.</p> <p>The Companies also support the inclusion of positive effects in the definition of "effect" so that positive effects are included to account for the many positive effects of infrastructure equipment.</p>	
<b>Duty to avoid unreasonable noise</b>	<p>The Companies support the requirement in cl 24 of the Planning Bill creating a duty to avoid unreasonable noise as this is essential for existing infrastructure. For example, with exchanges being surrounded with residential activities it is important to set an expectation that a reasonable level of noise is acceptable.</p>	
<b>Permitted activities</b>	<p>The Companies seek correction of the drafting error they understand has been made which will result in a requirement to register all permitted activities. The Companies are heavily reliant on permitted activity</p>	<p><b>Planning Bill cl 38 / Natural Environment Bill cl 39</b></p>

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	<p>standards and carry out routine activities as permitted activities every day across New Zealand. Without this amendment, this provision will be unworkable and result in a high administrative burden on system users and councils alike.</p> <p>The Companies consider that the Planning Bill should be amended so that national instruments may specify permitted activities that require registration, but that this cannot apply to activities related to the provision of infrastructure.</p>	<p>(1) A permitted activity rule <del>must</del>-</p> <p>(a) <del>must</del> require an activity to be registered <u>if required by a national rule; <del>or and</del></u></p> <p>(b) <del>relate to a matter described in [..]</del> <u>may require an activity to be registered if not precluded by a national rule; and</u></p> <p>(c) <u>must not require any activity undertaken pursuant to a permitted activity rule to _____ be registered if it is undertaken in order to provide infrastructure.</u></p> <p>In the alternative to providing the carve out for Infrastructure in cl (c), then delete cl (b).</p>
<b><u>National Instruments</u></b>		
<p><b>Process for creating national instruments</b></p>	<p>Because of the speed of the transition period, the Companies consider that it will be particularly important that national instruments are of a high quality.</p> <p>Currently drafted, there are no pre-notification consultation requirements for the creation of national instruments (except for with iwi) and the submission period following public notification may be as short as 20 working days. This is not long enough to consider and meaningfully submit on complex and technical documents. The Companies therefore</p>	<p><b>Insert a new subclause after Planning Bill cl 46(1) / Natural Environment Bill cl 70(1).</b></p> <p><u>(2) When preparing a national instrument, the Minister must engage with infrastructure providers to the extent relevant to the subject matter of the instrument. In doing do, the Minister must –</u></p> <p>(a) <u>provide infrastructure providers with a draft of the proposed national instrument</u></p>

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	<p>ask that amendments be made to require consultation with infrastructure providers prior to notification of national instruments, as well as a longer submission time following notification.</p>	<p><u>or a summary of its proposed content; and</u></p> <p>(b) <u>give infrastructure providers what the Minister considers to be adequate time (and not less than 20 working days) and opportunity to consider the document and provide advice on it; and</u></p> <p>(c) <u>take into account any advice received from infrastructure providers on the document before publicly notifying a national instrument.</u></p> <p><del>(2)(3)</del> If after having complied with <b>subsections (1) and (2)</b>, the Minister proposes to [...]</p> <p><b>Planning Bill cl 7(3)(a), sch 1 - delete</b></p> <p><b>Planning Bill cl 7(3)(b), sch 1</b></p> <p>(b) Those notified (under either Act) must be given <del>20</del> <u>40</u> working days to make submissions on the subject matter of the proposal unless the minister considers that further time is needed.</p>
<p><b>National instruments during transition period</b></p>	<p>The Companies support the National Environmental Standards for Telecommunications Facilities ("<b>NESTF</b>"), as proposed in Package 1: Infrastructure and Development of the proposed changes to National Direction, including any amendments as the result of submissions, being carried over to the new system. In doing so, caution will need to be taken to ensure that any restrictions in the NESTF that are based on now irrelevant considerations (e.g. visual amenity) are stripped away.</p> <p>The Group requests that these provisions have immediate legal so efficiency gains are able to be realised as soon as possible and in</p>	

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	advance of the entire new system becoming operative, which could take 4 or more years.	
<b>National policy direction to resolve conflict between goals</b>	The Companies support the role of national instruments in resolving conflict between goals in both Acts. However, there is a concern that without explicitly enabling infrastructure, this clause risks the Minister not considering the benefits of infrastructure that breaches environmental limits due to a functional or operational need. The Companies, therefore, support amendment to this clause to require consideration of those matters.	<p><b>Planning Bill cl 57</b></p> <p>(b) the Minister must consider –</p> <p>[...]</p> <p>(iii) <b>the extent of public benefits from an infrastructure proposal and constraints on location and scale as a result of operational need and functional need.</b></p>
<b>Digital version of national instruments</b>	The Companies ask that national instruments must require the deployment of a national centralised digital platform for all National Instruments and Combined Plans to enable efficiency	<p><b>Planning Bill cl 60(3)(b) - delete</b></p> <p><b>Planning Bill cl 60 – new subsection (6)</b></p> <p><b><u>(6) National Instruments must require all plans to be accessible electronically on a centralised digital platform where all National Instruments and plans are available.</u></b></p>
<b>National Standards relating to significant infrastructure breaches environmental limits</b>	The Companies support the ability for national standards to create a consenting pathway for infrastructure that may breach environmental limits. As the national standards will contain further criteria for when any such pathway is available, the Companies consider that this provision should be amended to prevent confusion about what "significant" infrastructure is.	<p><b>Natural Environment Bill cl 86</b></p> <p>National standards may establish a consenting pathway for <b>significant</b> infrastructure activities that breach or are likely to breach environmental limits...</p>

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<b>Standardisation</b>	<p>The Companies support fewer, faster plans, as well as standardised rules for key matters to reduce red tape and regional variation. Provisions to ensure national standards can be efficiently amended to address any unintended consequences of new limits or rules are also supported. The Companies seek expansion so this process also applies to national policy direction and asks that a provision to enable changes to support infrastructure technology changes is added. The Companies also note that the cross-references in cl 62 are incorrect and need to be amended.</p>	<p><b>Planning Bill cl 62(1)</b></p> <p>(1) <i>The Minister may amend a national standard <u>or national policy direction</u> without complying with <b>section 70 46</b> if the amendment is needed for 1 of the following reasons:</i></p> <p>[...]</p> <p>(f) <i>to make changes that are no more than minor in effect, to correct errors, <u>to address unintended consequences</u>, or to make similar technical alterations.</i></p> <p>(g) <i><u>To makes changes to support infrastructure technology changes.</u></i></p> <p>(2) <b>Section 69 45</b> <i>does not apply to amendments made under this section.</i></p>
<b><u>Combined Regional Plans</u></b>		
<b>Regional Spatial Plans</b>	<p>The Companies support the focus on regional spatial planning in recognition of the significant benefits obtained from long-term strategic planning for where development will happen. This will be particularly useful for the strategic planning of infrastructure providers, such as telecommunications networks, to respond to demand.</p>	
<b>Development of Regional Spatial Plans</b>	<p>The Companies seek amendment to the provisions dealing with the development of regional spatial plans, as there is no legislative requirement to consult with infrastructure providers while doing so. Clause 69(1)(g) of the Planning Bill requires local authorities to agree</p>	<p><b>Planning Bill – Insert new clause after cl 70</b></p> <p><b><u>71 Consultation with infrastructure providers</u></b></p>

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	<p>upon how they will work with infrastructure providers, development and sector groups, others with a strong interest in spatial planning, and communities". The Companies consider that this is not directive enough and should be amended to require consultation with infrastructure providers when developing regional spatial plans.</p>	<p>(1) <u>A spatial plan committee must–</u></p> <p><u>(a) consult infrastructure providers in the region in preparing the draft regional spatial plan;</u></p> <p><u>(b) give infrastructure providers what the regional spatial plan committee considers to be adequate time (and not less than 20 working days) and opportunity to consider the document and provide advice on it; and</u></p> <p><u>take into account any advice received from infrastructure providers on the document before publicly notifying a draft regional spatial plan.</u></p>
<b><u>Consenting / Permitting</u></b>		
<b>Applying for a planning consent</b>	<p>The Companies strongly support the provisions which limit the extent of information required to be provided in an application for a consent or permit to that which is proportionate to the scale and significance of the matter to which the application relates.</p>	
<b>Notification</b>	<p>The Companies are pleased by the Government's intention to limit notification by limiting the test for public notification so that it is not required for any activity with "more than minor effects" or "significant adverse effects". It is also supported that the threshold for determining when a person is an "affected person" will go from "minor" to "more than minor" effects.</p>	
<b>Review of Notification Decisions</b>	<p>The Companies seek amendment of the clause in schedule 10 of the Planning Bill which will enable third party "applicants" to apply to the</p>	<b>Planning Bill sch 10, cl 16</b>

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	<p>Planning Tribunal to review a notification decision within 25 working days of the substantive decision being notified to them.</p> <p>The Companies' concerns in relation to this provision are:</p> <ul style="list-style-type: none"> <li>- It is unclear whether the party that has made the substantive application for a consent or permit can use this clause to review a notification decision;</li> <li>- The use of "applicant" to not mean the substantive applicant is confusing;</li> <li>- A substantive decision will not be notified to the "applicant";</li> <li>- This provision may not be usable for third party "applicants" as they may not know about a substantive decision within the required time period. This may preclude utilisation of judicial review (as a statutory appeal right exists), meaning that many third parties unhappy with notification decisions may have no recourse.</li> </ul>	<p>(1) Any person who qualifies as an applicant (see <b>subclause (8)</b>), <u>or the person who has sought a consent, permit, or designation</u>, may apply to the tribunal in the approved form to review that decision for any legal or procedural error as follows:</p> <p>(a) If the permit or consent application or an application for a proposed designation was not publicly notified, any application for review must be filed within 25 working days after the substantive decision on the application is notified to <del>the applicant</del> <u>the person seeking a consent, permit, or designation</u>...</p> <p>(b) [...]</p>
<p><b>Minor corrections of planning consents</b></p>	<p>The Companies support cl 174 of the Planning Bill which enables minor corrections to planning consents to be made. This is an issue that the Companies frequently experience.</p>	
<p><b>Consenting time frames</b></p>	<p>The Companies support the inclusion of processing time frames for consents and permits and ask that an amendment is made to create an express ability for national instruments to set out shorter maximum processing times for certain non-notified consents.</p> <p>The 45 working day maximum processing time frame for non-notified consent is not supported. Telecommunication providers operate networks than span all environments in New Zealand, including Outstanding Natural Landscapes and Features. Antenna upgrades are</p>	<p><b>Planning Bill cl 117(1)(b) / Natural Environment Bill cl 138(1)(b)</b></p> <p>(1) The maximum processing time frames for application [...]</p> <p>(b) Are subject to– [...]</p> <p>(iii) <u>Any maximum timeframes for applications for particular activities set</u></p>

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	<p>routinely and continuously undertaken. An example of this could be as simple as the attachment of a new antenna to an established facility. The proposed 45 working days is considered too lengthy and excessive for established infrastructure upgrades. Leading to excessive consent time frames and unnecessary costs.</p>	<p><u>out in national instruments</u></p>
<p><b>Review of draft conditions of consent</b></p>	<p>The Companies support cl 152 of the Planning Bil and cl 170 of the National Environments Bill in regard to an Applicant requesting a review of draft conditions if consent.</p>	
<p><b>Emergency works</b></p>	<p>The Companies support the inclusion of emergency works provisions for infrastructure</p>	
<p><b><u>Designations</u></b></p>		
<p><b>Relationship between national rules and designations</b></p>	<p>The Companies consider that cl 42 of the Planning Bill needs to be amended to increase certainty about the relationship between designations and national rules. As drafted, this clause creates ambiguity as to the status of designations once new national rules are introduced that address activities authorised by that designation.</p> <p>The Companies do not support the ability for a national rule to prevail over a designation if a designation is made before a national rule and is not altered.</p>	<p><b>Planning Bill cl 42(2)(b)(ii) - delete</b></p> <p><b>Planning Bill cl 42(4) – delete</b></p>
<p><b>Strategic Need</b></p>	<p>The Companies support the removal of the requirement to include an assessment of alternatives when seeking to secure a designation, however, they have concern that it may be difficult to fully demonstrate that there is "strategic need" for a designation with "demand" being excluded from consideration under the Planning Bill.</p>	

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<p><b>Construction project plans</b></p>	<p>The Companies are concerned that the new construction project plan is more onerous than the outline plan of works process is under the RMA. Particularly in that:</p> <ul style="list-style-type: none"> <li>- The inclusion of the final design of the project will not be limited to a defined set of matters as under the RMA (e.g. height, shape, and bulk);</li> <li>- The construction project plan may include conditions; and</li> <li>- Designating authorities will be required to publish them.</li> </ul> <p>The Companies seek amendment of the publishing requirement.</p> <p>The Companies support the cl 36(2) sch 5 in regard to circumstances where a Construction project Plan is not required.</p>	<p><b>Planning Bill sch 5, cl 37</b></p> <p>[...]</p> <p>(1) A construction project plan <u>must</u>–</p> <p>(a) <del>must</del> set out the <del>final</del> design of the project <u>or work to be constructed on designated land to– including where relevant</u>–</p> <p>(i) <u>show</u> the location and dimensions of the project within the designation (including the likely finished contour of the site);</p> <p>(ii) <u>show</u> the layout of the site, including any vehicular access, circulation, and any provision for parking; and</p> <p>(iii) <u>identify any the</u> landscaping proposed; and</p> <p>(b) <del>must</del> identify any adverse effects of the construction the built environment; and</p> <p>(c) <del>must</del> set out how the designating authority will avoid, minimise, or remedy those effects.</p> <p><del>(d) must set out any other matter that designation specifies must be</del></p>

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		<p><del>addressed in the construction project plan; and</del></p> <p><del>(c) May include any other comparable matter that is relevant to understanding the effects of the project on the built environment</del></p> <p><del>(3) A construction project plan may include conditions</del></p> <p><b>Planning Bill sch 5, cl 40</b></p> <p>(1) A <del>designating local</del> authority must publish construction project plans provided to it by designating authorities on an internet site to which the public has free access.</p> <p>(2) A designating authority must <u>provide a plan to the local authority to</u> publish a <del>plan</del> [...]</p>
<p><b>Third party use of designation</b></p>	<p>The Companies ask for a new provision to be added that enables a third party to undertake work on a designated site if that work is for the same purpose and therefore the same type of effects as the designation provides for, for example construction of cell towers for co-location or adding antennas by another operator to an existing structure designated by another requiring authority. This should still enquire the written approval of the requiring authority before any such works can proceed.</p> <p>The Companies are concerned that, as drafted, cl 42, sch 5 will deem a designating authority to have approved a third-party application to undertake something that will hinder the works if the designating</p>	<p><b>Planning Bill sch 5, cl 42</b></p> <p>A designating authority must, no later than 40 working days after <del>receiving</del> <u>confirming the receipt of</u> an application under this clause <u>to the applicant</u>, notify the applicant in writing of its decision to [...]</p>

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	<p>authority does not respond within 40 days. This could create significant issues if this time period starts without the designating authority being aware of the application.</p>	
<p><b>Status of existing designations</b></p>	<p>The Companies recommend that amendments are made to provide that where there is a requirement for an existing designation to be included in a proposed land use plan with no proposed modification, that designation must be confirmed with no third-party review opportunity to seek amendments.</p>	<p><b>Planning Bill sch 3, cl 7 – new subclause inserted.</b></p> <p>(7) <u>If a designating authority responds by the deadline that it requires an existing designation be included in the proposed land use plan without modification:</u></p> <ul style="list-style-type: none"> <li>(a) <u>the territorial authority must include that designation in the proposed land use plan without modification; and</u></li> <li>(b) <u>any party submitting on the proposed land use plan is excluded from submitting on the designation, and a panel must not make a recommendation in relation to the designation under cl 26, sch 3(3)(a).</u></li> </ul>

### **Draft Infrastructure definition**

- (a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy; or
- (b) operates or proposes to operate any part of a network for the purpose of —
  - (i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or
  - (ii) radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or
- (c) facilities used to generate electricity for supply, excluding any facility that a person uses primarily to generate electricity for their own use; or
- (d) lines (and any associated facilities, including support structures for those lines) used or intended to be used to convey electricity, excluding any lines or associated facilities that a person uses primarily in connection with a facility to generate electricity for their own use; or
- (e) a water supply distribution system, including a system for irrigation; or
- (f) a drainage system, including a stormwater network; or
- (g) a sewerage system; or
- (h) structures for transport on land by cycleways, rail, roads, walkways, or any other means; or
- (i) facilities for the loading or unloading of cargo or passengers transported on land by any means; or
- (j) an aerodrome as defined in section 5 of the Civil Aviation Act 2023; or
- (k) a navigation installation as defined in section 5 of the Civil Aviation Act 2023; or
- (l) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988; or
- (m) a relevant school or an institution as those terms are defined in section 10 of the Education and Training Act 2020; or
- (n) a health facility operated by Health New Zealand to meet its obligations under the Pae Ora (Healthy Futures) Act 2022; or
- (o) facilities for an emergency service (such as an ambulance or a fire service); or
- (p) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990; or
- (q) a corrections prison as defined in section 3(1) of the Corrections Act 2004; or

- (r) resource recovery facilities or waste disposal facilities, including privately operated facilities that are open to the public; or
- (s) flood control and protection works carried out by, or on behalf, of a local authority
- (t) anything prescribed as a core infrastructure operation by regulation