

**Final Report of the Ministerial Advisory Committee on
Biodiversity and Private Land**

August 2000

Biodiversity and Private Land

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EXECUTIVE SUMMARY

This is the final report of the Ministerial Advisory Committee on Biodiversity and Private Land. It revises the preliminary report, *Bio-What?*, following extensive public consultation.

The Committee was appointed to look at the part that private land management decisions play in the decline of New Zealand's biodiversity and the reasons for the tension generated by management systems designed to halt the decline. Specifically, the Committee was asked to develop an "*agreed set of proposals that will lead to effective sustainable management of biodiversity outside the conservation estate*". Our Terms of Reference anticipated advice on how the Resource Management Act 1991 (RMA) should be implemented through a national policy statement and the set of instruments that could be implemented alongside or in place of RMA measures (such as a national policy statement).

From the Committee's perspective the issue is best advanced through encouraging positive behaviour and modifying negative behaviour. Our overall conclusion reached was that biodiversity management should be managed at the regional and local levels in order to:

- Take account of regional/local variability in the willingness and ability of land-holders to contribute to nature conservation
- Avoid broad national prescriptions that may simply aggravate existing tensions.

The Committee believes the role of central government is to put in place the structures (including funding mechanisms) necessary to assist local government to effectively address biodiversity issues. In doing so central government must work in partnership with local government.

The fundamental recommendation of the Committee is that the Government make decisions in respect of the recommendations set out in this report. However, the Government should supplement our recommendations with proposals aimed at securing Maori interests in biodiversity following meaningful consultation with iwi/hapu.

Specifically, we recommend that the Government:

1. Consider facilitating the establishment of a National Biodiversity Forum
2. Fund the piloting of approaches to governance, participation and collaboration to enhance biodiversity management at the local and regional levels
3. Not proceed with a National Policy Statement at this time, but keep the matter under review pending the implementation of other recommendations in this report
4. Proceed with the development of non-statutory policy guidance to support and direct fulfilment of biodiversity responsibilities under the RMA and other statutes at a local level. This guidance should be developed in collaboration with local government and other players, to be completed by the end of 2001
5. Support and facilitate better national and local tools for information collection and management in partnership with local government through:
 - Guidance to local government for the collection and use of biodiversity information and describing and monitoring the extent and character of terrestrial and aquatic biodiversity within an area
 - National and regional coordination of existing biodiversity information
 - National and regional biodiversity forums

6. In the immediate term, facilitate and support programmes that provide clear guidance to local government and Forests Act plan/permit applicants on the different scope and requirements of the Forests Act and RMA provisions and the roles of MAF, DOC and local government in these processes
7. In the longer term, initiate a specialist review of Part IIIA of the Forests Act 1949, and the requirement for indigenous forest harvesting legislation separate from the sustainable management requirements of the RMA
8. Facilitate and support biodiversity programmes that build recognition, awareness and a mandate for increased public expenditure
9. Facilitate the establishment of a rural (including peri-urban) extension service aimed at sustainable use and protection of natural resources, with the maintenance of biodiversity as a core purpose
10. Establish a new fund aimed at encouraging and supporting regional councils to coordinate and fund contributions to on-going management of natural areas and the sustainability of ecosystems
11. Support the wider use of farm planning by developing best-practice guidelines and facilitating the sharing of experience
12. Support the greater use of management agreements and encourage their use by making any additional public funding conditional on the existence of such agreements
13. Support the continued use of covenants as a protection mechanism, investigate how it can reduce the costs of covenanting by reviewing the need for formal survey, and consider initiating a purchase-covenant-resale scheme modelled on the Australian revolving fund
14. Clarify that regional councils may be actively involved in the maintenance of indigenous biodiversity on private land by:
 - Amending section 30 of the RMA
 - Amending the Biosecurity Act to include:
 - An appropriate purpose, functions and basic obligations for relevant agencies, notably regional councils, to require consideration of pest effects on indigenous biodiversity, where appropriate
 - Clarification that regional councils may, where appropriate, use the Biosecurity Act to achieve the purposes of the RMA
 - Amending the Local Government Act to allow regional councils to purchase land for reserve/conservation purposes
15. Amend section 31 of the RMA to ensure that territorial authorities retain a clear role in management of land use effects on biodiversity
16. Continue to support:
 - An independent QEII Trust, and resource it to a level that enables it to respond credibly to public demand
 - The Nature Heritage Trust Fund to provide the highest level of security for high-priority sites
 - The Nga Whenua Rahui Fund at levels that recognise the burden on Maori owners and the significant opportunities for additions to the protected area network
17. Increase support to the Landcare Trust and consider using the Trust to provide an extension service in partnership with regional councils.

CHAIRMAN'S OVERVIEW

The dialogue that occurred during the Ministerial Advisory Committee's consultation process highlighted some significant trends, attitudes and concerns. There was strong support for nurturing New Zealand's unique indigenous biodiversity, and for the view that nurturing is a function of committed and enlightened management. It was agreed that introduced weeds and pests now pose the greatest threat. Sustainable management techniques incorporating conservation have now replaced development of land in primary producers' priorities.

As a landscape, and as a community of property owners, the New Zealand scene is one of extreme diversity. Each property differs from its neighbour, as does each incumbent owner. Characteristics may be shared, but there it ends. This complexity, when superimposed on districts with particular concentrations of biodiversity, produces practical and political minefields through which district councils are obliged to navigate, often with very limited resources.

One hundred years of a culture that encouraged land clearance as a virtue transformed our indigenous landscape. Those 100-odd years also created mindsets in both praise and condemnation of the industrialisation of our land. Remnants of both mindsets still remain, even though the economic and cultural reversal began 30 years ago. In the 1970s intensive livestock feed lots and synthetic fibre began their adverse impact on our pastoral industry.

Intervention failed to stem the tide, and plantation forestry and reversion follow the retreat of farm animals from our less productive lands, not all of which are in remote locations. Thousands of new dwellings now share landscapes with animals and plantations. These dynamic land use changes, combined with growing resource depletion, triggered the gestation of the Resource Management Act, and the empowerment of local communities to manage their resources in a more integrated fashion.

Our consultation confirmed that these significant economic and cultural changes are now entrenched, despite protestations to the contrary. It is now widely acknowledged that plants and animals are in serious competition with humans for space and sustenance, and that they have a legitimate claim and entitlements.

Many critics of past farm and forest development and management are as slow to acknowledge the change that has occurred as many primary producers are to accept the RMA provisions that allow public input into their business activity.

New Zealand faces a unique biodiversity challenge. If we as a society choose to nurture our indigenous biodiversity we must be prepared to actively manage all our land by standing between our threatened species and their vigorous competition and predators. Such a commitment will be permanent and at on-going cost — be it on reserve, residential or productive land.

The practice, the technology and the experience are now available to more effectively and sympathetically manage all classes of land. Increasing numbers of landholders are deriving economic benefit while at the same time sustaining and enhancing natural values. One goal does not have to be at the expense of the other.

While we all know that nature will punish us with productive failure if we disobey its rules, we are not advocating that nature alone can regulate, especially in the New Zealand environment. We must intervene where predators and the maverick human are known to pose a threat. It is how and why we regulate. It is how we obtain the political mandate from our communities that results in compliance, or chaos.

Local governments, actively supported by their local conservation groups, are providing significant local leadership. Changes in demography, land use and cultural attitudes require us to evaluate our communities through new eyes, and recognise that the motivations of the past are no longer valid as new priorities emerge.

We must, despite the positive trends, report serious and consistent criticism of the Crown by landowners on two principal counts: property rights and the Crown as a remote and alien neighbour. These issues provoke distrust and animosity, and are readily exploited by partisan pressure groups.

Most land holdings are unlikely to be subject to conservation controversy. The burden falls on the unfortunate few, and if early resolution is not achieved then entrenched positions rapidly develop, from which retreat becomes difficult and negative attitudes multiply. Property rights and the sanctity of a Crown grant are eroded where society decides that certain attributes on a property are of sufficient significance to warrant directing the owner on how that attribute should be managed. This is in total contradiction to most people's concept of the spirit and intent of the freehold title. Private property is so named to reinforce the practice as well as the concept of privacy, security and — above all — surety.

The RMA facilitates and enables the public to intrude across that “private threshold”. In this new world of the RMA, every intruder is confident that the morality and virtue of the cause justify the heresy of the violation. Those intruded upon rarely share that view. There is a special responsibility and burden on those administering the RMA process, at all stages, to recognise and be aware of these sensitivities, which are deeply entrenched and go to the very soul and origins of security, community and democracy. We ignore such sensitivities at our peril. They should not, and need not, be compromised in the drive to halt the decline in indigenous biodiversity.

The Crown's poor standing as a rural neighbour has its genesis in the dread and frustration of having to treat with a faceless, inscrutable absentee owner. An owner who, since shedding its hands of farm and forestry production activity, has developed a management culture more reflective of urban constituencies (regional commissioners of Crown land and conservation or forests were discernibly rurally oriented). Traditional tensions between neighbours are exacerbated when culture and behaviour fail to coincide or synthesise. For rural folk, the integrity of boundaries and containment are paramount. Noxious weeds and feral pests are never welcome visitors, and a neighbour who harbours such intruders is never popular.

The Crown carries a particular burden as the nation's largest rural landowner. The financial resources to effectively manage Crown estates have never matched the ambitious rhetoric that has accompanied successive additions to a diverse and demanding portfolio of properties, all of which present daunting management challenges.

The Crown's burden increases when it simultaneously exercises its legislative prerogative as an advocate for conservation on private land. This is a particular irritant to the Crown's rural neighbours: to have a less than perfect neighbour, exercising legislative authority, to direct *them* on how *they* should conduct *their* domestic chores on *their* own land. The level of irritation increases further when

the private landowner is made aware that the Crown is relieved of the burden of paying rates and conforming in the same way to biosecurity and RMA processes.

The ultimate burden is the burden of fairness and equity as it deals and treats with the community's many, often competing, constituencies. All claim a mandate to advocate for the management of private land, to suit their priorities. Recreation, heritage, conservation and resource management all press for the right of entry across that "private threshold", to impose a particular priority on how the owner should care for and manage domestic arrangements.

The complexity of the burdens now visited on the Crown are not issues that can be lightly dismissed, nor will they be allayed by platitudinous rhetoric. The issues of personal rights, property rights, anxiety about pollution, threatened resources, culture and conservation, added to a general sense of frustration and political impotency, all conspire to divide. In particular locations there is an urgent need for more positive leadership, action and resources if we are to avoid the obdurate belligerence these issues evoke.

One culture attempting to impose its values on another is never welcome. Invoking law or regulation to achieve that objective invites retaliation. Legal and professional fees escalate, attempts to mediate meet with little success, and the queue at the courtroom door gets longer if confused authorities vacillate.

Tolerance, patience and respect for rural culture will more effectively halt the decline in indigenous biodiversity by promoting a vision and engaging land managers to adopt a management style that enhances the values in their care. Enlightened management is achieved by leadership and example. The spectre of an authoritarian official, imposing directions and sanctions for non-compliance, only alienates landowners and puts at greater risk the values we seek to retain. Pride of ownership, privacy and personal sovereignty are fiercely treasured and defended by landowners, irrespective of location or size.

A globalised, burgeoning world population and its voracious appetite for finite resources give urgency and appeal to the goal of protecting diminishing indigenous biodiversity. The Crown has a huge estate to manage, but political pressure to give priority to social spending will always starve the conservation vote. *Homo sapiens* will never give priority to other species.

This is the most compelling reason to look to the private estate to extend its patronage and protection, to envelope (where it has not yet occurred) those surviving remnants of protective habitat.

Politicians and officials in both central and local government have the ability to facilitate or debilitate this process. Non-governmental organisations are in a unique position to influence landowners to either engage or disengage. How sympathetically that remnant habitat beyond view, in many a hidden gully, is managed will determine its future survival.

I have chosen to present a personal overview and comment in a manner not appropriate in a formal report. I have chosen words with deliberation and care to be as frank and unequivocal as possible. Despite months of struggle with the many issues, I can find no equitable solution to give comfort to those properties targeted for conservation values where those values do not qualify for an offer of purchase or compensation for loss of future opportunity. Owners of such properties can expect little relief from harassment in a society committed to a continuous greening process, and where public mandate can see only advantage but is blind to individual duress.

There is an intriguing parallel with the misery facing traditional tribal Maori. Identifying legitimate ownership and issuing secure Crown title appeared a laudable objective to guarantee ownership rights. The practice rapidly became a nightmare for Maori and a gold-rush for land-hungry immigrants. The RMA likewise seemed a logical modernisation and an assurance of on-going existing use rights for landowners. The RMA process, like the Maori Land Court, has become a nightmare for the unfortunate few caught in the conservation spotlight.

Tribal Maori found their traditional tenure exposed to challenge from all seeking land, the Crown included. Even Maori who did not wish to sell were forced into Court to protect their rights. They were obliged to pay daily fees to the Court, to engage a lawyer and interpreter and have the land surveyed to give it legal definition. The costs invariably exceeded the value of the land in question, necessitating a forced sale to satisfy the debt.

A similar situation arises when a third party, not infrequently the Crown, initiates action to protect what they perceive to be significant biodiversity on private land. The costs the targeted landowner incurs in attempting to protect existing use rights from being neutralised by the RMA process can escalate to exceed the market value of the land. The owner is left with the bill if the Court rules against him, the loss of use rights and the on-going obligation to pay rates, control weeds and pests on land no longer available for farming or forestry.

Maori became the innocent victims of the development of the country. Selected landowners today become the innocent victims of the “greening” of the country.

The full might of Crown authority can be brought to bear to protect what is euphemistically referred to as “significant”, the definition of which, by its very nature and the factors involved in making that judgement, leans more to the subjective than the objective.

This all leads to the burden of responsibility resting on all those who exercise authority in an RMA process. Only by exercising the utmost good will, good faith, openness and objectivity will confidence in the process be developed and maintained.

Confidence in public process, in elected and permanent staff, is under increasing strain and critical scrutiny. The reasons are many and varied, but high on the list of public unease is lack of transparency and accountability, both of which are anathema to the mandarin cult — an ancient blight and affliction of every bureaucracy. If a National Policy Statement is used to abrogate local government mandate and empower the inscrutable mandarin in a centralised agency, biodiversity on private land will pay a high price. Local government, while not above criticism, is more directly accountable to landholders, while its bureaucracy is less opaque and enjoys a greater degree of rural acceptance.

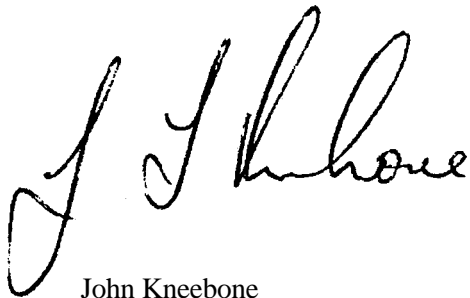
My committee and I are far from neutral. We are deeply committed to the goal of halting the decline in indigenous biodiversity, but we abhor regulation for its own sake. We share a deep and abiding admiration for those who manage all our lands, irrespective of tenure.

The more remote the location, the greater the respect we have for the landholders, the more deserving they are of being trusted, respected and assisted to care for and manage our heritage.

Finally, can I thank my fellow committee members — Kevin Prime MBE, Mark Christensen LLB (Hons) BA (Hons), Dr Judith Roper-Lindsay and Shona Myers MSc (Hons) (who joined the Committee following Judith's departure for Switzerland)

They have all been generous with their time and steadfast in their willingness to lead a process that was at times tense and testing. I am pleased to record that the Committee itself worked in a most amicable and consensual fashion. The words that follow are a true and accurate reflection of our deliberations and it has not been necessary to draw readers' attention to any significant differences of view.

I also wish to acknowledge the support the Committee received from Gerard Willis and Sarah Gunn from the Ministry for the Environment and Sarah McRae from the Department of Conservation. Special mention should also be made of Dr Glen Lauder who assisted the Committee with its consultation.

A handwritten signature in black ink, appearing to read 'J. Kneebone', written in a cursive style.

John Kneebone
Chair, COMMITTEE

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PART 1: BACKGROUND

Introduction

This is the final report of the Ministerial Advisory Committee on Biodiversity and Private Land (“the Committee”). It follows the publication of a preliminary report, *Bio-What?*, in February 2000 (“the preliminary report”). The preliminary report was drafted primarily as a consultation document. It was put together in accordance with the Committee’s terms of reference as provided by the Minister for the Environment.¹ This final report revises the preliminary work of the Committee following extensive public consultation, thereby completing the tasks set out in those terms of reference.

The report begins by providing a description of the background to the key issues. Part 2 sets out the six key issues that crystallised out of the consultation exercise. The final parts broadly describe the steps that the Committee believes need to be taken if the decline in biodiversity is to be arrested. An overarching recommendation is made in Part 1, and specific recommendations are made in Parts 3 and 4 of the report.

The issues in brief

The Committee was appointed, and its terms of reference established, in response to two inter-related issues.

The first is the on-going concern about the loss of biodiversity and the part that private land is playing in that decline. This issue was well canvassed in the New Zealand State of the Environment Report² and throughout the process that led to the New Zealand Biodiversity Strategy.³

The second issue is closely related. Not only is New Zealand experiencing an ecological decline but the management systems, legislation and policy implementation (particularly the Resource Management Act) have caused considerable tension within some communities. A number of rural communities have reacted adversely to local government attempts to protect biodiversity on private land. The issues became highly politicised and the polarised nature of public opinion threatened to undermine any benefit that might otherwise have been expected.

More importantly, there is little evidence to suggest that continuing with the present response to the decline in biodiversity on private land will yield better (or rapid enough) results. In the jargon of policy makers, there is real fear that New Zealand is experiencing policy (including regulatory) “failure”.

In essence, the Committee was asked to advise the Government on how New Zealand could do better.

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- 1 The Committee was originally appointed in 1999 by the previous government. The Committee was confirmed in its role by the new government in late 1999.
 - 2 Ministry for the Environment. *The State of New Zealand’s Environment 1997*. Ministry for the Environment/GP Publications, Wellington, 1997.
 - 3 Department of Conservation, Ministry for the Environment. *The New Zealand Biodiversity Strategy: Our Change to Turn the Tide*. Department of Conservation/Ministry for the Environment, Wellington, 2000. The New Zealand Biodiversity Strategy was developed in 1999 and published in final form in March 2000.

The Bio-What? proposals

After preliminary consultation and discussion in mid-1999, the Committee set out a series of inter-related policy proposals in its preliminary report — *Bio-What?*⁴ The proposals put forward at that time represented a genuine attempt to provide leadership on the issue and elicit a response from the public, while avoiding being seen as having pre-determined views. The proposals were therefore kept at a level of generality that invited comment and elaboration.

Those proposals sought to articulate a clear national goal, clarify roles and responsibilities (of both individuals and public agencies) and provide support to the agencies and individuals engaged in biodiversity issues. The approach sought to foster local solutions within a broad national framework. The specific proposals may be summarised as follows.

National and local accords

The Committee detected at an early stage that many agencies (both public and private) are either unaware of the nature and scale of the issue, or unconvinced that it is an issue that they need be concerned about. The idea of a national accord arose in response to that observation. Two national accords were proposed (one general and one specifically for Maori). They were proposed as a means of raising awareness, building a mandate, and encouraging national organisations to empower their members to play an active and constructive part in local, on-the-ground working arrangements.

Those local working arrangements were termed “local accords”. The Committee proposed that these be encouraged to coordinate local action and promote voluntary commitment.

National Policy Statement (NPS) under the RMA

An NPS was proposed as a way of clarifying roles and establishing a basic methodology to ensure that local government followed good process when carrying out their biodiversity-related functions under the RMA.

Increased government “services”

A range of central government-funded services was considered to be essential to the effectiveness of the policy package. These included the provision of information, a willingness to reconsider some existing statutes, and larger central incentive funds (with wider application).

Consultation on the preliminary report

From March to June 2000 the Committee was engaged in extensive public consultation. The Committee held over 50 meetings around the country. Many were focused on specific stakeholder groups (for example, councils or interest groups), but approximately 12 could be considered “public” meetings. Venues ranged from Kaikohe in the north to Invercargill in the south, with an even distribution in between. At least 15 meetings were aimed specifically at rural landholders⁵. Most of these were held in rural or provincial centres.⁶

4 The Report was entitled *Bio-What?* in an attempt to empathise with a public struggling to come to terms with new jargon and new national priorities. We have not found the term “biodiversity management” particularly well understood, nor particularly helpful in our discussions. We therefore use the term sparingly in this report, preferring instead the more commonly understood term “nature conservation”.

5 By “landholders” we mean owners and leasees.

6 A full description of the consultation programme is provided in Appendix 1.

The Committee was also engaged in fact-finding visits, both before and after the publication of the preliminary report. Such visits enabled the Committee to gain first-hand appreciation of a number of key issues.⁷

While the Committee does not suggest that all interested people had an equal opportunity to attend a meeting, it does consider that it was exposed to a representative range of views.

In addition to the programme of meetings, written submissions were invited. Interested parties had 14 weeks to submit their comments and ideas.

Feedback from meetings

The feedback from face-to-face meetings with various stakeholder groups was remarkably consistent around the country. While there was some variation in emphasis between different groups, common viewpoints were obvious. Perhaps more surprisingly, it was even possible to discern messages common to all stakeholder groups. Some of the frequently expressed themes are set out below.

Rural sector

Rural sector meetings were often attended by landholders actively involved in conservation issues through, for example, the QEII National Trust or Landcare groups. However, meetings were also well attended by representatives from Federated Farmers and, very often, by representatives of landowner rights groups (for example, Property Rights in New Zealand Inc.) The Committee believes that the rural sector meetings generally reflected a good range of rural views.

A common theme from most rural meetings was the resistance to almost any form of compulsion or regulation. While this reaction was not unexpected, the pervasiveness of the view was surprising. Many participants had been — and continue to be — active advocates of conservation and claim to have devoted substantial resources to conservation projects on their own properties. Even among those participants, there was a clear warning that heavy-handed regulation would likely undermine positive action and send unfortunate signals at a time when we need to “engage not enrage”.

There was, however, a clear demand for support in the form of advice, information, financial assistance, and similar capacity building services. In short, landholders stated a preference for being helped to do “the right thing”.

Local government

Local government meetings perhaps reflected a little more variability of view. Clearly some councils (both regional and district) concurred with the rural sector, stating they preferred to “work with people not against them”. The most frequently expressed local government view related to the perceived lack of mandate to get involved in biodiversity issues. This was particularly apparent among regional councils. Local government was concerned that if more was expected of councils, central government needed to contribute financially.

It is also important to note the variability of views between the political and administrative wings of local government. There appeared to us to be several instances where elected representatives displayed a real reticence about their role in nature conservation that was not apparent among staff.

⁷ A full list of such visits can be found in Appendix 1.

Environmental groups

Environmental groups consistently called for greater resources for conservation initiatives and more positive leadership by central and local government. Many groups and individuals sought access to modest funding to be able to undertake specific ‘on-the-ground’ projects (such as restoration initiatives or targeted pest control). Few voiced a clear opinion on the need for, or benefit of, greater regulation. However, support for an NPS was stronger among environmental groups than in any other stakeholder group. In a similar way to landholders, many environmental groups spoke of the need for encouragement, education, advice and practical assistance.

We did not find Part IIIA of the Forests Act⁸ to be a significant issue for the majority of those consulted. The issue was only substantively raised in the central North Island and, to a lesser extent, in Southland and on the West Coast.

High country interests

Our consultation included some contact with high country interests, principally pastoral leaseholders whose lands are subject to the provisions of the Crown Pastoral Lands Act 1998 (CPLA). This is principally a South Island high country issue, with runholder concern relating to CPLA administration and their experiences under the RMA. While we recognise that there are some issues peculiar to runholders, most issues are common to all landholders, and our comments and proposals in the following pages are directed towards all types of land tenure.

Maori

Meetings were held with iwi representatives in Kaikohe, Auckland and Waikato. The Committee also met with staff of Ngai Tahu in Christchurch. Concerns over consultation with Maori were a common theme of the iwi meetings. The Committee did not have the time or resources to conduct the in-depth consultation with Maori that could reasonably be regarded necessary. We are conscious that Maori own less than 5 percent of the total New Zealand land area yet almost 50 percent of the total indigenous vegetation cover that remains on private land.⁹ Clearly, new policy proposals that affect biodiversity will affect Maori disproportionately.

We have gained an appreciation of Maori concerns sufficient only to be confident that the proposals set out in the following pages would not prejudice Maori interests. However, we would not suggest that the proposals are sufficient or adequate to promote Maori interests in biodiversity. Certainly we would not suggest delaying decisions on this report pending specific Maori consultation. But we do recommend further Maori consultation and, if necessary, supplementing our proposals with proposals by Maori for Maori.

RECOMMENDATION

That the Government make decisions in respect of the recommendations set out in this report. However, the Government should supplement our recommendations with proposals aimed at securing Maori interests in biodiversity following meaningful consultation with iwi/hapu.

8 Part IIIA of the Forests Act 1949 established controls on indigenous forest management and the milling and export of indigenous timber. The purpose of Part IIA of the Act is to promote the sustainable forest management of indigenous forest land.

9 Ministry for the Environment. *A National Policy for Indigenous Forests. A discussion paper prepared for the Ministry for the Environment*, Wellington 1989. It should be noted that the figures in this publication were only estimates and were based on 1974 figures from the National Forest Survey data base.

Feedback from written submissions

The Committee received 346 written submissions. There were proportionally more submissions from South Islanders (37 percent), than northerners (57 percent).¹⁰ About 40 percent of the submissions were from organisations, with 60 percent from individuals. Many individual submissions were influenced by prepared formulas, from both ends of the “land owner rights” debate.

By and large, written submissions reflected the messages conveyed at meetings, tending to agree that a package of measures is necessary to deal with biodiversity issues. More than half the submissions supported a national policy statement (although that support ranged from full endorsement to greatly qualified), non-statutory guidance and additional government services. There was a lesser (but substantial) degree of support for national and local accords.

The key points from submissions from various sectors are given below. A full summary of the written submissions has been compiled and is available separately.¹¹

Central Government

The only central government agency to make a submission was the Ministry of Agriculture and Forestry (MAF). The main emphasis in MAF’s submission was the need to ensure that the problem was approached in a manner consistent with the New Zealand Biodiversity Strategy and the responsibilities and statutory roles of the various central government agencies concerned. Reviews of legislation were supported to the extent that these might improve integration. Support for landholder involvement and voluntary measures was emphasised, although exclusive reliance on these was questioned.

Territorial Authorities

These 32 submissions were generally cautious about increasing the regulatory and financial burden to ratepayers. All submissions supported voluntary measures based on community initiatives, while most accepted that greater guidance from central government would be helpful and that this might be facilitated by an NPS. Many saw adequate government financing (for example, of pest and weed programmes) as being imperative, as was better resourced pest and land management by DoC.

Concern was expressed about the potential for further public confusion if regional councils are given too prominent a role in biodiversity management (territorial authorities argued that they are more directly in touch with their communities and that this immediacy should be utilised). A number of councils noted their present lack of appropriate technical skills for significant biodiversity work.

Regional councils

The 12 regional councils generally supported the need for clearer direction on biodiversity. Reasons for and against an NPS were advanced. A few submissions observed that the importance of biodiversity is diminishing as regional plans, policies and other initiatives relating to significant natural areas become operative. Submissions supported clearer definition of roles and responsibilities, and councils saw themselves in the primary role (especially given their role under the Biosecurity Act). The operational consequences and financial implications of any statutory changes were stressed, and assurances sought that funding for these will be taken into account.

¹⁰ 6% of the submissions were not identifiable or from overseas.

¹¹ Hill Young Cooper. *Bio-what? Summary of Submissions*. Ministry for the Environment, Wellington, 2000.

Submissions agreed that co-operation and partnering arrangements with communities and individual landholders are essential in achieving the objective.

Unitary authorities

The three unitary authority submissions observed that their administrative arrangements are particularly suited to biodiversity management, combining as they do both territorial and regional council roles and responsibilities. Unitary authorities did not support an NPS, preferring to see funding applied directly to the problem rather than deflecting it into a lengthy statutory process.

Non-governmental organisations

Environmental NGOs tended to dominate this group of 34 submissions, with support for stronger government leadership on biodiversity (particularly for an NPS), better targeted government assistance to landowners wishing to protect biodiversity, increased support to agencies such as Nga Whenua Rahui, Nature Heritage Fund and QE II National Trust, and general support for an integration of resources between DoC, regional councils and territorial authorities. Issues of access to knowledge and skills resourcing were also frequently raised.

Other public bodies

The 22 other public bodies were largely supportive of community-based initiatives and voluntary measures, while recognising the utility of formal statements (such as an NPS) as a backstop. The importance of protecting biodiversity generally, rather than an emphasis on indigenous biodiversity, was highlighted.

Sector Representatives

The 24 sector representatives were generally opposed to any regulatory approach to biodiversity on private land, emphasising the value of co-operation with, as well as the statutory rights of, landholders. Concerns were expressed that the problem has been misrepresented, and that business-led opportunities for resolving issues have been ignored. The need for clear and consistent national prioritisation of biodiversity issues was emphasised.

Iwi

Insufficient submissions were received from iwi to be able to characterise concerns and/or levels of support.

Companies

The 10 companies were generally concerned about the negative effect of any further regulation. Some saw potential benefit in clear government direction, provided the result was a consistent application of priorities and criteria across New Zealand. There was general approval of voluntary measures and support for a stronger emphasis on recognising landowner and landholder rights and responsibilities. The potential advantages to biodiversity from sustainable business practices were underlined.

Professional bodies

The two professional bodies encouraged an emphasis on voluntary controls, preferring to monitor the outcome of such measures before adopting formal regulatory steps.

Individuals

The 209 submissions from individuals covered the full range from support to opposition. This group included about 50 form submissions based on an *Ecologic* article¹². Individual submissions tended to be single-issue and polarised around biodiversity regulation, reliance on voluntary measures, or rights and responsibilities of property owners and the general public. Strong support for and against an NPS was evident.

Sizing the problem

One point raised by both oral and written submissions requires a response before we proceed further. In short, there was a legitimate call for greater clarification about the “size of the problem”. Some people (particularly from local government) requested information quantifying:

- How much indigenous biodiversity we have left
- The rate of decline
- The number of properties or property owners potentially contributing to the decline (or affected by any response)
- The amount of resources that needs to be expended.

It is, in our view, not an unreasonable request. However, detailed information on such matters is not easy to acquire. The Committee has assembled some information that helps to answer some of these questions.

From that information we can clarify that New Zealand has about 1.5 million hectares of indigenous forest and half a million hectares of inland wetlands outside of the public conservation lands.¹³ Substantial amounts of other important types of habitat (for example, coastal wetlands, tussocklands) are also found on private land. Approximately 205,000 hectares of land important for nature conservation are known to be protected by covenant or other legal mechanism.¹⁴ The proportion of this that receives active and on-going management (such as pest and weed control) is not known.

Further detail on the distribution of remaining natural areas and related information is summarised in Appendix 2.¹⁵

12 G Salmon. Bio-What? Property-Whats? Should the Government endorse the right to destroy biodiversity? *Ecologic*, March 2000: 8-13.

13 V Froude. *Parameters That May Represent and/or Influence the Extent and Conditions of Biodiversity on Private Land in New Zealand*. Unpublished report for the Ministry for the Environment, Pacific Eco-Logic Resource Management Associates, 2000.

14 This includes QEII National Trust and Department of Conservation covenants and protection through the Nature Heritage Fund and Nga Whenua Rahui mechanisms. In addition, an unknown amount is protected by local government through being included in a reserve or through covenants.

15 A fuller account is provided in the report referenced in footnote 13 above.

Response to the “bio-sceptics”

While some sought greater clarification of the scale and nature of the problem, most of the feedback reflected an acceptance that (a) biodiversity is in decline and that (b) we should try to arrest that decline. However, it is important to note that a minority questioned both these suppositions.

Some went as far as suggesting that we had not proven that a problem exists, nor, even if a decline could be demonstrated, how much of that decline can be attributed to private land management. Others questioned, more fundamentally, whether it was a problem we need be concerned about. Those people frequently questioned why indigenous species should be preferred to introduced species.

The question of how much responsibility can be attributed to private land management is an important one. Many people spoken to maintained that the Government should be “concentrating on the 30 percent of New Zealand already managed for conservation”. There is little understanding that many species and assemblages are only (and were ever only) present in areas outside public conservation lands. Many people don’t appreciate that New Zealand’s conservation lands were set aside for a variety of scenic and recreational purposes (or because land had little commercial value). Consequently the current public/private tenure split represents a less than perfect match with biodiversity priorities. This phenomenon is not restricted to New Zealand. Conservationists in the US, for example, grapple with a similar historical legacy.¹⁶ We have done our best to research and describe the nature and extent of that problem in New Zealand. The results are set out in Appendixes 2 and 3.

That issue aside, we confess not to have dwelt on the other fundamental matters discussed above. As we understood our terms of reference, they did not invite us to enquire into the extent of biodiversity loss nor of the implications of any such loss. We have assumed (rightly we think) that the Government has moved beyond those fundamental questions.¹⁷ We were asked to recommend a policy package in response to an issue already broadly defined for us. Our task was to offer a solution — not to question the problem. That is what we do in the following pages.

We would note, however, that we find it difficult to deny that humans have turned a unique ecological site into an industrial estate. While some may find that an emotive observation, it is the reality of our landscape. Certainly it is an estate that provides us, individually and collectively, with the social, economic and cultural sustenance essential for human welfare. But the consequence, both historical and on-going, for our ecology is immense. We have haphazardly (but often very consciously) thrown together a collection of species that have no natural relationship to each other. Their separate evolutionary paths have simply not equipped them to reach an ecological balance that maintains species diversity.

Perhaps the more fundamental question is, “Does it really matter?” In the preliminary report we made a number of suggestions as to why it might matter. Ultimately, however, there is an ethical question to be addressed. Indigenous species are either valued by society or they are not.¹⁸

In signing the Convention on Biological Diversity and preparing a national strategy, we understand that the Government (past and present) has resolved, on behalf of the national community, that

16 MJ Bean, DS Wilcove. The private-land problem. *Conservation Biology*, 11, no.1 (1997): 1-2.

17 The New Zealand State of the Environment Report and the NZ Biodiversity Strategy addressed these issues.

18 We draw readers’ attention to the paper *Valuation of New Zealand’s Biodiversity* by Dr Murray Patterson and Dr Anthony Cole, unpublished, 1997, which attempted to put an economic value on ecosystem services. We are also aware of regional analyses that provide more detailed valuations (see, e.g., Environment Waikato. *Estimation of the Value of Ecosystem Services in the Waikato Region*, Environment Waikato, Hamilton, 1999).

indigenous biodiversity does matter. There will properly be debate about how much is enough, how rapidly we must act and what the best means of protection may be, but we have taken the political decision that we value biodiversity.

In this way we understand the Government to regard biodiversity in a similar way to human health or education. That is, the Government has taken the decision that these things do matter. As a nation, we do not debate whether public health is important (although we have frequent debates about how it might be delivered most effectively and efficiently). So it is with *ecological* health. The debate is then about how New Zealand can deliver the maximum ‘service’ with the resources available.

It is to that debate we now turn.

Our underlying assumption

At the outset of this report we believe it necessary to declare the underlying assumption that the Committee has held throughout the consultation and policy development process. The assumption is simply that *successful nature conservation requires willing and motivated landholders*.¹⁹ This was at the heart of the first of the principles set out in the preliminary report and we continue to hold to that principle.

It seems to us that if it doesn’t matter how landholders regard biodiversity or public attempts to protect it, the task before us is simple indeed. If, however, it is necessary for landholders to “buy in” to the need to protect biodiversity and participate in that protection (as we think it is), a far more sophisticated and comprehensive approach is required.

We reach that conclusion because we recognise that the scale of the problem is vast. We have little doubt that the cost — even spread over a decade — is likely to outstrip the generosity of the public purse. Thus solving the problem, in anything other than a token way, will require contributions from others, not least the resident custodians of what it is we seek to protect.

This conclusion perhaps hints at a fundamental paradox in nature conservation on private land in New Zealand: it isn’t reasonable to *expect* landholders to assume full responsibility for biodiversity protection in the public good. Yet biodiversity will almost certainly continue to decline unless landholders are willing to assume a fair amount of responsibility.

We are conscious that adopting such an assumption changes the nature of the problem. It is usually observed that resource management is an exercise in managing resources. Of course it isn’t. Resource management is all about managing human behaviour (via incentives, education, rules or other measures).

Nature conservation on private land can be viewed similarly. The decline in biodiversity is an ecological problem, but the reasons why that problem persists are rooted in human action or inaction.

However, the Committee maintains that whatever measures are used to modify human behaviour they must not undermine the goodwill that does exist. Indeed, we argue that the measures should be aimed very much at gaining and/or sustaining the goodwill of landholders.

¹⁹ It requires much more than that, of course, but willing landholders are a prerequisite.

Engendering that goodwill will require an understanding of what motivates and de-motivates landholders. In our view, a solution to the problem will not be found without understanding the nature of landholders and land ownership.

The landholder

New Zealand is a land-owning society. Our country was settled and developed by people — Maori and European — who longed for the security of land they could call their own (*turangawaewae*).

There are well over a million landholders in New Zealand. They can all play a part in nature conservation. Indeed, we suggest they all *should* play a part. The loss of biodiversity isn't a problem that can, or should, be solved by rural landholders alone.

The land held comes in all shapes and sizes, from a few hundred square metres; to many thousands of hectares. Landholders include companies, trusts, partnerships and private individuals. Most hold title in *fee simple*; others hold more limited or restricted rights as leaseholders of various types.

While land is held for different purposes (to live on, to make a livelihood from, to invest in, etc.), most landholders share something in common: their land (and what is on it) is their main asset. For many, it is their only significant asset. It is their source of wealth, welfare and security. Therefore, anything that might *devalue* land (in a monetary sense) is regarded with suspicion or even open hostility.

Moreover, there is frequently much more to people's attachment to land than just a simple pecuniary interest. Whether it is a quarter-acre section or a commercial farm, the state of the property can reflect the life's work of the owner. The property becomes a reflection of their character. Criticism of the property or of its management is often received as a personal insult. Resentment and entrenchment are all too often the unfortunate and unintended result.

The Committee encountered such reactions at all its meetings and found it entirely understandable. The fear that acting for nature might either reduce the value of a landholder's principal asset or require new and additional expenditure is something we all recognise. Similarly, the suggestion that we need to modify how we manage land — with the criticism that that implies — is not easy to take when you are proud of what you have accomplished.

For all that, we also heard from many people who suggested, either implicitly or explicitly, that they were prepared to contribute to nature conservation. Indeed, we encountered people who claimed to have already expended considerable personal resources both in time and money on nature conservation. They did so and will continue to do so (provided they have the means) regardless of what this Committee recommends.

We also encountered landholders (perhaps the majority) already engaged in nature conservation (to varying degrees) and prepared to do more — provided it was on their terms, in their time and provided they retained management *control*. One comment from a rural consultation meeting summed up this attitude:

A lot of landowners don't mind locking up what they've got but no one wants it locked up for them.

How (or even whether) they act for nature will generally depend on the *respect* they are accorded, the assistance and recognition they receive, the degree of compulsion they perceive to be involved, and the communication style that is employed.

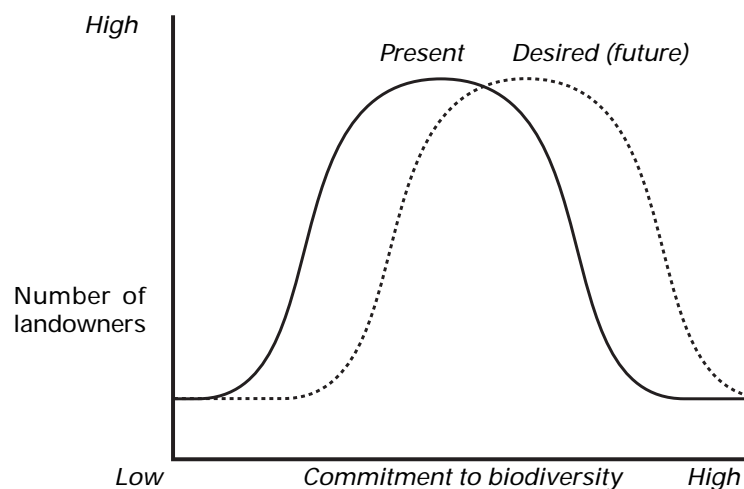
We suspect this is particularly true in rural areas. There is little doubt that an interest in *nature* is present in many rural people — that is why they are working the land. Although an interest in nature may remain distant from an interest in *nature conservation*, the raw ingredients provide an opportunity to make pervasive change.

Still others we encountered clearly need help in the form of advice and financial assistance before they can, or will, act. While many urban people are involved in management and restoration projects, many more are probably unaware of what they can do in the interests of maintaining biodiversity.²⁰ Certainly many appear unaware that their actions sometimes pose risks to biodiversity.

Few said that they were prepared to do nothing no matter what the circumstances. That said, we are under no illusions that there are some landholders (though in our view a minority) who have absolutely no interest in maintaining indigenous biodiversity and no sense of shared responsibility.

Thus, landholder attitudes towards biodiversity cover the entire spectrum — from eager enthusiasts to entrenched opponents. This can be illustrated using the standard bell curve distribution (see solid line in Figure 1 below).

Figure 1: Commitment of landholders



Based on our primary assumption that the commitment of landholders is vital to successful nature conservation, we see our role as recommending a strategy that will move this bell curve distribution to the right over time (the dotted line in Figure 1 above). We are also conscious, however, of the need to safeguard biodiversity right now, which means devising strategies that will be effective with landholders at each position on the bell curve.

²⁰ It is important to note that many organisations (such as the ecological restoration network and individual stream-care and coast-care groups) are working to address these issues.

In devising these strategies we are mindful of common landholder feedback (illustrative quotes from meetings are italicised):

- Heavy-handed measures that are unsympathetic to individual circumstances (particularly if they are lobbyist-inspired or bureaucratic impositions) risk undermining landholder confidence and commitment and will generally move the bell curve to the left.

When you're under threat you make rash decisions.

- For most landholders, nature (biodiversity) conservation will always be incidental to the predominant use of land. Landholders will generally be far more open to engagement in nature conservation if it is seen as integral to “good land management” and not something new and trendy.

Most landowners want to do the right thing but they don't want to be seen as green.

I've planted a hell of a lot of native trees but I'm blowed if I'm going to be told to do 'habitat restoration'.

- Landholders generally don't want to have their natural areas nationalised. They take pride in the belief that they can look after these areas themselves and they enjoy the non-productive values they provide.

I like having the bush there — when I'm working out the back I can sit in there, listen to the birds and have my lunch.

- Landholders — whether rural or urban — like to be treated fairly and equitably. No one likes to think that somebody else is getting a concession not available to others (such as relief from rates or from pest control responsibilities). This is particularly true if the landholder in question is the Crown.

The Crown should get its own house in order before it tries to tell me what to do.

Rural ownership in the 21st century

Through submissions (both written and oral) the Committee has been criticised for adopting a “romantic” vision of rural areas populated by family farms and people with long-term commitment to the land. Some have pointed out that rural New Zealand has changed significantly over recent years, with higher levels of corporate ownership (particularly in the forestry sector) with an uncompromising commercial objective. Furthermore, it is argued, this pattern of corporate ownership is the result of increased overseas investment, and foreign owners have even less interest in protecting New Zealand's indigenous biodiversity.

The Committee has taken this criticism seriously. We have researched the changes in the rural sector. In particular we have looked at the extent of foreign investment, changes to the forestry sector, and peri-urban and “lifestyle” development.

Foreign ownership

It is certainly true that foreign investment in New Zealand's rural land increased steadily throughout the 1990s. Even so, in the five years to 31 December 1998 the effective transfer of land to overseas persons was just 223,956 hectares, or about 1 percent of forested and arable land in New Zealand.²¹

The Overseas Investment Commission (OIC) estimates that approximately 777,500 hectares of

²¹ Source: Overseas Investment Commission, 1998 Statistics, May 1999.

New Zealand land was foreign owned as at 31 December 1997.²² This represented 2.8 percent of all New Zealand land and 3.6 percent of all forested and arable land.

While this is a significant amount of land the overwhelming majority of rural land is still retained in New Zealand ownership. However, it is important to note that 65 percent of the sales approved by the OIC in the five years to 31 December 1998 was proposed for forestry.

Forestry sector growth

Plantation forestry has been a rapidly expanding land use. Even so, it still accounts for only around 6 percent of the total land area. The sector is dominated by two large public companies (Carter Holt Harvey Ltd and Fletcher Forests Ltd), which account for 37 percent of plantation area.²³ Registered public companies own 47 percent of all plantation forests.

Expansion of plantation forestry is often cited as a significant threat to indigenous biodiversity. While the total area of plantation forestry increased from 1.2 million hectares to 1.7 million hectares over the past decade, the *rate* of new planting has declined markedly since the very high levels of the early 1990s. At its peak, new planting was close to 100,000 hectares per year. By 1998 that had fallen to just 23,000 hectares per year. The average rate of new planting between 2000 and 2005 is expected to be around 40,000 hectares per year.²⁴

Interestingly, in recent years smaller operators — including individual landholders and syndicated partnerships — have dominated the annual expansion of plantation forestry. Many of these smaller operators are not signatories to the New Zealand Forests Accord. Anecdotal evidence suggests that some of these players may be involved in clearances of (predominantly regenerating) native vegetation. That said, the amount of scrubland²⁵ cleared for plantation forestry has fallen from 16 percent of all new planting in 1993 to 9 percent (2070 hectares) in 1998.²⁶

These figures reflect the current economics of forestry and contemporary management practices. We understand that there has been almost no clearance of old-growth indigenous forest for exotic forestry in recent years. Certainly there is none recorded in official MAF statistics. We are aware that some well-publicised clearance and exotic afforestation has occurred in Southland on SILNA²⁷ lands. But that is very much an anomaly and is attributable to the inability of the Crown to reach satisfactory agreements with SILNA owners.

During the consultation process we have been made aware of several other instances of indigenous forest clearance. One was a case where the New Zealand Forests Accord was breached; another, where a forestry company not bound by the Accord cleared an area of indigenous forest (which had previously been selectively logged) for exotic plantation. While both cases were distressing and (one site at least) should have been avoided, they seemed to us to be isolated cases, very much counter to prevailing land practices. They are not symptomatic of a wider trend, although small-

22 This figure included 276,857 hectares of freehold land that the OIC had approved for sale to overseas persons for the period 1/1/91 to 31/12/97, and approximately 500,000 hectares then owned by Fletcher Challenge and Carter Holt Harvey.

23 Source: NZ Forest Owner's Association.

24 Source: Ministry of Agriculture and Forestry, Forestry Resources Index.²⁵ Includes areas dominated by either native or introduced woody species.

26 Ministry of Agriculture and Forestry. *A National Exotic Forest Description as at 1 April 1999*. Ministry of Agriculture and Forestry, Wellington, 2000. 27 SILNA: South Island Landless Natives Act (1906). This refers to land "given" to Maori early last century, which remains exempt from the sustainable forestry requirements of Part IIIA of the Forests Act.

27 SILNA: South Island Landless Natives Act (1906). This refers to land "given" to Maori early last century, which remains exempt from the sustainable forestry requirements of Part IIIA of the Forests Act.

scale clearance or disturbance does appear more prevalent (see below). It is our understanding that clearance for forestry is simply uneconomic in today's climate of low commodity prices and a surplus of cheap rural (already developed) land.

As noted above, there is a low level of clearance of *regenerating* indigenous vegetation (mainly manuka/kanuka and introduced scrub species). Again, economic factors seem to rule out large-scale clearances. We understand that this is occurring predominantly on the East Coast and in some parts of Northland.

Forestry does require particular attention due to its potential for large-scale land use change. However, our analysis does not indicate that a significant problem exists at present. Indeed, most indicators suggest that plantation forestry is less of a threat now than it has been in the past. It is an issue that should be closely monitored.

Peri-urban development and rural "lifestylers"

The other land use change with significant implications for indigenous biodiversity is urban growth and small-lot (principally peri-urban) development. Intensification of land use, whether for residential purposes or intensive productive use, is most common in fertile lowland and coastal areas. It is these same areas that originally hosted the greatest diversity of species and now contain some of New Zealand's scarcest habitats and ecosystems. Hence development in these locations inevitably stresses already delicate and highly fragmented systems.

Data detailing the specific effects on biodiversity from urban development is not available for New Zealand. We know, however, that small-scale cumulative effects can have long-term implications for ecological viability and integrity. It is worth noting that American research²⁸ has found that the highest numbers of endangered species (and ecosystems) are in the regions with the highest population/urban growth rates. Because urban growth invariably leads to the loss and fragmentation of habitats and degradation of aquatic habitat from increased stormwater and sedimentation, it is likely that a similar relationship exists in New Zealand.

The number of small lots (less than 10 hectares) in New Zealand has increased substantially over the past two decades: from 14,762 in 1982 to almost 35,000 in 2000. Urban growth has been greatest in the Auckland region. Outlying areas of Auckland contain many small lowland remnants, vulnerable to the effects of urban growth. Auckland's population grew by 125,000 people between 1991 and 1996. By 1999 Auckland was home to more than a million people. If greenfield development proceeds at current rates the Auckland metropolitan area will increase by about 10 percent, or 5000 hectares, by 2050.²⁹

The subdivision of land and the creation of small titles has traditionally been used as an indicator of the growth of the lifestyle sector. However, it is an indicator that is becoming less relevant. The reality of much of rural New Zealand is that family farms, some quite large, are now better classified as lifestyle properties than viable commercial enterprises.

A study published by MAF in 1995 illustrates the point.³⁰ Research of the off-farm incomes earned

28 T Beatley. Preserving biodiversity: challenges for planners. *Journal of the American Planning Association* 66, no.1 (2000): 5-20. 29 Regional Growth Forum. *A Vision for Managing Growth In the Auckland Region*. Auckland Regional Growth Strategy, Auckland Regional Council, 1999.

in the 1992/93 financial year found that 73.2 percent of the farms sampled reported off-farm income. (Off-farm income is defined as including off-farm work and investments but excluding on-farm non-agricultural activities, such as farm stays). The amount of off-farm income is also interesting. As a percentage of disposable farm income, off-farm income ranged from an average of 36 percent for cropping farms, 37 percent for dairy farms, 65 percent for sheep and beef farms, 69 percent for kiwifruit orchards, and 90 percent for pipfruit orchards. Of all respondents with off-farm income, 47 percent rated it as important or essential for the household, while 37 percent rated it as important or essential for the farm business.

More recent regional updates suggest that the trend towards off-farm income is becoming increasingly important, particularly for sheep and beef units (and smaller dairy units).³¹

In conclusion, we think it important to recognise that the nature of rural landholders and rural communities varies around the country. We also accept that the nature of farming and farm ownership continues to change. We do not, however, accept that traditional values have been superseded entirely by commercial interests — particularly outside peri-urban areas. Indeed growth in corporate farming appears to be balanced by a growth in less intensive lifestyle farming. Nor do we accept that there are not landholders who are willing and able to play a part in sustaining biodiversity.

30 D Rhodes, P Journeaux. *Off-Farm Income Survey: 1992/93 financial year*. Ministry of Agriculture and Forestry, Wellington, 1995.

31 See, e.g., Ministry of Agriculture and Forestry's Farm Monitoring Reports, 1999.

PART 2: KEY ISSUES

Nature conservation on private land raises a host of issues. There are, however, six key issues that we consider to be fundamental to the way we manage biodiversity in the future. These do not correspond directly to the management issues the Committee outlined in its preliminary report, but they were raised time again with the Committee throughout the consultation process.

Before the Committee, or indeed the Government, can reach a view about the way forward it is necessary to address each of these issues explicitly.

Issue 1: The way forward: continuing progress vs. a final settlement

The first and perhaps most fundamental question when considering possible solutions is whether we are searching for a full and final settlement — a one-off final deal negotiated and concluded over a fixed time span — or whether we are looking at designing a system that delivers incremental gains, constantly leading to better management in an effort that will need to be sustained in perpetuity.

In other words, do we see this as a one-off or an on-going issue?

Before we proceed further we need to acknowledge that the Committee has not heard from anyone who seriously disagrees that biodiversity requires on-going management. Unless innovative and effective bio-controls (including, potentially, bio-technological means) can be found, pest and weed management will be an on-going and costly problem. Furthermore, incursions of new pests though lapses in biosecurity is a possibility that cannot be dismissed lightly and will need on-going risk management.

It has, however, been put to the Committee that the risk posed by human activity (including the management of farm livestock) can, and should, be eliminated by a full and final settlement. Such a settlement would involve landholders accepting new and clearly defined duties and responsibilities in return for transitional government assistance. Such assistance would involve payments to enable landholders to comply with new expectations; for example, to fence bush remnants, riparian margins and the like.

The cost of the approach, if implemented over a 10-year period, has been estimated at \$100 million per year.³² (The actual costs are by no means certain. Others have estimated the cost of fencing New Zealand's waterways alone at \$30 billion³³).

The Committee accepts that such an approach is a legitimate option. As stated earlier in this report, we believe we need landholder goodwill and that effectively “buying” that goodwill outright is one way that it may be secured. If the Government wishes to make available the sums suggested above, it may well be possible to confirm the rights and responsibilities of landholders with respect to biodiversity while maintaining the goodwill necessary for successful on-going private management. It is arguably a clean and simple — some would say fair — way forward.

32 See G Salmon. *Landowners' environmental duty of care: an element in a National Policy Statement on Biodiversity*. Ecologic Foundation, 1999. The proposed funding would include assistance for wider, sustainable land management objectives.

33 Graham Pinnel, correspondence with Ministry for the Environment, 1999.

That said, we offer the following words of caution:

- Transitional assistance of the nature proposed is a very expensive option. Frankly, we believe that significant gains could be made with much more modest sums. Furthermore, creating an explicit “fiscal envelope” simply raises expectations and probably ensures that landholder-initiated and landholder-funded projects (of which there are many) would dry up.
- While the lure of money will undoubtedly bring the parties to the table, there would still be debate about the extent of landholders’ responsibilities and what any transitional assistance would and would not cover. A large pot of money will encourage some landholders to seek compensatory payments for lost opportunity costs. Indeed, an approach that removes all ability to clear or modify indigenous vegetation regardless of individual circumstances might well increase the necessity for compensatory payments. Transitional assistance might work effectively where rural properties retain the potential for economic use. But, for those properties that remain predominantly in a natural vegetated state, assistance to fence off land is unlikely to be seen as a fair deal for foregoing commercial return.
- A structure for distributing the funds would need to be established, and accountability mechanisms put in place. Prioritisation would still be needed, as would monitoring of expenditure and on-going maintenance. This implies a central bureaucracy of some size.
- The payments would set something of a precedent that we suspect government would have difficulty resisting in the future. While the deal might well be sold as a one off, we suspect that in 20 years when fences need replacement and a new generation of landholders arrives on the scene, there would be renewed calls for “transitional” assistance. If, at the end of any transitional period landholders are simply unable to meet on-going management costs the Government will have little option but to continue financial assistance.
- We also note that our landscape and the ecosystems that it supports are not static. Land will continue to revert and rivers will continue to change course.

For all these reasons we suggest that, attractive as it may be, a one-off settlement may be something of a mirage.

Nevertheless, if the Government were prepared to make large-scale funding available we believe that a significant shift in landholders’ responsibilities could be achieved. It should not, however, be under any illusion about the need for on-going expenditure for biodiversity management on private land.

The big settlement option is not considered further in this report. Should the Government decide to go down the path of major investment over a fixed term, we would certainly not discourage it from doing so. However, further detailed cost/benefit analysis of this option must be undertaken before any decisions are made.

The Committee believes that the Government needs to show leadership on this issue by steadily raising expectations on landholders and on the wider public over time, and by maintaining positive attitudes and support. It is important that New Zealanders understand the direction of policy but are given time to adjust culturally and financially to change. Such an approach will enable the Government to gradually (but meaningfully) increase financial assistance.

Conclusion

Biodiversity and private land should be regarded as an issue that requires on-going attention, financing and policy monitoring and review.

Issue 2: Goal: targeted vs. comprehensive

In its preliminary report the Committee spoke of the value of a clear national goal. It recommended the goal of the New Zealand Biodiversity Strategy, but an alternative goal was also included in recognition that different views exist. *We remain of the view that there must be a clear idea of what it is we are trying to achieve before we can proceed further.*

The question of a national goal was one of the most frequently discussed throughout the consultation process. Many groups and individuals pressed the Committee on what it meant by “natural areas”, “protection”, “maintain and restore”, the “full range” and similar terms that were loosely used in the preliminary report. Underlying this interest was basically one key question: What is “caught” by the goal and what isn’t.

There are divergent views within communities about the nature of the biodiversity goal — what exactly should be sustained. The debate may be characterised as being about a *targeted* versus a *comprehensive* approach.

A targeted approach seeks to focus on the “most important” ecosystems, species and habitats. Implicit in such an approach is the belief that some areas, habitats or populations are more valuable (or salvageable) than others. It accepts that some losses may be inevitable and seeks to ensure that any losses are restricted to the less valuable ecosystems.

A comprehensive approach makes no distinction between any types of indigenous vegetation: all areas, habitats and populations have equal value, and the goal is to sustain them all.

A targeted approach has been criticised as being “information intensive”, because it encourages public agencies (and others) to spend scarce resources on endless expensive ecological analyses to prove that areas either are, or aren’t “important”. Recent debates about whether sites are “significant” for the purposes of section 6(c) of the RMA³⁴ are an example of a targeted approach being applied (but often without detailed or accurate information and/or adequate consultation with landholders).

A comprehensive approach is obviously far more ambitious. The way indigenous vegetation is dealt with in the New Zealand Forest Accord has been cited as an example of a working comprehensive approach. It seeks to protect any area of indigenous vegetation of more than five hectares in size and any area between one and five hectares where the average vegetation height is more than six metres. (In addition it seeks to protect any area identified as recommended for protection under the Department of Conservation’s Protected Natural Areas Programme, or which would qualify for such status).

The Committee’s preliminary report favoured a targeted approach. That is, it favoured detailed technical assessment of the ecological value of remaining habitats and ecosystems. It suggested that we need to focus our attention on securing those natural areas that are most important if New Zealand is to retain a full, viable, self-sustaining representation of indigenous biodiversity. A national biodiversity information system was proposed to assist with the task.

34 Section 6(c) requires that all those exercising functions under the RMA to “...recognise and provide for the following matters of national importance:...The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna”.

There has clearly been misunderstanding of this approach by some parties. The Committee never intended to suggest that large parts of remaining natural areas were “unimportant” — only that some areas should take a higher priority than others. We are not dissuaded from the view that expending scarce public money inevitably requires prioritisation. It is an issue we refer to at some length in Issue 4 below.

However, the Committee has modified its views following consultation. The concern about the cost of information gathering and assessment is one we share. While good information is vital for efficient management, there is no doubt that significant resources could be expended on developing a national biodiversity information system — resources that could be better spent on securing areas and supporting work on the ground.

We also accept that New Zealanders value natural areas not just because they are critical to the maintenance of a full range of our biodiversity. There are other less “rational” more *human* values at stake.

Perhaps most importantly, we accept the argument that New Zealand should take an *ecosystem* approach to nature conservation. We need to move beyond a network of highly prioritised reserves and begin to look across the landscape to manage the *ecosystems* of which individual remnant vegetation is just a part. Section 6(c) of the RMA has tended to be viewed as perpetuating an approach that favours preserved remnants rather than ecosystems. However, recent Environment Court decisions have begun to challenge that narrow interpretation.³⁵

This issue raises a range of philosophical and scientific considerations about the extent to which we should make *sustainable use* of indigenous biodiversity, and the appropriateness of focusing only on *indigenous* biodiversity. We considered such matters to be beyond our brief but believe that they do need further debate.

The goal we proposed taken from the New Zealand Biodiversity Strategy has received some criticism at our meetings. For the reasons given above, it is criticism we understand. The goal perhaps suffers from trying to be all things to all people. As a result all people see something they don’t like about it. The response from those consulted demonstrated an enormous scope for interpretation of the goal and for that reason we have questioned its usefulness.

A number of submitters promoted a comprehensive approach to goal definition, involving the concept of “no net loss” (of biodiversity). Despite some members of the Committee being attracted to the concept, the Committee remains uncertain about how its proponents envisage it being applied. It seems to us that the concept could be applied at various scales — property, catchment, district or region. We assume that in practice a no net loss approach would mean that regulators would need to demonstrate that an act of clearance in one locality would not result in a “net loss” at the district or regional (or other) scale. Such an approach has precedents elsewhere (principally in South Australia), and provides some flexibility for landholders (who could restore or replant to offset clearance) and for regulators (who could take into account reversion and restoration elsewhere within their jurisdiction). But we do wonder about the ecological integrity of such an approach and, in particular, whether it provides for the level of restoration necessary to “turn the tide”. We imagine that it would need to be rather more sophisticated than described above if it were to stand up to close ecological scrutiny.

35 See, e.g., Environment Court Decision number A89/2000, Waitakere Ranges Protection Society Incorporated v Waitakere City Council and Brand Housing and Rick Eggink.

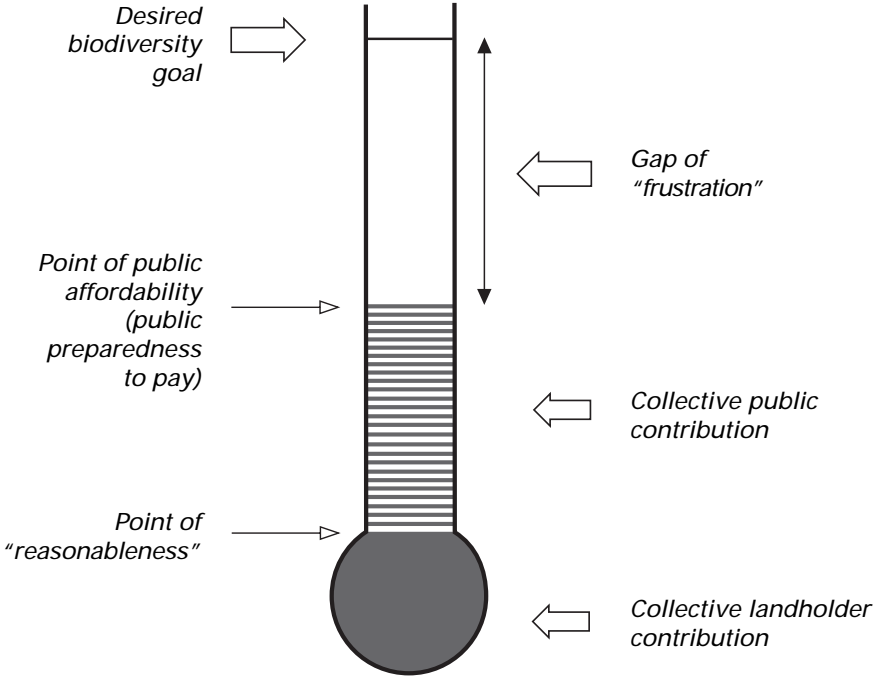
It has been put to the Committee that it is possible to distinguish between a goal for the *extent* of habitats and ecosystems and a goal for the *condition* of habitats and ecosystems. That is, one can have a comprehensive goal seeking to retain the physical extent of all remaining habitats and ecosystems, while having a targeted goal that seeks to maintain or improve the condition of the “best” sites through public funding. We have some difficulty with this proposition.

It seems to us that the distinction between extent and condition is not at all clear. Also there is little point protecting something from a deliberate act of destruction only to allow gradual but ultimately total loss by continued grazing, or unmanaged pest and weeds. In many cases the difference between a loss of condition and a loss of extent is simply a matter of time.

Nevertheless, the distinction does help to explain the difficulty associated with goal setting for biodiversity. Many New Zealanders (the Committee included) would like to see a comprehensive goal pursued. But it is most unlikely that public funds will be available to assist at every site or every landholder. Similarly, it is unreasonable to expect landholders to assume full responsibility.

We have characterised this dilemma as the “gap of frustration”. The gap is the difference between what the landholder and public authorities can collectively contribute and what the goal demands. It is illustrated in Figure 2 below.

Figure 2



There are only three ways to close this gap: increase landholder contribution, increase public contribution, or lower the goal. Much of the remainder of this report focuses on how to increase both landholder and public contributions. But the question remains: What goal should be sought?

The practical reality of our gap of frustration is that its size varies around the country. Central government can balance out extreme regional variation by targeted funding to some degree, but regional variation will always exist.

We would not wish to pursue a plainly unrealistic goal. Nor would we wish to have the goal so low that it falls below what can be comfortably achieved by some communities. Thus we see a danger in being too specific at the national level, and advocate instead a goal that is broad enough to allow flexibility for application within a local context.

In other words, the Committee prefers a pragmatic goal that may well include (but not be limited to) a no net loss approach. We think that New Zealanders should be attempting to retain as much indigenous biodiversity as is practical and reasonable. The emphasis, therefore, should be on doing as much as we can. This focuses our attention on determining what is practical and reasonable (for landholders and communities) and what needs to be put in place to make the impractical practical and the unreasonable reasonable.

Overall, we do not think that goal three of the New Zealand Biodiversity Strategy need be at variance with our vision. The goal is to:

Halt the decline in New Zealand's indigenous biodiversity

Maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, enhance critically scarce habitats, and sustain the more modified ecosystems in production and urban environments; and to do what else is necessary to maintain and restore viable populations of all indigenous species and subspecies across their natural range and maintain their genetic diversity.

The definition of a “full range” refers to a “comprehensive *and* representative” range. In our minds that provides a clear signal that we should be seeking far more than just 10 percent of what remains, as some have suggested.

In articulating any goal a certain amount of variability of interpretation is inevitable. We acknowledge that the goal can be interpreted to be ambitious or not so ambitious. However, we think that a common sense interpretation, which includes matters important to local communities, should be possible. The sentiment of the goal is clear to us, and we are sure it will be to most New Zealanders.

Conclusion

The New Zealand Biodiversity Strategy goal of ‘halting the decline’ should be applied to private land and interpreted broadly to encompass both national and local interests.

Issue 3: Tools: carrots vs. sticks

Having decided what it is we are trying to achieve, the key issue remains: Do we seek to achieve that object by *helping* landholders, or by telling them what they *must* and *must not* do? In many public meetings this key debate was characterised as being about “carrots versus sticks”. In the local government context it was frequently characterised as the difference between working *with* landholders and working *against* them.

It was no surprise to the Committee that the paramount concern of many landholders was whether they will be told what to do on their own land. The message we received was clear: the Government will achieve much more by providing the right signals, the right assistance and well targeted incentives. A typical comment was:

If this [biodiversity] thing is sold well and landholders are respected then I think you'll find most landowners getting in behind it. But if you treat us all as villains and try and tell us what to do we'll resist all the way — and that can't be good for biodiversity.

At the national level the difference in approach is fundamental. In practical terms it means either expanding organisations and programmes like the QEII National Trust, or strengthening and standardising land use regulation.

We have made no secret of the fact that we think regulation has limited value in arresting the decline in biodiversity on private (rural) land.³⁶ We say that for two reasons. First, as noted in our preliminary report, regulation is ideal when you need to stop adverse behaviour. But when your aim is to engender an attitudinal and behavioural change to bring about *positive* action, regulation is generally ineffective and at times counter-productive. In the case of nature conservation we need to do both: stop adverse behaviour and engender positive behaviour. That makes selecting the best approach far from straightforward.

Second, some of the adverse behaviour we need to bring to an end would, under current law, remain largely immune from regulation. The classic example is grazing of native vegetation. The vast majority of remaining indigenous forest is thought to remain unfenced and subject to grazing pressure.³⁷ This would, in most cases, be regarded as an “existing use” under section 10 of the RMA and if the effects remained the same or similar could continue regardless of any regulation that might be introduced.

Our first conclusion, therefore, is that the case for regulation is not so strong that the Government should seek to over-ride the established devolved decision-making system by some form of *national* regulation.

This is not to say that the Committee believes there to be no place for regulation. The fact is that local councils can regulate now. Indeed, many do so (more than half of all territorial authorities have a general vegetation clearance rule in their district plans). At no stage have we considered it within our brief to enquire into whether that rule-making power should be removed or diluted in any way. Our role is to enquire into whether there is a case for insisting that regulation should be employed in all cases, or in some specific classes of case. In other words, we have seen it as part of our task to see if any case can be made for fettering the discretion currently available to local councils.

36 We see a great deal more value in regulation in urban and peri-urban situations, where the pressure for development introduces powerful incentives.

37 While national statistics are not available to confirm this, regional research provides strong evidence. For example, a study of the 110 Key Ecological (forest) Sites in the northern districts of Waikato Region found 86 remained at least partially unfenced; 81 of these were subject to grazing. Environment Waikato. *Report to Environment Waikato Biosecurity Committee*. Environment Waikato, Hamilton, 2000.

The Committee believes that there is risk associated with regulation. The risk is that regulators may provoke resistance and undermine goodwill. Whether that risk is worth taking depends on the circumstances. Broadly speaking, it requires an assessment of the likely acceptability, enforceability and (therefore) effectiveness of regulation in particular communities given the circumstances that apply locally.

The key issue is not whether we have regulation or not, but whether central government can make those assessments any better than local councils. The Committee is firmly of the view that for all practical purposes it is impossible for central government to come to any meaningful conclusions about whether regulation is preferable to other methods.

We have developed views about the circumstances under which regulation might be appropriate. These views are based on conceptual models and their application requires an understanding of individuals and individual communities. The models are set out in Appendix 4.

As noted earlier, the Committee has real reservations about the appropriateness of regulation. However, we recognise that whether regulation is appropriate in any particular circumstance is, and should remain, a matter for local government discretion. It is unfortunate that some parties see incentives (and other non-regulatory measures) as “soft” options, preferring regulation in all circumstances. We prefer a dispassionate assessment of what will be *effective*. We should all be open-minded enough to accept that this may not always be regulation.

That said, the Committee is adamant that regulation alone cannot solve the problem. Neither is it acceptable to choose between regulation and doing nothing. Much of this report is devoted to ensuring that if a council chooses not to regulate, then a credible, effective alternative approach is available (and will be deployed). Many of these measures will be necessary whether councils regulate or not.

In summary, it is probably not accurate to characterise the debate as being about “carrots versus sticks”. In our view, while regulation might be optional (depending on risk analysis), incentives and assistance are not.

Conclusions

Decisions about the extent of regulation should continue to be made at the local level.

Those councils that choose low levels of regulation need to put in place credible alternative programmes that provide a high level of security of outcome.

Issue 4: Funding: ecological prioritisation vs. capacity building

Perhaps the greatest source of misunderstanding and discontent stems from the expectations people hold about access to public funds. Landholders generally believe that when they are subjected to impositions beyond what is reasonable (or affordable) they should be entitled to “compensation” or assistance. However, national systems for delivering public financial support for biodiversity tend to provide funding on the basis of strict ecological priorities. That is, if your property is of sufficient ecological value you may be eligible for assistance (through the Nature Heritage Fund, Nga Whenua Rahui or the Queen Elizabeth II National Trust).

This complete disjunction between the restrictions placed on landholders and eligibility for public assistance is a particular characteristic of our management system.

We would make two observations. First, in the absence of unlimited public funding some method of rationing the available funding is necessary. Targeting that funding towards the “best” sites is rational to that extent. However, we do find something inequitable about some landholders being assisted while others are left subject to regulation (and cost) simply because their sites are not “important” enough to qualify for assistance. In other words, there is something odd in the proposition that a site may be important enough to regulate but not important enough for public assistance.

Second, strict adherence to an ecological priority-setting approach risks disillusioning and disenfranchising willing and committed landholders who may not hold the highest-value sites but who may have the potential to effect real change in their communities. (Such an approach can also under-value the benefit of ecological restoration). We have no doubt of the need for a fund that targets the ecological “jewels”, particularly those jewels held by unsympathetic landholders. But such an approach needs to be balanced with funding to assist those who are willing to engage in nature conservation.

Public funding for nature conservation must build capacity within communities and not just add land to the public estate (thereby reinforcing the unfortunate conservation/ production dichotomy). Funding targeted towards “change agents” in communities is a strategic investment for the future that, in our view, can lead to benefits that exceeds the original outlay many times over.

Such schemes are the substance behind the calls for *partnership*.

The potential compounding effect of behavioural change fuelled by peer pressure and friendly rivalry must be capitalised on if we are to make meaningful progress on this issue. But it will not be achieved if funds are targeted solely at the top ecological priorities.

The conclusion the Committee reached on this matter was not only the result of extensive consultation. We had the benefit of accounts of overseas (particularly Australian) experience,³⁸ and also took the opportunity to review the range and scope of schemes available in other major OECD countries.³⁹ From that research it is abundantly clear that New Zealand is, by comparison to other countries, poorly served by schemes that recognise and assist private landholders or that recognise a restriction on land use.

Conclusion

The Government should provide a range of schemes to secure ecological priorities and build support and capacity in communities.

38 See, e.g., C Binning, M Young. *Motivating People: Using management agreements to conserve remnant vegetation*. Environment Australia Biodiversity Group, Canberra, 1997; C Binning, M Young. *Talking to the Taxman about Nature Conservation: Proposals for the introduction of tax incentives for the protection of high conservation value native vegetation*. National R&D Program on Rehabilitation, Management and Conservation of Remnant Vegetation, Environment Australia, Canberra, 1999; J Millar. *Community Nature Conservation Extension Program. Situation report September 1998 to October 1999*. Queensland Parks and Wildlife Service, 1999.

39 See, e.g., P Clough. *Encouraging Private Biodiversity: Incentives for biodiversity conservation on private land. Report to the Treasury*. New Zealand Institute of Economic Research (Inc), Wellington, 2000; Organisation for Economic Co-operation and Development. *Saving Biological Diversity: Economic incentives*. OECD, Paris, 2000; M Bayfield. *Protection of Natural Values on Private Land: A report on the use of voluntary and regulatory mechanisms used in the United States, United Kingdom and Australia*. Winston Churchill Memorial Trust, Wellington, 1999.

Issue 5: Institutional arrangements: top down vs. bottom up

Many interpreted the proposals put forward in our preliminary report as a “top-down” approach to the issue. That is, the proposals for a national (government-facilitated) accord, a national policy statement, national guidelines and other national actions were seen as a government response of little relevance or assistance to individuals wanting to undertake positive conservation measures. Many argued that the proposals ignored the many individual actions, community groups and community projects already making progress within our towns, cities and rural areas.

This view was reflected in people’s reaction to the diagram that the preliminary report used to summarise the Committee’s proposals. The national goal, accord and policy statements were presented at the top of the diagram: individuals were, by implication, at the bottom. Many groups spoken to had difficulty relating to the diagram. A number of individuals suggested that the diagram was upside down. In other words they could only envisage a bottom-up solution. On reflection, we agree that the preliminary report took too little account of individual and community-initiated action.

It became apparent early on in the consultation process that there was a need to engage the positive energy of those who are working (and will continue to work) on the ground independent of whatever government initiatives are introduced. In travelling the country the Committee was heartened by the myriad conservation and community groups setting their own targets and priorities, developing their own projects and generally just getting on with it.

Facilitating and assisting these community-based efforts and growing working arrangements from the bottom up was promoted by some as an alternative to the government-knows-best approach that the Committee’s preliminary proposals were interpreted as promoting.

We certainly envisage both top-down and bottom-up approaches. The international experience of biodiversity management is that we need scientific assessment, planning and leadership from the top down and engaged landholders and local communities working from the bottom up.⁴⁰ Without some top-down measures we risk inefficiencies from lack of coordination and mixed priorities. Without a bottom-up emphasis, progress will be dependent on (inevitably) scarce public resources.

This means we need institutional arrangements that deliver both approaches. Bottom-up approaches are promoted by organisations such as the Landcare Trust, the QEII National Trust and some local government programmes. They also arise from our communities with little or no government assistance (for example, the Native Forest Restoration Trust and other non-governmental organisations).

In many ways a national policy statement is the ultimate top-down approach, serving as it does to ensure *national* policy is driven down through the planning system to regional and local levels. The idea that an NPS would coordinate people and agencies and standardise management of biodiversity through regional and district plans is a centralised planning approach with both benefits and obvious limitations.

40 C Binning. *Conserving Biodiversity: Institutions, policies and funding*. CSIRO Wildlife and Ecology, Unpublished report for The Treasury, Wellington, 2000.

The question for the Committee is not whether we promote a top-down or bottom-up approach. We need both. The question is how we bridge the gap between the two. In simple terms, we can only bridge that gap by forming *partnerships* between public agencies and community groups and individuals. By partnerships we mean working arrangements where each party contributes something towards a common goal. This was the notion behind the Committee's preliminary proposal for national and, more particularly, local accords.

In our view, the Government needs to do more to provide the top-down leadership required. A key aspect of this leadership is delivering coordinated action between and within government agencies. We have noted the work of the New Zealand Biodiversity Strategy and the mechanisms proposed to provide coordinated, collaborative responses at the national level. Time will tell whether these are successful.

At the local government levels there is similar progress to be made. The RMA was supposed to ensure that local government delivered integrated management of all natural and physical resources (including what we now refer to as "biodiversity"). It is perhaps the biggest disappointment of the RMA that it has, in our view, largely failed to deliver genuine and meaningful integration.

Yet integrated management has many dimensions. By comparison with many overseas jurisdictions the RMA has been hugely successful in achieving better integration across environmental media (land, water and coast). But we suspect this has more to do with institutional (including local government) reform than it does to the provisions of the RMA. Notwithstanding improvements made on that front there is still plenty of room for intra agency *policy integration*.

As we understand it, the methods of achieving RMA objectives and policies were always intended to extend beyond those (largely regulatory) methods set out in the RMA itself. In this way the RMA was intended to coordinate and marshal all non-regulatory and non-RMA actions towards commonly agreed goals. Despite this, most RMA plans still appear to be thought of predominantly as regulatory instruments. Several councils told us that they did not have plans on particular issues because they saw no need to regulate. Clearly RMA plans are seldom seen as driving action and expenditure of local authorities in the integrating way in which they were intended.

As a result, for many councils biodiversity is very much peripheral or incidental to core activities.⁴¹

We recognise that many positive things are being done and a number councils have been at pains to point out their efforts. We would not wish to belittle those efforts in any way. They are real and we have no reason to believe they have not been successful. We are also aware that momentum is building and that many councils are doing much more than they were just a few years ago. Indeed we have detected a discernible change in local government's attitude towards biodiversity even within the relatively short time of our Committee's existence. Many, however, are reluctant to act while their responsibilities remain poorly defined, and we have yet to experience the sort of concerted, coordinated effort within and between councils (and between councils and central government) that could be said to provide the management framework necessary to drive significant change.

41 Our discussions on this point reinforced the findings of the biodiversity stocktake: Tonkin & Taylor Ltd. *Ministry for the Environment Stocktake of Local Government & Community Goals, Processes and Measures for Biodiversity Management: Summary report*. Unpublished report for the Ministry for the Environment, Wellington, 1999.

Therefore, we would argue for a clearer mandate and encouragement for central and local government agencies and for a programme that influences the culture of these organisations. We are conscious that unless local government increasingly sees itself, and is seen by others, as the principal statutory guardian of New Zealand’s environment, little progress will be made. Notwithstanding what we said above, it is only too apparent that some local government politicians and their constituencies have some distance to travel before they embrace that realisation.

For all these reasons, we caution against a fixation with top-down measures. The legislative framework and local government institutional arrangements that we have basically make sense and should be regarded as a strength of our biodiversity management system. But we remain weak in our approach with regard to motivating and assisting action from the ground up. For example, the two centrally funded agencies charged with facilitating landholder and community responses — the Landcare Trust and the QEII Trust — are poorly resourced and their services are over-subscribed. While local government also operates programmes, they are limited for the reasons given above.

If we ignore these facts and focus exclusively on top-down measures, we will make little progress.

Conclusion

Any national (or sub-national) response to the biodiversity decline should be based on an appropriate balance between top-down and bottom-up solutions.

Issue 6: Property: rights and responsibilities

There is no doubt that some stakeholders, including a number of vocal individuals, remain intensely interested in the issue of property rights. It is an understandable interest. Property rights are fundamental to biodiversity conservation — as they are to a free and prosperous society.

Issues of property rights and their origins are dear to the hearts of many landholders. Some groups exist solely to protect (perceived) rights. It is fair to say that the Committee encountered a range of views among the community on the legal and constitutional position. The issues surrounding property rights are clearly difficult and complex. While we were aided by some thoughtful contributions, the issues require further investigation and we have by no means the last word on the subject.

Having considered the issues surrounding property rights arguments, the Committee has come to some very clear views. In fact, while superficially parties may appear extremely polarised on this issue, when we focus on the practical effect of what is said there is a great deal more common ground than the main protagonists generally accept. Ironically, that common ground is found in the issue of compensation.

It is important to note that landholders and others use the term “compensation” very loosely. Those referring to “compensation”, often don’t mean payment in recognition of lost opportunity cost but rather *reimbursement* of direct costs incurred (such as, fencing and other management costs), or *assistance* with meeting those costs. Most of the landholders we talked with did not contemplate payment for potential income forgone, but could not see why they should be out of pocket by having to absorb direct costs associated with managing land for biodiversity.

This is not to say there are not landholders who demand compensation in its fullest sense, but they are the minority.

Financial assistance with management is not strictly speaking a property rights issue. We deal with this issue at length elsewhere in this report. Here we focus on compensation in the strict sense of restitution for rights abridged and income (or value) lost.

Regardless of any other arguments, no one disputes that when land is physically “taken” from a landholder for public use — for a motorway or a school, say — the owner should be entitled to compensation. Similarly, we have not heard anyone dispute that the Government has the right to regulate land use to protect others from the effects of individual actions. The others we refer to may include individuals (such as a neighbour) or the public generally (such as those who may be affected by pollution). Even those who strongly subscribe to the property rights arguments concede that such regulation should not be construed as a “taking” and should not give rise to compensation.

The key question is: When does regulation become a *taking*? It is, as we noted in our preliminary report, a question that has defied a meaningful answer despite the frequent attention of the US Supreme Court.⁴²

Certainly we do not believe it is sufficient to say that a taking occurs when someone is required to give up something for the public good. We all forego rights, freedoms and bear opportunity costs for the public good. Urban dwellers are typically entwined in a web of land use regulation imposed for public good reasons. The important factor is the *extent* and the *implications* of any restriction. In particular, can the landholder still make reasonable use of their property as a whole?

We think there is general agreement that a commonsense definition should apply, such that when regulation imposes an unfair and unreasonable burden on a landholder and renders their land incapable of reasonable use, a “taking” may be said to have occurred. Such a definition is plainly laden with value judgements. In our view, the only way such judgements can be fairly made is by a body of locally elected community representatives and, if necessary, by a court.

It is, of course, the system we have right now under the RMA. The issue for us is whether or not section 85 of the RMA⁴³ is working appropriately. Certainly, it is not reasonable for local government to have an unfettered ability to regulate. But neither is it wise to open up the possibility for compensation in respect of regulation that has long been widely regarded as necessary and acceptable. We think that some calls for legislative change in this area would, if adopted, give rise to claims for compensation that would hamstring local government’s efforts to promote sound environmental management.

Nevertheless, it may well be that some fine-tuning of section 85 is appropriate. There will be circumstances where compensation is justified, and section 85 should not foreclose that option. But we find ourselves unable to offer clear advice as to what “fine-tuning” of section 85 might be appropriate. There is little relevant case law to shed light on the workability and appropriateness of

42 P Joseph. *Property Rights and Environmental Regulation under the Resource Management Act 1991*. Unpublished report for Ministry for the Environment, Wellington, 1999.

43 Section 85 serves to constrain the extent of regulatory intervention on the use of land and applies at the time when a plan is being reviewed or a proposed plan or a plan change is being considered. It does not operate when considering a consent application. Section 85 provides that any person having an interest in land may challenge any provision in a plan or proposed plan, or a plan change, on the grounds that the provision would render the land incapable of reasonable use. The Environment Court may direct the local authority to delete, modify or replace the provision, if it determines that the land is incapable of reasonable use, and places an unfair and unreasonable burden on the person with the interest in the land. If a council imposes constraints within the limits set out in section 85 no compensation for the landowner is obligatory. If, however, a council wishes to impose restraints beyond those limits, the RMA implies that a deal must be struck between the regulator and the regulated. This could include compensation or acquisition under the Public Works Act (the RMA provides that acquisition is not compulsory).

existing wording. While some might suggest that the absence of case law is an indication that no problem exists, we would not necessarily concur.

We understand that the matter has been raised by submitters during the recent select committee consideration of the Resource Management Amendment Bill. However, as section 85 is not addressed by this we do not expect that the matter will receive detailed consideration.

We therefore believe that a separate process should be established specifically to review section 85. This is not because we wish to open the floodgates for compensation. Far from it. But we do not think progress can be made on biodiversity if the Crown is seen to have foreclosed all possibility of compensation.

Conclusion

The Government should instigate a review of section 85 of the Resource Management Act to ensure that this section acts as a genuine and meaningful restraint against unfair and unreasonable regulation.

PART 3: KEY PRELIMINARY PROPOSALS REVISITED

National Accord(s)

As we stress throughout this report, it is the Committee’s view that nature conservation on private land demands collaboration, partnership, goodwill and trust from all parties. There is currently very little evidence that these characteristics are widely held or promoted. Instead, the issue has become sadly and destructively adversarial and confrontational.

In our preliminary report we proposed two national accords as steps towards building working partnerships and trust: a National Biodiversity Accord and an Aotearoa (Maori) Accord. Unfortunately, many felt that the concept of an accord had been discredited by experience with the West Coast Forests Accord.

New accords for biodiversity on private land received luke-warm reaction from some and open derision from others. (The national Maori Accord, in particular, received a very low level of support — albeit with minimal Maori input⁴⁴). Despite that reaction — or perhaps because of it — we continue to see the need for divergent interests to exchange views and reach shared understandings outside of the statutory processes.

On reflection it was perhaps heroic of us to suggest that formal accords could be reached at the national level that would be both durable and meaningful. That said, we never intended to suggest that the accord would be a “product”. We always saw the value in the *process*. As a result, we have revised our recommendation for a National Biodiversity Accord and promote instead a National Biodiversity Forum. The purpose of the forum would be to provide an opportunity for on-going dialogue between stakeholders, in order to progress the vision of a quality biodiversity management system and strengthen relationships between key parties.

The forum would, in our view, have three distinct benefits. It would provide:

- A source of advice to the Government and government agencies (commenting on, for example, national goals and targets, action plans and strategies and performance and progress towards goals)
- The opportunity for national coordination and alignment of goals and strategies
- The opportunity to build trust and forge partnerships.

The forum could more generally provide members with the opportunity for meaningful involvement in biodiversity policy, and may assist in reducing the sense of embattlement and isolation faced by some stakeholders. Viewed positively, the forum may provide a way to promote collaborative approaches.

Importantly, a national forum could also monitor progress of regional initiatives, including regional biodiversity forums (see following page).

44 The main reservation of Maori over a national Maori Accord centred around uncertainty over who would sign it.

Membership of the forum could include:

- Department of Conservation
- Ministry for the Environment
- Local Government NZ
- QE II National Trust
- Landcare Trust
- NZ Fish and Game Council
- NZ Conservation Authority
- Royal Forest and Bird Protection Society
- Federated Farmers
- NZ Forest Owners' Association.

We would not envisage the forum meeting more than two or three times a year. While this would clearly be an extra burden on the organisations participating, we would not expect there to be significant cost implications for them. However, the forum would need to be serviced by officials providing both administrative and policy/technical support.

We float the idea because we believe that it has merit, but we acknowledge that further design work would be required before it is appropriate for the Government to fully commit to the concept. We are also conscious that such a forum is unlikely to meet the needs and aspirations of Maori. Nor would it fulfil the purpose that originally led us to recommend a separate Maori Accord, suggesting that this issue should be further discussed with Maori as per the first recommendation of this report.

Finally, while we support the concept of a National Biodiversity Forum, we are concerned that it should not consume a significant amount of scarce resources that could be used to achieve tangible and much needed action on the ground.

RECOMMENDATION

That the Government consider facilitating the establishment of a National Biodiversity Forum.

Local accords

In our preliminary report we also recommended *local accords*. The concept was loosely defined. They were intended to promote coordination at the operational level and provide a way of recording voluntary undertakings by agencies and/or individual landholders.

Local accords received considerably more support than national accords. Landholders and other stakeholders could more readily see the benefit of (voluntary) multi-party agreements that committed participants to specific action on the ground. In considering the issue again the Committee now distinguishes between two possible needs.

- *Regional biodiversity forums*

The first is the need for a biodiversity forum at the regional level with a similar purpose to that proposed for the National Biodiversity Forum. It would have a general oversight role. The specific authority given to regional forums and their membership are matters that might vary regionally. Regional forums could set (or advise on) goals and action plans,⁴⁵ coordinate operational functions (and the recording of them in a regional protocols), review progress, and report annually to the National Biodiversity Forum for input into a national report. In that sense they would, among other things, provide a means to collect and collate data not currently gathered in any systematic way.

Clearly, if such forums are to have authority to spend money, accountability mechanisms would need to be developed. The degree to which the forums' recommendations would be binding is another important matter that would need to be debated regionally.

- *Multi-party property agreements*

The second need is to provide a framework for "bottom-up" property-based initiatives. By this we mean voluntary agreements between multiple landholders (or between landholders and regulatory/funding agencies). The Committee recognises that many landholders are already engaged in nature conservation. It also recognises that sometimes one landholder's efforts can be undermined by others less willing or aware of the problem. This is particularly true in the case of pest control, but may also be true in the case of riparian management and aquatic ecosystems. In these situations coordinated multi-landholder buy-in and commitment are required (often at a catchment scale).

There are already examples of successful multi-party agreements that operate informally. These could provide a model for agreements elsewhere. However, if public assistance is to be made available to encourage these agreements, some means of more formally recording them will be necessary.

The Committee is conscious that there is nothing to stop regional and territorial councils implementing the above proposals right now, and that some regional councils have already developed variations of the above suggestions. We would certainly not advocate *imposing* such requirements on regional government. What is appropriate in some regions may not be appropriate in others and regional variation in approaches to governance and management should be accepted, not opposed.

We are also aware that Local Government New Zealand has proposed a local government and biodiversity pilot project.⁴⁶ As we understand the proposal it would seek to:

- Translate national goals into something practical and measurable at a local level
- Provide for effective local participation
- Stimulate and sustain local initiatives
- Ensure better collaboration with (and clearer roles for) Crown agencies, private land managers, non-governmental groups and local authorities

45 While we are hesitant to suggest yet another layer of plans for local government, it may be useful if the means of agreeing and prioritising action were formalised. Regional Biodiversity Action Plans (RBAPs) may be a means of achieving that. They would serve to integrate the various functions of councils (and others) and would need to integrate with statutory plans, including regional pest management strategies.

46 The proposal is made in a bid to the Ministry for the Environment's Sustainable Management Fund.

- Integrate biodiversity targets into existing natural resource management approaches
- Develop local government good practice
- Strengthen the sector’s ability to work well with others by strengthening its independent capacity.

In other words, the proposal would seek practical application of many of the sub-national issues we have been grappling with. While our ideas for regional forums, plans and multi-party agreements appear sensible to us, there is no substitute for the development and piloting of approaches by those with the closest interest.

Thus we strongly support the Local Government New Zealand proposal as a means of developing our general ideas for application by local practitioners.

RECOMMENDATION

That the Government fund the piloting of approaches to governance, participation and collaboration to enhance biodiversity management at the local and regional levels.

National policy statement (NPS)

The Committee’s terms of reference specifically require that we report on *“how the provisions of the RMA (with particular emphasis on section 6(c)) should be implemented across the country through an NPS.”*

We have given considerable thought to the part an NPS might play in nature conservation on private land. It is probably fair to say that the Committee was initially attracted to the idea of an NPS and dwelt at some length on what might be included in such a document. During the consultation process we began to rethink our approach, and finally concluded that we should focus, first and foremost, on what it is stakeholders (public and private) need in order to be better biodiversity managers. Only then should we consider whether an NPS is a *tool* that could usefully assist in delivering what is needed.

In discussing these issues it has become apparent that some groups and individuals view NPSs as something of a panacea. All manner of failings in New Zealand’s environmental management have been attributed to the absence of NPSs. We must say at the outset that we consider that view overly simplistic. The Committee is very aware that simply stating — even in a statutory document — that certain things must happen doesn’t make them happen. The RMA itself is testament to that.

An NPS is only directly relevant to those exercising functions and powers under the RMA — chiefly district and regional councils.⁴⁷ The only reason one would have an NPS is to influence how local government carries out its functions. So, in considering the value of an NPS we need to ask what it is that local government is not doing that perhaps it should be doing?

The Committee has heard two broad answers to this question. We will deal with each in turn.

⁴⁷ An NPS is, of course, a relevant consideration for the Courts when local government decisions on plans or resource consents are appealed.

Local government as a major delivery agent of biodiversity services

First, there is the view that councils could be far more active in encouraging, assisting and supporting nature conservation on private land through a range of non-regulatory methods based around extension services and financial assistance. It is a view that we have some sympathy with.

The issue for us, though, is not whether such a role is appropriate for local government but whether an NPS will ensure that role is carried out. Those who suggest an NPS will assist, claim that it will provide a clear legal mandate and generally emphasise the importance of biodiversity.

The importance of a clear legal mandate is not disputed. New Zealand does need a statutory framework that places importance on the maintenance of indigenous biodiversity, and there does need to be an agency with clear responsibility for delivering on that imperative. But the Committee is not convinced that the legal mandate is not already present in the form of the RMA. There may well be some matters of detail (particularly in respect of the functions of regional councils) that are unclear. But we would suggest legislative amendment is the appropriate means to rectify any lack of clarity (see Part 4, service delivery).

More fundamentally, the Committee believes that *legal mandate* alone will not deliver effective action. We believe that you can empower an agency to act but action will not occur if that agency doesn't have the *capacity* to act. By "capacity" we mean the resources, the technical expertise, the organisational culture and, perhaps most importantly, the local *political mandate*. In the absence of capacity, any attempt to make progress by seeking to shore up the legal mandate will be largely ineffective.

Local government as a more active regulator

Others believe that an NPS is needed to ensure that councils uniformly address effects on biodiversity. This view assumes that an NPS will lead to greater levels — and greater uniformity — of *regulation*, and that regulation will lead to better outcomes.

It is not a view the Committee shares. But, even if we did, we are not sure that an NPS would necessarily deliver the regulation that some seek. For a start, the current level of regulation is under-appreciated. More than half of all territorial local authorities (47) have general vegetation clearance rules that control the deliberate destruction of vegetation beyond various threshold levels.⁴⁸ These controls cover approximately 67 percent⁴⁹ of New Zealand's land and 61 percent of the remaining indigenous forest outside that managed by the Department of Conservation.⁵⁰ In addition, a further 20 councils have clearance rules applying to specific defined areas.

Perhaps more importantly, we believe that it is necessary to understand *why* those who have chosen not to regulate have done so. Is it simply that councils don't have a clear understanding of what is important? Or are there are more fundamental reasons?

48 Ministry for the Environment. *Local Authority Responses to Section 6(c) & Local Authority Use of Background Vegetation Clearance Rules for Indigenous Vegetation*. Unpublished report for the Ministry for the Environment, Wellington, 2000. Fourteen of the 47 councils have both general and site-specific rules (38% of the plans containing these rules are at the operative stage).

49 This figure may be an overestimation as many district council rules about general vegetation clearance cover rural areas only.

50 This figure does not include non-forest ecosystems/habitats.

We believe that the reason *some* councils have shied away from any regulation (and most councils have shied away from very onerous regulation) has more to do with lack of capacity (including a local political mandate) and genuine and legitimate uncertainty about the efficacy of rules. In particular we note concern about:

- *An absence of financial recognition/assistance for those who must bear unreasonable costs (in managing land for nature conservation)*

Most councils recognise only too well that blanket regulation can impose hugely variable costs on individuals. They are understandably unwilling to expose individuals to unreasonable costs when there is little prospect of financial assistance to address inequities. Because they are close to their communities, councils understand the financial and human impacts on selected landholders.

- *The risk of undermining the success of non-regulatory methods*

In areas where non-regulatory methods (such as QEII covenants and similar voluntary means) are working well, local assessment may well indicate that regulation would be counter-productive. Enthusiasm for regulation will not be high if councils perceive that it simply wouldn't be effective.

- *Lack of political mandate*

As mentioned above, a legal mandate must be underpinned by a political mandate. Local regulators need a local political mandate not just a national one. We also note that an NPS may only state *policies*. The question of what methods (including — but not limited to — rules) might be employed to give effect to those policies is a matter that must be left to local government discretion. The requirement for councils to assess the costs and benefits of different options (under section 32 of the RMA) remains. Thus it is doubtful that an NPS could prevent disputes about the appropriate degree of regulation (although an NPS might provide more grounds for argument).

In summary, we need to guard against that old trap of treating the symptom and not the cause. The symptom might be that councils are failing to act for biodiversity in sufficient numbers or with sufficient vigour. But in our view the cause is not just that no one has told them what to do.

We have asked ourselves whether an NPS is capable of addressing the cause of (perceived) inaction by local government. We doubt that it is. In our view central government would be better to focus on capacity building within local government. It should do so by developing effective partnerships and investing in programmes that assist and support local government to be effective biodiversity managers.

Would an NPS do any harm?

The question remains, whether an NPS can do any harm. It may not be the whole answer but might it help?

Submitters' comments in support of an NPS can be broadly grouped into provisions that:

- Emphasise the importance of biodiversity (including broad principles and recognition of international obligations under the Convention on Biological Diversity)
- Seek to guide resource consent decision-making
- Seek to encourage (or direct) the inclusion of particular provisions in plans and policy statements (particularly rules)
- Seek to encourage a broad response, including biosecurity, green production and consumption and demographic strategies.

In the Committee's view there is *some* benefit in the first and second categories, but difficulties (both political and technical) with the latter two.

While the importance of biodiversity is apparent on the face of the RMA, reinforcing that importance through an NPS would provide added emphasis that some would find helpful. In particular, an NPS may be useful to further define the role of local government in relation to the New Zealand Biodiversity Strategy. We doubt that this will be sufficient to radically change the views and approach of unsympathetic or under-resourced decision-makers, but an NPS may provide further support for those already working to increase awareness and responsiveness.

There is also some benefit in an NPS that can influence decisions on resource consent applications. We were particularly alarmed to learn that effects on biodiversity are often under-recognised and at times largely disregarded during resource consent assessment. No matter what reason a resource consent is required, effects on biodiversity should be a central criterion in decision-making.⁵¹ (We do reiterate, however, that in our view a reasonable decision-maker would find it difficult to suggest that such matters are not already central to the RMA. For us the issue is one of *practice* rather than policy).

On the other matters raised by submitters we have much more serious doubts. We have discussed these in the preceding pages and summarise them in an evaluation of the benefits of an NPS provided in Appendix 5.

So there are some potential benefits, but they need to be weighed against a number of risks.

Risks of an NPS

As noted above, if an NPS were written so as to encourage local government (in partnership with central government) to actively engage in biodiversity matters using the full range of its financial and operational functions and powers, then, notwithstanding what we said earlier, the Committee would support an NPS (while remaining sceptical of the strength of its effect). Such an NPS would need to be carefully crafted, and well integrated with central government assistance schemes.

If the Government were to proceed with the sort of NPS we suggest, there would be little sense in limiting its scope either to land use effects or private land. If effort is to be put into an NPS it would be remiss not to deal with biodiversity comprehensively and include all lands, regardless of tenure. (See Appendix 6 for what we consider the key elements of a high-level generic NPS on biodiversity.)

If, however, an NPS were written to be overly directive of local government, or to invite a narrow interpretation of appropriate responses, we would see it as hugely counter-productive, divisive and unhelpful. In our view such an NPS would only amplify existing problems.

51 Provided, of course, such matters have not been excluded from consideration by the controlled activity or restricted discretionary provisions of a plan.

The risk, then, is that while we might promote our “helpful” NPS, this is no guarantee that at the end of the statutory process a quite different NPS might not emerge. This is, of course, a risk that the Government itself must assess, and over which it has some control. However, there is a structural difficulty that stacks the odds towards a narrow regulatory interpretation of RMA policies and plans.

Although the RMA invites councils to consider a full range of methods (including non-regulatory methods and methods that derive their authority from other statutes), enforcement action against non-regulatory methods is difficult –particularly methods that require budgetary provision. So, while we may have a vision of local government implementing schemes aimed at building goodwill and capacity in communities through a range of services and funding initiatives, the implementation of many such methods remains at the mercy of annual budget processes.

The uncertainty associated with this encourages some stakeholders to press for sweeping regulatory methods, as the Courts can more easily direct that such methods be included in plans. Once so included councils are bound to implement and enforce them. Thus we see it as highly probable that any NPS will be seen principally through a regulatory lens, even if it is not intended to be so. We are firm in the view that an NPS that is perceived to press (exclusively) for greater regulation would polarise the parties and lead us away from the collaborative approach so desperately needed.

By its very nature the NPS process invites an adversarial approach that may well heighten tensions and mistrust between those with opposing interests. If an NPS were to be developed, steps should be taken to facilitate shared understandings between stakeholders on the potential benefits and content of a non-prescriptive approach.

It is important to note here that there is a risk of *not* proceeding with an NPS, in that this might be construed as a signal that biodiversity is not important. While that is a risk, we think it is a small one — particularly if our proposals set out in the following pages are implemented.⁵²

Costs of an NPS

The costs associated with an NPS are also of concern to the Committee. The Government has budgeted around \$1.5 million over the next four years to develop and “bed in” an NPS on biodiversity. The costs don’t stop there, though. Other players — notably local government — will no doubt spend hundreds of thousands of dollars participating in the statutory process of promulgating an NPS.

Perhaps of most concern are costs that local government would face following the promulgation of an NPS.

It is possible that most (if not all) councils will have to change their plans and policy statements (using the lengthy public process set out in the First Schedule of the RMA). Many of these plans have only recently been completed. Research suggests that plan changes can cost anywhere between \$10,000 and \$1 million, but that average costs are typically \$30–50,000.⁵³

52 This is an issue mainly because an NPS was listed as a priority action of the New Zealand Biodiversity Strategy. While we offer our view, the risk associated with a decision to digress from the Strategy is largely a political issue for the Government to assess.

53 P Johnston. *The Private Plan Change Process*. Ministry for the Environment, Wellington, 2000. Care should be taken with these figures. They relate to private (rather than council initiated) plan changes. Costs could well be significantly higher — particularly if matters are taken on appeal to the Environment Court.

Some of these costs could be lessened by the provision of a high-level NPS that also contains clear statements of its expectation of local statutory documents. Even so, we conservatively estimate that the costs to public authorities alone (from participating in the process and amending plans following promulgation of an NPS) could be \$5–7 million.⁵⁴

For comparison, if that amount were spent by public agencies on supporting willing landowners to covenant and fence bush remnants through the QEII Trust (assuming for the moment that this is a valid alternative), we could probably secure between 60,000 and 84,000 hectares or, put another way, assist between 1600 and 2200 landholders.⁵⁵

Time delay

An NPS would begin to have some effect on resource consent applications soon after formal promulgation (perhaps two years hence). But the full effect would not occur until local government plans and policy statements are formally changed and submissions and appeals settled. So it is not unrealistic to suggest that an NPS would not have full effect until perhaps four to five years after initial notification.

During this time uncertainty will likely continue. Indeed, the tensions and experiences of the past few years may well be repeated during another period of upheaval.

For all the reasons set out above, we place an NPS in the “useful but not critical” category, while noting that an NPS would only be useful if it was part of a much more extensive programme.

We are in no doubt that an NPS by itself would be hugely destabilising.

For our part, an NPS is some way down the priority list. There are much more urgent measures to be taken. Many of these measures will yield immediate and tangible results at relatively low cost.

RECOMMENDATION

That the Government not proceed with a national policy statement at this time but keep the matter under review pending the implementation of other recommendations in this report.

Non-statutory good practice guidance

While we question the immediate need for a national policy statement, we do see benefit in the promulgation of ‘non-statutory’ national policy guidance to regional councils and territorial authorities. The aim of this guidance would be to assist local government to fulfil their statutory responsibilities for biodiversity, including those under the RMA and the Biosecurity Act. The development of such guidance is best led by the Ministry for the Environment in partnership with local government.

This level of guidance will serve to support, rather than direct, councils in carrying out their functions. We consider this approach overcomes the potential disadvantages of an NPS described above. The

54 For the purposes of this analysis we have not sought to estimate the costs that would be incurred by other stakeholders who choose to participate in the policy development process. Nor have we considered the compliance costs on landholders.

55 Figures are based on the current marginal costs of QEII covenanting (\$250,000 per 3000 ha) and an average covenant size of 38 hectares.

partnership approach to developing this guidance will be crucial to building the support and capacity within local government to respond to biodiversity concerns. This proposal also sits comfortably with the other proposals outlined in our report.

Guidance should be able to be delivered within a relatively tight timeframe, with desired completion by the end of 2001.

In our view, many councils would benefit from additional policy guidance in the following areas:

- Developing regional/local biodiversity management goals and priorities
- Defining priorities for inventory and assessment
- Consultation with landholders and other parties
- Methods for biodiversity protection and management (including regulatory and non-regulatory techniques)
- Rule and resource consent administration (including guidelines for the preparation of assessments of environmental effects (AEEs))
- The use of financial contributions to provide biodiversity benefits and/or offsets
- Monitoring.

This guidance would be helpfully served by the inclusion of good practice examples.

Some progress has already been made by the Ministry for the Environment with work to date on guidelines to interpret and apply section 6(c) of the RMA. This work has been on hold for the duration of the Committee's investigation, and we have observed in the past that it was not the Committee's task to make recommendations on the future of the section 6(c) guidelines.⁵⁶

Having said that, we see the interpretation and application of section 6(c) as an important (but far from the only issue) requiring guidance. Decisions about what is significant need to be made locally, but with regard to both the local, regional and national biodiversity goals across terrestrial and aquatic environments. Formal inventory and assessment must contribute to this process, with well-managed involvement of stakeholders, landholders in particular.

Constructive national guidance is therefore needed to support good practice and methods in setting regional and local goals (with regard to national goals), identifying potential criteria, suggesting appropriate methodologies, and outlining mechanisms to use and share information, including consultation and partnership. We suggest that further work is required to translate the broader focus of the New Zealand Biodiversity Strategy and the sustainable management requirements under the RMA into regional and local contexts. In our view the Ministry for the Environment's draft section 6(c) guidelines should also be examined as part of our recommended larger package of non-statutory guidance, including a review of the philosophy used in their development to date.

An important issue is the need for future work to look at biodiversity issues beyond significant sites. While identifying significant areas provides an essential base for prioritising efforts, looking after only the "best" of what remains of our indigenous biodiversity is unlikely to be sufficient to sustain the natural functioning of ecosystems or the indigenous character of our landscapes.

Sole reliance on ecological criteria also risks overlooking the value or affinity people may have

⁵⁶ See pp. 6–8 of the preliminary report, *Bio-What?*

with a particular area for other than ecological reasons. We have heard from landholders, albeit a minority, who were clearly proud of their bush but aggrieved that it did not rank as “significant” in the eyes of the council. While we strongly support the need for robust science to underpin descriptions and assessments of ecological values, we plead that further work in this area acknowledges the many human values often associated with biodiversity values. Such recognition may provide the seeds for sustained community effort.

Suggested core components of the recommended non-statutory guidance are presented in Appendix 7. These have a primary focus on the RMA, and build on the possible NPS presented in our preliminary report (Appendix 8 illustrates how guidance could be provided for each stage of the policy development cycle, and the relationship between any NPS and proposed non-statutory guidance). This is our assessment of where councils and other local players would benefit most from improved support and direction from central government. Elements of this work could usefully serve as a basis for any future work on an NPS. (Our further proposals concerning mechanisms to use and share information are discussed in Section 4.)

The scope and content of national guidance will require further work, which must be undertaken in partnership with local government and other parties. Best options for council involvement and leadership in this area need to be carefully assessed. The Ministry for the Environment could facilitate this work, with input from other arms of central government as appropriate (Ministry of Agriculture and Forestry, Department of Conservation, Te Puni Kokiri).

RECOMMENDATION

That the Government proceed with the development of non-statutory policy guidance to support and direct fulfilment of biodiversity responsibilities under the RMA and other statutes at a local level. This guidance should be developed in collaboration with local government and other players, to be completed by the end of 2001.

Information

In our preliminary report we discussed the importance of information to inform debate and decisions by individuals (especially landholders) and agencies about nature conservation on private land. We also recommended methods to get better co-operation between agencies and improve the level of consultation with landholders and other stakeholders about the use and collection of biodiversity information. An essential element was a national first-order survey that would enable users to access critical national-scale information for biodiversity assessment.

Extensive feedback on these proposals has highlighted the importance of this issue for many people and agencies involved or concerned about nature conservation and private land management issues. Concerns or queries commonly voiced to us and/or debated within the Committee are set out in Appendix 9.

We see a need for biodiversity information systems that help us identify priorities for management as well as address the sustainability of landscapes and ecosystems. Such systems should seek to achieve a better description of the extent and character of biodiversity within an area, cover both land and water ecosystems, and proactively involve landholders. Some of this work has already been done, and we believe that these results need to be made more accessible to landholders, management agencies and other interested parties.

While national level information frameworks (like environmental domains) are critical they, are not a substitute for biodiversity survey and inventory at a local and regional level, particularly the identification of RMA section 6(c) areas. In most cases these issues will need to be debated at a local level.

There is a clear need for guidance in this area, especially for those councils that have not progressed biodiversity criteria and methods for assessing biodiversity under the RMA. Also, any national guidance on inventory methods, as well as database and information storage systems, should be developed in conjunction and in consultation with local government. This approach is consistent with the non-statutory guidance proposed earlier.

We also see an urgent need for local-level monitoring of the successes (and threats to) biodiversity protection. This monitoring is essential if we are to gauge the success of our recommendations.

Finally, we see the benefit in improved coordination and collaboration between relevant agencies and interested parties to increase information sharing and priority setting.

RECOMMENDATION

That the Government support and facilitate better national and local tools for information collection and management in partnership with local government through:

- **Guidance to local government for the collection and use of biodiversity information describing and monitoring the extent and character of terrestrial and aquatic biodiversity within an area**
- **National and regional co-ordination of existing biodiversity information**
- **National and regional biodiversity forums.**

Interface between the Forests Act 1949 and RMA

One of our specific tasks was to investigate the relationship between the RMA and the sustainable indigenous forest management provisions of Part IIIA of the Forests Act 1949. In particular, how Forests Act plans “*can be meshed with RMA processes to avoid unnecessary double handling*”.⁵⁷

This is a specific issue linked to, but distinct from, the wider issues that are the subject of this report. In summary, we found that the issue deserves specific consideration by those with specialised knowledge of the Forests Act processes. Although we did receive advice on this matter, and specifically raised the issue during consultation, we did not receive the feedback that would warrant us making firm recommendations. Furthermore, we would have to observe that our consultation did not necessarily reach those most affected by changes to the current regime. As far as we were able, we have dealt with this issue in Appendix 10.

The discussion set out in Appendix 10 leads us simply to recommend (as an immediate measure) the need for clarification of the relationship between the two Acts. However, perhaps more significantly, our longer term recommendation is for specialist review. We have no doubt that the lack of consistency and integration between the two Acts justifies a fundamental re-examination of both policy and statute.

⁵⁷ Terms of reference of the Ministerial Advisory Committee.

RECOMMENDATION

That, in the immediate term, the Government facilitate and support programmes that provide clear guidance to local government and Forests Act plan/permit applicants on the different scope and requirements of the Forests Act and RMA provisions and the roles of MAF, DOC and local government in these processes.

That in the medium to long term the Government initiate a specialist review of Part IIIA of the Forests Act 1949, and the requirement for indigenous forest harvesting legislation, separate from the sustainable management requirements of the RMA.

PART 4: NEW PROPOSALS — A VISION OF QUALITY BIODIVERSITY MANAGEMENT

In considering our vision for the future we have looked at services (what needs to be delivered), structure (who would best deliver those services) and style (how to deliver those services). We deal with each of these in turn.

Services: What needs to be done?

As noted earlier, perhaps the strongest message from those consulted was the need for a range of proactive biodiversity-related services. By “services” we mean a publicly funded package of programmes aimed at:

- Meeting the needs of those who are committed to nature conservation but lack the knowledge, skills, or funds
- Increasing the base of landholders who have an interest in, and a commitment to, nature conservation.

For the reasons set out earlier in this report, we agree that we can and should do a great deal more to “work with the willing”. We also believe that we can increase the proportion of landholders sympathetic to nature conservation. In particular we need to move people from passive to active conservationists.

To do this we propose a range of services that focus on *encouraging, assisting, supporting and securing*.

Encouraging

Arguably the most important components of our package are the services aimed at encouraging positive responsible behaviour. They are typically under-rated and under resourced, but are hugely powerful tools. We see encouragement as taking two forms: recognition and education.

(i) Recognition

It is something of a tragedy that in the enthusiasm to implement the RMA and move towards codified responsibilities we have forgotten to recognise, acknowledge and respect the many good deeds done. There is a certain bitterness among many landholders that their achievements and contributions have seemingly been ignored. This has often made the introduction of rules (regarded by many as a vote of no trust) an even less palatable offering.

Recognition can take many forms and need not be expensive. The use of awards is a conventional motivational tool that remains under-used. The Department of Conservation, Forest and Bird and a number of councils use awards to recognise outstanding achievements in conservation. They should be encouraged. However, we suspect that for many landholders, awards would be more powerful if they were initiated from within their own social and business circles. Therefore we would encourage central and local government to develop partnerships with representative and industry agencies, including rural lending institutions, commercial commodity/service providers and sector associations, to “mainstream” the recognition of conservation.

Recognition can extend well beyond awards (which will inevitably only reach the “high” performers). Another means of recognition mentioned at almost every meeting was rates relief. Most people acknowledged that the monetary value of rates relief is low and does not act as an effective economic incentive. But most believed that the *gesture* of rates relief was a powerful signal that at least acknowledges the contribution made.

We accept that encouragement for behavioural change is most powerful when it involves some commercial advantage. Therefore we also support product certification schemes that enhance market access or commodity prices. We understand that quality assurance schemes are already moving towards standards that involve nature conservation. This trend is widely recognised by landholders and was raised with the Committee during consultation. In our view, the Government should facilitate and encourage early adoption of biodiversity-related criteria into quality assurance schemes.

(ii) Education

Of all the feedback received at public meetings, the call for greater education was perhaps the most consistent. We agree that there needs to be a comprehensive and concerted effort to raise awareness of biodiversity issues. We were shocked to learn, for example, that a recent survey⁵⁸ of 302 Southland primary school children found that 80 percent thought that possums were native and that there were not many of them. After completing an environmental education unit, 87 percent of the children responded that possums were introduced.

Of course education needs to extend well beyond the classroom. There are many opportunities to raise awareness in people of all ages and occupations: with the commercial media, industry events (field days and the like), service clubs and community events, and through specialised targeted programmes by central and regional government. We are aware that environmental education is receiving increasing attention at both central and local government levels.

Sustained investment in environmental education at both the national and regional scales will be crucial if we are to build a constituency for public action and expenditure. This is particularly true at the local level, where scepticism of public expenditure remains high and the mandate for action can be very thin. As we said earlier, if local government is to take a bigger role in biodiversity management, councils will need a clear community mandate. Environmental education thus remains a key prerequisite for increased effort.

RECOMMENDATION

That the Government facilitate and support biodiversity programmes that build recognition, awareness and a mandate for increased public expenditure.

Assisting

It was readily apparent to the Committee that the rural sector is in desperate need of an advisory (extension) service to interpret and transfer environmental science (including biodiversity management skills) for practical application on the ground.

58 Environment Southland. *Project Possum*. Unpublished report for Environment Southland, Invercargill, 1999.

As noted above, we see environmental education as important to build community mandate for action. However, land managers need more detailed technical and property-specific *advice* if the broad understanding and commitment is to be translated into meaningful changes in land management practices.

One of the biggest changes faced by rural areas in the past two decades has been the withdrawal of government-sponsored services. A particular concern is the loss of the Ministry of Agriculture extension service. Government-sponsored extension officers have effectively been replaced by representatives of merchant companies, who generally do not command the influence (or offer the range of advice) of a professional, neutral extension officer. With the demise of a government extension service the opportunity to influence land management practices for either commercial or environmental benefit has been lost.

In the environmental field the gaping hole has been filled, to a very limited extent, by landcare groups facilitated by the Landcare Trust, and by regional council-funded landcare officers. On biodiversity matters some service is available from the Department of Conservation and the QEII National Trust regional coordinators. But the limited resources in both organisations has meant that services have achieved relatively low penetration into rural communities. While many of those working in this area are doing a good job with the resources available, we think they would concede that the quality of services and advice able to be offered falls well short of meeting needs.

We are aware that the prevailing view in government circles in recent times has been that landholders should seek out and pay for any advice they need. We suggest that this is an unrealistic expectation for nature conservation. The reality is that many of the effects (both environmental and economic) are long term and insidious.

The incentive to modify management practices is often weak, as most people operate on relatively short-term business planning horizons. It must also be acknowledged that many aspects of nature conservation will not yield obvious benefit to the predominant land use (although they may open opportunities for alternative land uses). So the incentive to seek, and pay for, advice is low.

Even where a landholder appreciates the benefits of nature conservation, the *consequences* of land management practices on biodiversity may not be appreciated. There is little likelihood that advice will be sought if there is no acknowledgement that a problem exists.

The Committee is firmly of the view that relying on landholders to seek advice and educate themselves on nature conservation, the impacts of land management and what they can do about it would be to invite failure.

We have no doubt that an integral part of any successful response to the decline in biodiversity on private land (or affected by private land management) will be an extension service providing information, advice and expertise to landholders. We also stress that in thinking of landholders we very much include peri-urban landholders and land developers. In saying this we are conscious that there has been an influx of new residents in many rural areas who have little or no experience in land (and conservation) management challenges.

The advice we have in mind would include everything from what plant and animal species are already present, through to what trees to plant, how to plant them, who might help plant them, who might help pay for them, and how land management might be modified to ensure they survive and provide maximum biodiversity value. We are equally adamant that any such extension service should provide a comprehensive and integrated service to landholders. By that we mean that we

should not seek to build a specialised biodiversity extension service. Nature conservation needs to be integrated with wider issues of sustainable land management.

Those providing the service would need to take a “whole-property” perspective, which recognises the need both to accommodate economic use of the land and to reduce the impacts on biodiversity (and other water and soil values).

We cannot stress enough the importance for advice to come in a form that presents nature conservation as being just another dimension of “good” responsible land management. It should not be presented as a new or additional imposition. Nature conservation must be mainstreamed if the messages are to be well received and effectively change behaviour.

We also note in passing the apparent synergy between low-intensity (including organic) farming and nature conservation. Any extension service should be able to offer advice on both traditional and non-traditional production systems.

We predict a very high demand for the proposed extension service. One way to “ration” the service might be to adopt a scheme akin to the Land for Wildlife scheme as operated in Victoria, Australia. Under such a scheme landholders would become entitled to advice on registration. Registration is voluntary. It would give no guarantee of on-going protection (on the part of either party), but it would serve as a record of the existence and characteristics of natural areas and of a landholder’s potential interest in formal protection.

In addition to rationing the use of extension services, the scheme might also be useful as a stepping stone for those who are interested in formal protection but whose sites may not at present be of sufficient priority. In this way it may serve to dampen any disillusionment that unsuccessful applicants might experience.

Thus we see the scheme delivering both encouragement and assistance.

RECOMMENDATION

That the Government facilitate the establishment of a rural (including peri-urban) extension service aimed at the sustainable use and protection of natural resources, with the maintenance of biodiversity as a core purpose.

Supporting

It was hardly surprising that a large number of landholders sought more than advice. They sought financial support.

Financial support can take many forms, from out-and-out compensation (or purchase) to management assistance in the form of incentives, loans, grants and subsidies. There are currently three government-funded (or partly funded) national schemes that provide funds in relation to nature conservation and private land. They are the Nature Heritage Fund, Nga Whenua Rahui and the QEII National Trust.

The Nature Heritage Fund (NHF) was launched in 1990. Since then it has secured around 172,000 hectares, and has played a critical role in providing a high level of security to high-priority sites. The broad scope of the NHF enables it to fund proposals that rely on a variety of mechanisms,

from outright purchase “through covenanting, leasing, accords and management agreements”.⁵⁹ Despite that broad mandate the implementation of the fund has, for one reason or another, focused on achieving conservation aims through public ownership. Of the 172,000 hectares secured by the Fund, almost 126,000 hectares (73 percent) has been purchased⁶⁰. In most (but not all) cases, ownership and management responsibility have transferred to the Department of Conservation. The NHF approvals depend on commitments from applicants to the ongoing management of affected lands. The NHF tends to provide “support” by providing an opportunity for landholders to exit landholding and management responsibilities.

Nga Whenua Rahui (NWR) was established in 1990 as a new method of protecting indigenous forests of high ecological value on Maori-owned land. The scheme has special regard to the spiritual and cultural values associated with these areas. The formal protection criteria and mechanisms of NWR are also geared towards owners retaining rangatiratanga. Offers of support are therefore in the form of payments for fencing costs in return for an interest in land by way of a covenant (kawenata), which is reviewed after 25 years. NWR pays 100 percent of the legal and survey costs associated with the covenant. In some circumstances, the NWR also makes a “consideration payment” in recognition of foregone opportunity to extract saleable timber.⁶¹ To date approximately 96,000 hectares of indigenous forest and other areas on Maori land, spanning 87 separate projects, have been formally protected by kawenata, Maori Reservations and/or management agreements.

The Queen Elizabeth II National Trust (QEII) provides support to landowners in the form of 50 percent of the fencing costs for landowners who volunteer to covenant areas. As with the NWR, QEII pays 100 percent of legal and survey costs associated with the covenant. QEII does not make any “consideration payments”.

It is important to record that some units of local government (both city/district and regions) also operate funds. Some of this funding is provided in conjunction with QEII to enable QEII to achieve more in particular regions. The Nature Heritage Fund has also undertaken many joint initiatives with local government, community groups and trusts.

The nature and size of funds available at local and regional levels varies significantly, but most are small and focus on fencing assistance and pest and weed control.

The Committee noted the following characteristics of the current national support measures:

- To date none of the schemes have provided assistance to private landholders with on-going management challenges and costs.⁶²
- Perhaps not surprisingly, no support is available unless there is a very high level of legal protection.
- The schemes support a relatively small number of landholders (mostly those who have very high priority sites and/or who actively seek out assistance).
- There is no link between regulatory impositions and financial support.
- In contrast with overseas schemes, there is generally no recognition of foregone income

59 The Nature Heritage Fund. Application Form, Appendix 1.

60 The remainder has been secured by covenant, including 11,500 hectares of QEII covenants funded via the NHF prior to 1994.

61 Payments have been made in recognition that multiple ownership of Maori land effectively forecloses options for alternative land use (and income).

62 Both the Nature Heritage Fund and Nga Whenua Rahui have made provision to fund on-going management costs, but at the time of writing have not done so.

We are very conscious that resources are limited and that we must be realistic in our recommendations. We do, however, believe that there is scope for a new national funding scheme aimed at supporting on-going management and assisting the transition to more sustainable land management. The fund we have in mind would focus on assisting with pest and weed control and with fencing natural (including riparian) areas.

Our attention has been drawn to the recently announced government funding for pest and weed control on private land. We understand the Government is planning to spend \$6.5 million over the next five years (beginning in 2001). We welcome this action, as it appears to be very similar to the fund we propose above. Clearly the budget already allocated could form the basis of the proposed fund.

However, \$6.5 million is not a great deal when compared to the huge challenge pests and weeds present nationally. It will need to be used wisely to leverage funding from others. It will also need to be spent in ways that maximise benefit through the coordination of programmes.

We suggest that this can best be achieved by designing a contestable fund targeted specifically at regional councils. Criteria for funding would aim to:

- Encourage regional councils to produce regional pest management strategies that focus on maintaining indigenous biodiversity
- Leverage regional council funding for pest and weed control
- Ensure pest management is undertaken in an integrated, catchment-based manner (to maximise efficiency of expenditure)
- Reduce regional inequities.

We believe that it makes little ecological sense to focus on pests and weeds and ignore grazing by stock. Therefore we suggest that the fund be broad enough to enable contributions to fencing where necessary and appropriate.

Even spent wisely, as we propose, funding at the levels already budgeted is inadequate to achieve more than a token national contribution.

RECOMMENDATION

That the Government establish a new fund aimed at encouraging and supporting regional councils to coordinate and fund contributions to on-going management of natural areas and the sustainability of ecosystems.

Securing

We are under no illusion that the public seeks ever-greater assurance that New Zealand's biodiversity will be protected now and into the future. Few are prepared to accept the word of landholders or land developers when they claim to have nature's best interests at heart. Experience has shown that such scepticism can be well founded. Consequently, many people seek security against poor or unsympathetic land management or changes to economic or social conditions.

Calls for security are loudest when public resources are expended on private land. The public legitimately expects their dollars to be spent for long-term benefit and demands assurance that public funding is not undermined by unsympathetic landholder action.

For some, public purchase and management is seen as the ultimate form of security.

In so far as the values associated with high-priority habitats and ecosystems might require intensive, costly and on-going management we agree that public ownership and management is probably the best option. (That is, if the management requirements on private owners would be unreasonably high, public ownership and management may be the only fair and practical alternative).

However, we do not agree that conservation can only be undertaken by a public agency. Indeed, if that were the case our biodiversity is probably doomed. Notwithstanding the excellent contribution from the NHF and local government, we are confident that a protected area network based on private management is likely to be more cost effective and politically acceptable than an approach based on acquisition alone.⁶³

Regulation is often regarded as the only alternative form of providing security. However, we do not subscribe to that view either. There are other means of providing security and we believe they all have a role. We deal with these below.

(i) Farm plans

Farm plans have been used in New Zealand for many years. Traditionally, farm planning was aimed at achieving soil conservation outcomes. The technique has been used in most regions to identify areas unsuited to long-term farming because of soil erosion or other hazards. It has also been used to plan for soil conservation works (for example, space planting, retirement and fencing riparian management). In the past, farm plans have been used as a way to plan and allocate national funding assistance.

A soil conservation farm plan usually has the following components⁶⁴:

- A description of the physical resource
- A map of land use capability
- A list of conservation objectives for the farm
- An action plan to achieve those objectives — usually some sort of staged programme of works.

More recently, farm planning has moved beyond its soil conservation roots. Several regional councils use a farm plan approach to achieve wider environmental benefits. For example, Environment Bay of Plenty incorporates riparian protection and pest and weed management into its more traditional soil conservation farm plans to produce “environmental farm plans”. Taranaki Regional Council prepares four types of plans, including riparian farm plans, to promote good riparian management in the region’s ring plain watercourses. Assistance is available to plan holders to plant riparian margins at reduced cost.

Farm planning has also been extended in some instances to include strategies for maximising production within environmental limits of sustainable land management. Modelling techniques can be used to evaluate the financial effects of various farm management options, and thereby plan the least-cost methods of implementing ecologically desirable changes. In some cases this type of farm planning can identify win-win options where landholders are able to increase production while reducing the impact on the environment.

63 See Howard and Young. *Selecting and Costing a Representative Expansion of the NSW Protected Area Network*. CSIRO Wildlife and Ecology Working Document, Canberra, 1995.

64 Boffa Miskell. *Bio-what? Where and How?: Report on biodiversity implementation to the Ministry for the Environment*. Unpublished report to the Ministry for the Environment, Wellington, 2000.

While farm plans generally do not provide a high level of security of outcome, we see considerable value in wider application of the technique for nature conservation. Importantly, the approach provides a way to target and ration public funding.

It also provides a means to develop and articulate property-specific land (and biodiversity) management standards and best-practice options. While these, by themselves, remain unenforceable,⁶⁵ they raise awareness of public expectations and may provide a means to ease landholders into more formal (enforceable) regimes. In particular, where there is public investment in the implementation of farm plans there may be greater acceptance of specific management agreements, or even site-specific regulation.

Thus we see real value in farm plans as a means of providing a realistic transition to more sympathetic land management.

RECOMMENDATION

That the Government support the wider use of farm planning by developing best-practice guidelines and facilitating the sharing of experience.

(ii) Management agreements

A management agreement is a contract between a landholder and a third party regarding the use and management of their land.⁶⁶ Because management agreements are contracts freely entered into, they are potentially a very flexible instrument that can be tailored to the needs of individual sites and landholders.⁶⁷

Management agreements can play a key role in changing property rights. They can also provide the means to formalise management options identified and agreed through farm plans (or similar approaches).

Management agreements are already used in New Zealand and extensively elsewhere. We see two main benefits:

- By their nature they force one-to-one consultation and negotiation with landholders
- They can be individually tailored to suit the needs and particular properties and management challenges.

Australian research⁶⁸ identifies three roles for management agreements in nature conservation:

- Landholder-initiated agreements — landholders with a strong commitment to nature conservation are encouraged to voluntarily enter agreements
- Transition agreements — agreements that ease the transition to new management standards
- Unique site agreements — agreements that secure protection for high-priority ecosystems/habitats.

65 It should be noted that farm plans are increasingly being integrated with the requirements of regional plans, so elements of the plans are enforceable under the RMA.66 C Binning, M Young. *Motivating People: Using agreements to conserve remnant vegetation*. Environment Australia Biodiversity Group, Canberra, 1997.

67 J Crompton. Protecting park and natural areas without purchasing them: a review of methods adopted in the USA. *Journal of Society and Leisure* 13 (1990):

68 C Binning, M Young. *Motivating People: Using management agreements to conserve remnant vegetation*. Environment Australia Biodiversity Group, Canberra, 1997

The Committee sees significant potential for greater use of management agreements. They can be time consuming and expensive to negotiate and monitor, but the same may be true of unwelcome regulatory approaches.

If as we propose, more public funding becomes available to support landholders (in each of the three categories identified above), we would see a need to secure that investment through management agreements.

The most significant downside of management agreements is that as contracts they are enforceable only against the parties to the agreement. The durability of such agreements following a change in property ownership can therefore be a significant issue.

There are three ways to increase the durability of agreements after ownership changes. The first is to ensure that potential owners are aware of management agreements prior to purchase. (The extension of the Land Information Memorandum (LIM) system may be useful for this purpose). The second would be site-specific rules (under the RMA) that recognise negotiated management arrangements. The third is to use covenants (see over).

RECOMMENDATION

That the Government support the greater use of management agreements and encourage their use by making any additional public funding conditional upon the existence of such agreements.

(iii) Covenants

In lay terms, covenants are legal instruments that affect what people may do or may not do on their land. They are registered on the title of land and thus bind future owners. For the purpose of nature conservation they may affect land use for a fixed term or in perpetuity. Covenants are capable of providing a high level of security but, like rules, they must be monitored and if necessary enforced.⁶⁹

Covenants may be imposed through a variety of statutes⁷⁰ or at common law. They have been used for conservation in New Zealand for many years.

Both the covenantee and the covenantor must agree to the covenant. Thus a covenant as a conservation measure is voluntary (although agreement to enter a covenant may be “purchased” or leveraged using bonus development rights, financial assistance or other means). The benefit of a covenant is that it runs with the land, thus allowing agreements to survive changes in property ownership. This is particularly important when covenants are used in association with management agreements to secure public investment.

The Committee believes that greater use could be made of covenants. There appears to be no shortage of landowners prepared to covenant land voluntarily (provided they receive some assistance to comply with the terms of the covenant and they don’t incur direct costs). Covenants have a benefit over rules in that they are negotiated on a property basis and represent an agreed “deal”. We would like to reach the point whereby anyone who wishes to can voluntarily enter a covenant at no cost to them (and preferably with some assistance).

⁶⁹ Covenants may only be enforced by certain parties.

⁷⁰ These include the Conservation Act 1987, the Reserves Act 1977 and the QEII National Trust Act 1977.

One of the factors limiting cost effective covenanting is the requirement to survey areas to be covenanted. Several parties raised this issue during consultation. The costs involved in physically surveying areas are significant and greatly limit the “stretch” of the conservation dollar. Few (the Committee included) can comprehend why, in the age of satellite technology, areas to be covenanted (usually) need to be physically surveyed. We understand that the legislation explicitly enables lesser forms of description and definition (such as aerial photography). If less expensive ways of registering covenants could be introduced a great deal more could be achieved with existing budgets.

Covenants also provide an opportunity for more cost effective conservation schemes where land is purchased and resold with important natural areas protected. This idea has precedent in the Australian *revolving fund*.

We support the establishment of a similar revolving fund to be used for the public purchase of property where covenanting has no appeal to the landowner (those at the left-hand end of the bell curve in Figure 3). Appropriate covenants could be placed on the property and the property resold on the open market. New owners would know of the restrictions and responsibilities prior to purchase. The scheme would ensure that only those interested in nature conservation take on the responsibility.

RECOMMENDATION

That the Government:

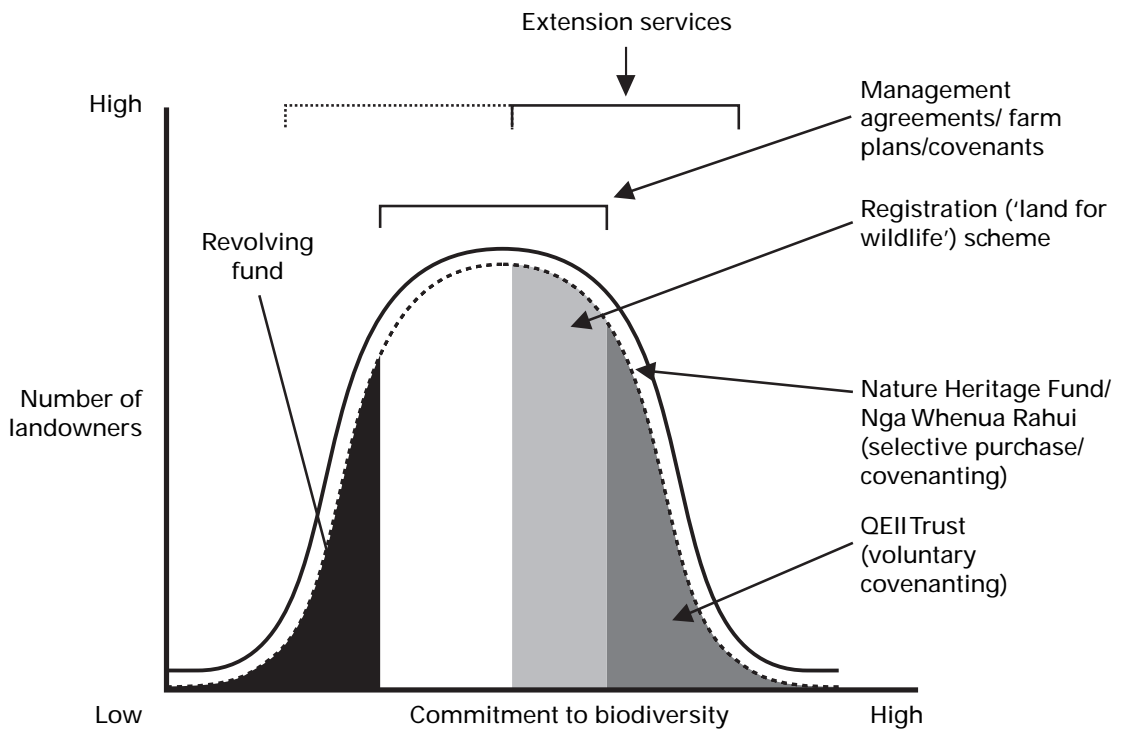
- **Support the continued use of covenants as a protection mechanism**
- **Investigate how it can reduce the costs of covenanting by reviewing the need for formal survey**
- **Consider initiating a purchase-covenant-resale scheme modelled on the Australian revolving fund.**

Summary: Encouraging, Assisting, Supporting, Securing

In summary, the national and regional/local services currently available should be expanded and where necessary supplemented by new mechanisms. These mechanisms should be developed and resourced to provide a credible alternative to regulation (in instances where councils judge regulation to be ineffective).

Importantly, the mechanisms need to span the entire commitment curve. That is, we need programmes that are applicable and effective regardless of landholders’ levels of commitment. We cannot afford to have programmes that target only those who are highly committed. Nor would it make sense to not have programmes that capitalise on the goodwill and commitment that does exist. Figure 3 below summarises how we see the various mechanisms *targeting* landowners with different levels of commitment.

Figure 3



Structure: who should be involved?

In the previous section we described *what* we believe needs to be done. We are also very conscious that we were asked to come to a view about *who* should be involved in doing those things. By 'structure' we mean both governance and service delivery.

Governance

Governance is the provision of leadership and coordination. Governance issues arise at both the national and sub-national levels.

Clearly there is more than one central government agency with an interest in biodiversity and private land. We have not seen it as within our brief to comment in detail on which government agency should assume responsibility for driving national policy in this area, or who will oversee, monitor and review policy implementation. Our only comment would be that the matter requires some clarification, and whichever agency is given the lead role should be capable of maintaining positive and effective relationships with local government.

Furthermore, as we noted earlier, we would suggest that there is a need for a national governance structure wider than just government agencies to reflect diverse interests. We refer again to a National Biodiversity Forum as one means of fulfilling that need.

On the question of sub-national governance, we have firmed in our preliminary views that regional councils should assume the primary governance role for biodiversity.

In our preliminary report we identified a number of reasons for our preference for regional council

leadership. Further policy work⁷¹ supported our reasoning, as did the majority of submissions. Some urged that the contribution of territorial authorities should not be under-estimated (or under-valued). We agree, and our proposal for regional leadership should not be construed as being critical of territorial authorities. We do, however, find the case for a regional integrated approach compelling.

Service delivery

By international standards New Zealand's system of environmental management is remarkably devolved. That is, both regulatory decision-making and service delivery is undertaken (largely) at the local level by regional and district councils.

Fisheries management and sustainable indigenous forestry and some aspects of coastal management are notable exceptions to an otherwise devolved regulatory system. Similarly, non-regulatory schemes aimed at assisting on-the-ground management/protection are delivered mostly at the local and regional levels. Exceptions are the centrally funded Nature Heritage Fund, Nga Whenua Rahui, QEII National Trust and Landcare Trust.

In essence, we support the continued devolved delivery of services (regulatory and non-regulatory). While we agree with those who say local government has traditionally not done enough for biodiversity, we suggest that it was always naive to expect that it would do so in the absence of a strong local political mandate or a clear legislative mandate.

The majority of New Zealanders still believe that central government should have — and has — a major role in nature conservation outside those public lands managed by the Department of Conservation. There is no doubt that this perception has been a major obstacle in convincing ratepayers to contribute meaningfully at local and regional levels.

It is a perception that has legitimacy when one considers the role of the Department of Conservation under the Conservation Act. However, the Department has never been funded sufficiently to pursue off-estate conservation work at a level commensurate with the challenges that exist. That legacy of under-funding has resulted in the loss of confidence (by some rural landholders) in the ability of the Department to deliver services in a credible way. It is a perception that will be difficult to change. It is also important to note that so long as the Crown's role in off-estate conservation is unclear and undefined, an excuse exists for local government to stand back.

That said, the most important conclusion we reached on this matter is that we have enough organisations and agencies already engaged in tasks closely related to the issue at hand.

Every delivery model will have advantages and disadvantages. The scope and kinds of organisations and agencies already present in New Zealand may have their shortcomings but they are certainly better than in many countries. Overall, we do not see a need for radical changes in roles or the creation of new agencies. We do see a need to expand the scope of some existing agencies.

71 Boffa Miskell. *Bio-what? Where and How?: Report on biodiversity implementation to Ministry for the Environment*. Unpublished report for the Ministry for the Environment, Wellington, 2000.

(i) Regional councils

As noted earlier, we believe that regional councils should assume a regional leadership role in nature conservation on private land. Similarly, we believe that regional councils should be a key deliverer of nature conservation “services”.

Most regional councils are already involved in nature conservation to some extent, either through their pest management responsibilities or through assistance schemes (fencing subsidies, assistance with QEII funding and the like). However, most do so with some nervousness believing that at least some of this activity stretches their existing legislative mandate. The first step required to engage regional councils more fully in nature conservation is to make their mandate much clearer than it is at present. There are three issues that require particular attention.

● *Resource Management Act 1991*

The resource management functions of regional councils are set out in section 30 of the RMA. There is no specific reference in that section to biodiversity, ecosystems, habitats or any other directly related concepts. It is arguable that a regional council must carry out its specified functions in a way that gives effect to the Act (the purpose of which includes safeguarding ecosystems), but the lack of any specific reference is, in our view, unhelpful.

Similarly unhelpful is the restrictive wording of the section, which restricts regional councils largely to preparing ‘objectives and policies’ and ‘controlling’ activities. Some regional councils argue that their mandate for doing more than just preparing plans and setting rules is not strong. They have told us that they would prefer a much clearer mandate for acting on non-regulatory methods.

We are aware that the Resource Management Amendment Bill currently being considered by select committee will consider the functions of regional councils. The Bill itself includes some references to regional council involvement in “terrestrial ecosystems of regional significance.” While we don’t support such a narrow focus, we do note that the scope of the Bill would seem to permit more detailed consideration of the issue. We recommend that this matter be addressed with some urgency.

We would favour amendments to the RMA that insert a definition of *biological diversity*; and insert a new subsection into section 30 enabling regional councils to become involved in the establishment, implementation and review of *objectives, policies and methods (including non-regulatory methods) for the maintenance of biological diversity*.

● *Biosecurity Act 1993*

As noted elsewhere in this report, the Committee understands that pests and weeds probably pose the most immediate (and potentially most widespread) threat to indigenous biodiversity. All regional councils are involved in pest management. While much (in some cases most) of that activity is directed towards agricultural objectives, there is undoubtedly some coincidental benefit for biodiversity. Pest and weed control aimed specifically at biodiversity objectives is also occurring and in many regions is a growing area of activity.

Despite this progress, regional councils observe that their obligations in respect of biosecurity are weak. They have pointed out that the Biosecurity Act:

- Does not require them to take action to protect or enhance biodiversity
- Is unclear in its purpose

- Although intended as a tool to achieve other resource management purposes, has no formal link to the RMA.

In our view, regional councils should be in no doubt as to the purpose of biosecurity or to their role in promoting that purpose, and it does not seem that regional councils have any difficulty with clarification of these matters.

While we don't propose at this time that regional pest management strategies (in respect of biodiversity) should be compulsory, we certainly don't dismiss that as an option. Indeed, we think that the matter should be reviewed in more detail than we have been able to give it. We do, however, believe that the Biosecurity Act should be amended to include a clear purpose, functions and basic obligations for agencies, including consideration of pest effects on indigenous biodiversity (where appropriate). We also propose that the Biosecurity Act be amended to make clear that councils may, where appropriate, use that Act to achieve the purposes of the RMA.

There is a related issue we should mention at this point. It relates to the need for better regional coordination between RMA and biosecurity agencies, and other stakeholders.

Pest management priority setting and implementation is an issue for many parties. Some coordination already occurs, principally through regional council development and implementation of regional pest management strategies. However, we see a need for better coordination between RMA and biosecurity agencies and other parties (including territorial authorities and other stakeholders such as private landholders and the QEII Trust) at regional and sub-regional levels. We believe that improved networking at these levels will significantly improve local understanding and coordination of pest management and nature conservation programmes.

We can see this being achieved through the regional biodiversity forums proposed elsewhere in this report.

● *Local Government Act*

One of the peculiarities of the Local Government Act 1994 is that a regional council may own only property *directly related to its functions* (section 225). However, specific provision is made in section 619 for the Auckland and Wellington Regional Councils to purchase new reserves for purposes including protecting (among other things) native vegetation. Auckland and Wellington regions are also tasked with the continued management of existing regional parks and reserves. No other regions may own or manage parks or reserves.

There are circumstances in which private ownership and management of land for conservation purposes is the most appropriate and practical outcome. If regional councils are going to have a central role in this issue they will *all* need the legislative authority to purchase and manage parks and reserves. We can think of no ecological rationale for land purchase to be available to Auckland and Wellington but unavailable to other councils.

RECOMMENDATION

That the Government clarify that regional councils may be actively involved in the maintenance of indigenous biodiversity on private land by:

- **Amending section 30 of the RMA**
- **Amending the Biosecurity Act to include:**
- **an appropriate purpose, functions and basic obligations for relevant agencies, notably regional councils, to require consideration of pest effects on indigenous biodiversity where appropriate**
-
- **Amending the Local Government Act to allow regional councils to purchase land for reserve/conservation purposes.**

(ii) Territorial (district/city) authorities

Territorial authorities currently shoulder most of the responsibility for land use effects on biodiversity under the RMA. In our view they should continue to play a significant role. Given territorial authorities' other functions (like subdivision control under the RMA and reserves management under the Reserves Act), it makes little sense for them not to have a continuing role in biodiversity matters.

Which is to say, we would not wish our proposals for regional councils to result in a decreased effort on the part of territorial authorities. Section 31 of the RMA (functions of territorial authorities) does not mention biodiversity. We are therefore concerned that any move to introduce the term in respect of regional councils, without also introducing the term in respect of territorial functions, may be misconstrued.

We appreciate that having both territorial authorities and regional councils with responsibilities for biodiversity creates an overlap and a potential for duplication. However, we think that is an unavoidable necessity. It is no different to the current situation for hazardous substances and natural hazards and we believe that any difficulties can be overcome through the councils individually collaborating to establish a practical division of labour.

RECOMMENDATION

That the Government amend section 31 of the RMA to ensure that territorial authorities retain a clear role in management of land use effects on biodiversity.

(iii) Queen Elizabeth II National Trust

The Committee completed its consultation hugely impressed by the work of the QEII Trust and by the goodwill and overwhelming support it enjoys within rural communities. In our view continued government support and encouragement of the QEII Trust will be essential to any effective response. It is also vital that the Trust retains administrative independence from government agencies.

The QEII has secured around 50,000 hectares in open space covenants since its inception in 1977. Ninety-eight percent of the sites covenanted are in lowland and coastal areas, and the majority of covenants cover small remnant forest. (The average covenant size is 38 hectares). Around one in every 50 farms has a QEII covenant. To look at it another way, more than 1300 landowners have received support from the Trust. In our experience the Trust receives close to universal acclaim from landowners for its work and its approach.

It is clear that the Trust provides much more than a covenanting service. It also works successfully to engender goodwill among landholders. This contribution to community awareness raising and capacity building tends not to be well recognised. It also successfully leverages significant funding from regional government. Without a mechanism like the Trust it is doubtful that regional government would have contributed what it has in recent years.

We have no doubt that a large measure of the Trust's success is attributable to its independent (non-government) status, its structure, and its network of part-time, community-based coordinators. We think there are probably lessons to be learnt from the Trust. While we doubt the Trust's formula is the answer to all our biodiversity woes it certainly fulfils an important role.

We therefore do not advocate any great change in role for the Trust, although the Trust has the institutional capacity to deliver significantly more than it does at present. It has the infrastructure in place and the landholders queuing for assistance and is hampered only by a lack of funds. We therefore encourage the Government to view the Trust as a credible delivery agent.

While we don't advocate any major changes, the Trust is probably ideally placed to offer a registration service in the mould of the Australian Land for Wildlife scheme mentioned earlier. The QEII Trust might, however, sit more comfortably under the Ministry for the Environment umbrella than it does under the Department of Conservation (its current funding and administrative "parent"). Our main reason for making that observation is the need to integrate the services of the QEII Trust with sustainable land management policy and practice.

RECOMMENDATION

That the Government continue to support an independent QEII Trust and resource it to a level that enables it to respond credibly to public demand.

(iv) Nature Heritage Fund

The Nature Heritage Fund has also done a remarkable job. As a fund, rather than a provider, the NHF tends to enjoy a much lower profile than the QEII Trust. It has, however, been extremely effective at securing significant tracts of high-priority indigenous vegetation at relatively low cost.⁷² We have no doubt that there remains an important on-going role for the NHF.

We have deliberately not attempted to compare the achievements of the QEII and NHF. The two operate in very different markets. As noted earlier the average QEII covenant is 38 hectares while the average NHF site is around 530 hectares. The QEII has assisted over 1300 already willing landowners. The NHF has purchased or covenanted 290⁷³ of the most ecologically important properties in the country. The QEII focuses exclusively on covenant; the NHF focuses predominantly on public purchase. They are very different schemes.

There is certainly a place for public purchase and on-going public management. While such a strategy will not, in itself, address the pervasiveness of biodiversity decline, it should continue to be an integral part of the wider policy package. The Nature Heritage Fund should therefore continue to focus on achieving the highest form of security for the high-priority sites.

72 The NHF advise that the cost is generally less than \$200 per hectare.

73 This excludes the 309 QEII covenants funded by the NHF prior to 1994.

RECOMMENDATION

That the Government continue to support the Nature Heritage Fund to provide the highest level of security for high-priority sites.

(v) *Nga Whenua Rahui*

Like the Nature Heritage Fund, Nga Whenua Rahui is playing an important role securing the protection of priority habitats and ecosystems on Maori-owned land. Maori land is host to around half of all indigenous forest that remains outside public lands.⁷⁴ The Nga Whenua Rahui fund therefore has a critical role to play. It also offers the opportunity to secure some of the larger intact forests that remain. Significantly, the average size of a Nga Whenua Rahui covenant is around 1000ha.

We do not see any need to tamper with the focus of the fund. We simply urge continuing support.

RECOMMENDATION

That the Government continue to support the Nga Whenua Rahui Fund at levels that recognise the burden on Maori owners and the significant areas of indigenous vegetation retained in Maori ownership.

(vi) *Landcare Trust*

The Landcare Trust was established in 1996 to encourage sustainable land management practices and help communities become involved in land management issues. The Trust promotes an ethic of community-based environmental stewardship and responsibility.

The establishment and on-going support of landcare groups is a core function. In the words of the Trust:

The Trust has successfully taken science inside the farm gate. Only there will information become knowledge, raising awareness of issues and changing farmer attitudes and behaviour⁷⁵.

The Trust has successfully contributed to a movement that now encompasses 250 landcare groups nationwide. The Trust cannot claim to have initiated all of these (and the groups themselves represent only a fraction of New Zealand land area). Nevertheless, for an organisation with an annual budget of just \$400,000 the Trust's achievements should not be dismissed lightly. The Committee believes that with modest increases the Trust could play a significant role in biodiversity.

The landcare model focuses on keeping the balance of power in the community, and building community capacity and ownership of environmental issues. It seeks to raise awareness, build trust, foster action and encourage participation — all the attributes essential to nature conservation.

There are clear similarities between 'traditional' sustainable land management challenges (like arresting erosion) and nature conservation. Both rely on sympathetic land management: the product of aware and committed land managers. In our view, the Landcare Trust should continue its current approach to promoting sustainable land management with the maintenance of biodiversity as a core objective.

74 Ministry for the Environment. *A National Policy for Indigenous Forests*. A discussion paper prepared for the Ministry for the Environment, Wellington 1989. It should be noted that the figures in this publication were only estimates and were based on 1974 figures from the National Forest Survey database.

75 NZ Landcare Trust. *Briefing Paper for the Minister for the Environment*. Unpublished report, Wellington, 1999. 76 Terms that imply that 'protection' is needed are often regarded as insulting to those who believe that the sites are already protected by good stewardship.

However, we think the Trust could have a greatly expanded role and additional tools to achieve its objective. The Trust would seem to have the right approach to take on the *extension service* we proposed earlier. While the extension service is (ideally) a partnership between central and regional government, we see the Landcare Trust as a vehicle through which central government could make its contribution. While the details would need further discussion, regional councils could provide administrative and logistical support with the Landcare Trust providing the personnel.

RECOMMENDATION

That the Government increase support to the Landcare Trust and consider using the Trust to provide an extension service in partnership with regional councils.

Style: getting the message across

Earlier in this report, we characterised nature conservation on private land as being largely about *people*, and the attitudes and interest they have in nature. We know that there is a solid core of interest in, and empathy for, the natural world within our communities. We also know that we need to capture the minds of those with a lesser interest.

We need to remember that the majority of people have other priorities in their lives. They own and use land to enable them to pursue their personal interests while also earning a living. It may be breeding better livestock, growing taller trees, cropping or horticulture. There are those with a passion for horses, for machinery, for dealing in livestock, tourism and land-based recreation. Land is owned for a huge variety of reasons.

Where there is valuable indigenous flora and fauna on a property owned by a person with little interest in nature, special but careful effort is required to raise awareness, interest, engagement and a commitment to sympathetic management. Communication skills become paramount and the approach must have appeal. The less natural interest a person has in biodiversity, the greater the level of people skill required to raise awareness.

We have no doubt that the *way* people are dealt with has a major influence on their response. Earlier we mentioned the need to give recognition for good deeds. That is part of what we mean by *style*, but there is much more.

Some landholders will react the same way no matter how they are treated. But we believe we could achieve much greater buy-in if we turned the approach around from accusatory to appreciative; from implying a lack of trust to offering acknowledgement and assistance.

The importance of using the right language should not be under estimated. During consultation we learnt that many commonly used terms, while apparently benign to policy analysts and planners, are threatening (or even insulting) to landholders affected. We favour the use of terminology that recognises and respects. Referring, for example, to areas of ‘outstanding land management’ would probably engender a far more positive response than some terms in common usage at present.⁷⁴

74 Terms that imply that ‘protection’ is needed are often regarded as insulting to those who believe that the sites are already protected by good stewardship.

Style is about the approach we take to communication, the language we use, the strategies we employ to influence people to influence others. It is apparent to us that the best-laid plans will be sunk if people employ the wrong style. Deficient, under-funded schemes can still do wonders if those involved have the right attitude and style.

It is easy to be polite, respectful and considerate, yet so many of us forget how fruitful a smile and a little courtesy can be.

CONCLUSION

We conclude this report by returning to our terms of reference. We were asked to develop an “*agreed set of proposals that will lead to effective and sustainable management of biodiversity outside the conservation estate*”. We were directed to focus on terrestrial biodiversity (including wetlands) inasmuch as it is affected by land-based activity.

In so far as it is possible to achieve agreement between disparate interests we believe we have fulfilled that general task.

More specifically we were asked (in summary) to:

- Define the key issues
- Define the outcomes sought
- Define the level at which these outcomes should be specified
- Define the means to be used to establish a ‘reference level’
- Identify the appropriate roles for public agencies
- Determine transitional issues
- Provide a rationale for our proposals.

We dealt at some length on the reasons why biodiversity was not easily managed by existing structures and institutions in our preliminary report. In this final report we set out the fundamental issues and choices facing central government.

We conclude that the desired biodiversity outcomes can only be adequately defined at regional and local levels. This is consistent with the general concept of devolved decision-making embodied in the RMA and reflected in the principles of Agenda 21. We have largely rejected the proposition that it is possible, at the national level, to clearly distinguish private and public responsibilities. While we find the notion of defined “reference levels” (of responsibility) for each habitat or ecosystem conceptually appealing, we don’t believe it is capable of practical application at a national scale. Doing so risks accepting public liability for action that some individuals are willing, or can be encouraged, to assume themselves. Alternatively, a coarse national prescription of reference levels may aggravate existing tensions by placing a burden on some landholders they simply cannot assume, or become so resentful at having to assume, that perverse behaviour becomes a real threat.

In short, we find that the national variability in the willingness and ability to contribute to nature conservation is such that decisions on the detail of outcomes and responsibilities should be made at regional and local levels.

That said, we do believe that it is possible to define broad policies and principles that are capable of guiding local government. It is this belief that leads us to recommend development of national guidance (and, in future, perhaps an NPS).

Our principal conclusion is that the Government should put in place the structures (including funding mechanisms) necessary to assist local (including regional) government to effectively address biodiversity issues. In doing so central government must work in *partnership* with local government. Such a partnership will see both parties contributing financially to achieve outcomes locally. Partnership also means that parties work at solutions *together*. One party should not presume superior knowledge and tell the other how things *must* be done. In our minds, a key principle of partnership is that each party should do what it can to help the other so as to achieve common objectives.

Alongside partnership, the other principle often referred to throughout the Committee's consultation process was *leadership*. Leadership has many facets. Good leaders demonstrate trust in those they lead and empower them to use initiative to achieve results. Less enlightened attempts at exercising leadership can undermine partnership.

Leadership in the policy context means standing up for what one believes to be right even when it may not yet be embraced by the majority. Leadership may be demonstrated by leading by example, and we believe that the Crown *must* do that on its own estate. Leadership may also be demonstrated by being prepared to take a public position, knowing it is not popular. Many believe this form of leadership — expressed through an NPS — to be essential. In essence we have concluded that leadership that undermines effective partnership with local government (and their communities) is something we can do without.

The issue we have examined is largely about how we encourage positive behaviour and modify negative behaviour. To do that under current governance and institutional arrangements we rely to a great degree on local government. Therefore, any attempt at a show of leadership through an NPS (or other means) must serve to build partnership, not undermine it. We also caution against regarding a strong show of leadership as a *substitute* for effective partnership. By that we mean it would be hugely counter-productive for the Government to show leadership through strong directives but remain unwilling to participate meaningfully in the practical achievement of the desired outcomes.

We are in no doubt that the maintenance of biodiversity presents a series of problems that don't lend themselves to obvious solutions. While we don't suggest that the difficulties are intractable, we do suggest that they need to be confronted through multiple, flexible approaches. Every property has its own management challenges and every landholder their particular motivations and aspirations.

It is easy to be seduced by the apparent simplicity of a bold top-down solution such as an NPS. We are however in no doubt that with or without an NPS biodiversity will continue to decline until such time as the great majority of our population — landholders included — embrace a sense of responsibility that goes beyond bottom-line compliance.

Building that sense of responsibility and encapsulating it in our cultural identity is the challenge for policy makers.

We are conscious that many who read this report do so expecting to find a national prescription for successful biodiversity management. Perhaps our most fundamental conclusion is that no such single prescription exists. We are not alone in coming to that conclusion. A review of overseas experience reveals a plethora of approaches and programmes aimed at individual (often site-specific) problems.

While New Zealand's biodiversity challenge is more pervasive than that of most other countries, we are fortunate that we have in place a system of devolved environmental management with the essential institutional and legislative building blocks necessary to tackle the problem. What is missing is a credible central government contribution (off the public estate) that encourages and supports landholder efforts, galvanises local government action and redresses regional inequities. Even the recent increases to biodiversity funding will, if spent as intended, do little to address this problem.

We conclude by recommending that the Government redouble its efforts to support local government to support landholders (and others) to hasten the transition from exploitative to sustainable land use.

APPENDIX 1: Ministerial Advisory Committee consultation meetings

March 1999 – June 2000

Pre-Bio-What? consultation (Mid 1999 – February 2000)

Rural sector:

- Northland Federated Farmers
- Nelson Federated Farmers
- National Federated Farmers
- South Island High Country farmers — Lake Coleridge
- Banks Peninsula Task Group — Little River.

Local authority politicians and staff:

- Whangarei District Council
- Far North District Council
- Rodney District Council
- Franklin District Council
- New Plymouth District Council
- Taranaki Regional Council
- LGNZ⁷⁷ Regional Affairs Committee
- LGNZ Zone 4 — Wellington/Wairarapa/Taranaki
- LGNZ Zone 3 — Hawke's Bay/Manawatu Wanganui
- LGNZ Zone 2 — Waikato/Bay of Plenty
- LGNZ Zone 5 — Canterbury/West Coast/Chatham Islands
- LGNZ Zone 6 — Otago/Southland.

Iwi

Members of the Ministerial Advisory Committee attended a series of Ministry for the Environment communications hui around the country. The hui covered a range of issues being worked on by the Ministry, including the Ministerial Advisory Committee process:

- Ngai Tahu (staff) — Christchurch
- Ministry for the Environment communications hui — Christchurch, Hamilton, Nelson, Gisborne, Rotorua, Taranaki, Whangarei, Manawatu.

Environmental non-governmental organisations:

- Nelson Fish and Game Council
- Canterbury Forest and Bird — Christchurch.

⁷⁷ Local Government New Zealand holds regular “zone” meetings of local authority councillors across the country. Each council falls into one of six zones.

Bio-What? Consultation (March 2000 – June 2000)

Rural sector meetings

Rural workshops (meetings organised for the Ministerial Advisory Committee by Agriculture New Zealand) attracted a wide audience, from farmers and foresters, to members of environmental groups, interested members of the public and local authority and Department of Conservation representatives:

- Launch of *Bio-What?* report — Hamilton
- New Zealand Federated Farmers briefing — Wellington
- Forestry sector briefing — Wellington
- Indigenous Forests Unit, MAF — Christchurch
- Landcare Trust — Christchurch
- Rural Workshop — Darfield
- Canterbury Federated Farmers — Rakaia Gorge
- Rural workshop — Wanganui
- Federated farmers/Landholders — Stratford
- Rural workshop — Napier
- Gisborne Federated Farmers — Gisborne
- Bay of Plenty Federated Farmers — Edgecumbe
- Rural workshop — Te Awamutu
- Rural workshop — Whangarei
- High Country Federated Farmers — Cromwell
- Rural workshop — Alexandra
- Rural workshop — Gore
- Rural public meeting — Taumarunui
- Rural landholders meeting — Warkworth
- Rural Landuser Liaison Group — Auckland.

Local authorities (politicians and staff) and other environmental agencies:

- Nature Heritage Fund Board — Wellington
- Christchurch City Council Biodiversity workshop — Christchurch
- Local Government meeting — Christchurch
- Environment Canterbury (Regional Council) — Christchurch
- Taranaki Territorial Authorities — Stratford
- Hawke's Bay Regional Council — Napier
- Gisborne Local Authorities — Gisborne
- Waikato Landcare Facilitators — Hamilton
- Bay of Plenty Local Authorities — Rotorua
- Northland Regional Council — Whangarei
- Far North District Council — Kaikohe
- QEII National Trust Board — Wellington
- Department of Conservation Southland — Invercargill
- Southland Regional Council — Invercargill
- Invercargill City Council — Invercargill
- Southland district councils — Invercargill
- Clutha District Council — Balclutha

- Otago Regional Council — Dunedin
- Local authorities (and public) — Dunedin
- Auckland local authorities — Auckland
- Local Government Natural Heritage Liaison Group — Auckland
- Nelson/Marlborough/Tasman local authorities — Richmond
- Manawatu Wanganui local authorities — Palmerston North.

Iwi:

- Ngai Tahu (staff) — Christchurch
- Waikato (and beyond) iwi — Hamilton
- Far north iwi — Kaikohe
- Auckland iwi — Auckland.

Environmental non-governmental organisations:

- National NGOs — Wellington
- Canterbury NGOs — Christchurch
- Canterbury NGO specialists — Christchurch
- Barry Lawrence — Queenstown
- Otago NGOs — Dunedin
- Environmental Defence Society — Auckland
- Auckland NGOs — Auckland.

Resource management practitioners, ecologists and academics:

- Academic staff and students — Lincoln University
- Resource management practitioners — Auckland
- Resource management practitioners/ecologists — Wellington
- Academic staff and students — Massey University.

General public meetings:

- Stratford
- Napier
- West Coast (mainly council representatives attended)
- Richmond
- Palmerston North.

APPENDIX 2: Towards sizing the problem: Indigenous forest outside Crown conservation lands

This appendix provides an indication of the land area with potential biodiversity values not managed by the Department of Conservation (DoC) within each regional and territorial authority. While definitive conclusions cannot be drawn, it indicates the area on which local authorities may need to focus further work in order to sustain biodiversity values. Indigenous forest is given as an example of a class of vegetation in the landscape that may need to be managed differently to protect its biodiversity values.

The following table gives a rough indication of the potential size of the biodiversity problem by comparing the area potentially requiring management for biodiversity protection with related socio-economic and regulatory factors as they occur in each district. This information does not, however, identify priorities for restoration.

The table is a snapshot of the current situation and should be treated as a rough guide rather than being used to draw firm conclusions. While every care has been taken with the data included in the table, some anomalies may be found as the information has been drawn from a variety of sources⁷⁸, which are not directly correlated. Where anomalies between figures occur these are generally small. In these cases, further work would be required to make the data directly comparable.

Categories used in the following table

Regional Council/Unitary authority

- Annual council income for 1999/2000 financial year — data source: Council 1999/2000 annual plans and where appropriate/available other council documents.
- Average weekly income for farmers (includes off-farm income) — data source: Statistics New Zealand. These figures are pre-tax (gross). Average weekly income for farmers reported by regional council.

Territorial authority

Territorial authorities are grouped under the appropriate regional council as far as possible (where regional boundaries are not equivalent to territorial authority boundaries, territorial authorities are only included once).

- Annual council income for 1999/2000 financial year — data source: Council 1999/2000 annual plans and where appropriate/available other council documents.

General information about circumstances in local authority area

- Total land area ha — data source: Local Government NZ website (checked against data supplied by DoC). This shows the total area managed by each territorial/unitary authority.

⁷⁸ Most background detail can be found in V Froude. *Parameters That May Represent and/or Influence the Extent and Condition of Biodiversity on Private Land in New Zealand*. Ministry for the Environment, Wellington, 2000.

- % of total land area in Maori title — data source: Te Puni Kokiri. This provides an indication of the potential impact of changes in biodiversity management on owners of land in Maori title, as much Maori land has not been modified from its natural state.
- Area managed by DoC ha — data source: DoC. This shows the total area of land managed by DoC for each territorial authority.
- General vegetation clearance rules — data source: territorial authority RMA District Plans. This shows territorial authorities where all landholders are currently affected by some level of regulation (generally to assess and control the effects of vegetation clearance).
- QEII covenants — data source: QEII National Trust. Reported by number and area of covenants within each territorial authority boundary. This data can be seen as one measure of the level of (historical) voluntary effort. The table does not attempt to give a full indication of legally protected areas within each territorial authority.

Total area of selected LCDB classes with potential biodiversity values, not managed by DoC ha

Data source: Land Cover Data Base⁷⁹ (LCDB) and DoC statistics, as reported in the Froude report. The total area of LCDB classes selected on the basis that they are likely to contain biodiversity values, and not managed by DoC, is reported for each territorial and regional authority. The LCDB classes aggregated in the table are: bare ground/alpine, coastal sands, coastal wetlands, indigenous forest, inland water, inland wetlands, mangrove, riparian willows, scrub and tussock.

Example: LCDB class “indigenous forest” not managed by DoC

Data source: LCDB (from Froude report and Terralink). Indigenous forest was chosen as an example as it is the LCDB class we have the most information on. Detail about the amount of LCDB class indigenous forest in private ownership, the number of private landowners potentially affected by management change and the area of indigenous forest occurring in the lowlands (under 300 metres) is compared against the total area of indigenous forest not managed by DoC. Information has not been sourced about the balance of indigenous forest, which may be owned by other entities (for example, local authorities, Crown land) and managed for a variety of purposes.

Important note

A measure of the location and extent of indigenous vegetation (LCDB class indigenous forest or other LCDB categories where indigenous vegetation may be present) does not provide a picture of the condition of biodiversity, given that particular species range over different environments. Just because an area is well represented in indigenous forest does not mean biodiversity is well represented. More analysis is required to provide a measure of the size of the biodiversity problem in terms of condition. Some of this analysis is being done under the biodiversity strand of the Ministry for the Environment’s Environmental Performance Indicators Programme. The indicator ‘percentage area of each of New Zealand’s different environments under legal protection’ will be reported by October this year on www.environment.govt.nz.

79 The Land Cover Data Base (LCDB) is a digital map of land cover derived mainly from satellite imagery. It groups land cover into 17 classes showing, for example, the extent of forests (native and exotic), urban areas, pasture, wetlands, coastal sands and riparian willows.

Table A1: Indigenous forest outside Crown conservation lands

| Regional Council/ Unitary authority ⁸⁰ | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|------------------------------|---|---------------------------------|---------------------------------|------------------------------------|-----------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Northland Regional Council Annual council income: \$9,566,000 Weekly farmer income: \$540 | Far North District | 732,000 | 83,960 | 117,000 | No | 60 covenants 2047 ha | 198,000 | 99,000 | 64,000 | 8416 | 83 |
| | Annual income: \$44,065,000 | | 11.47% | 15.98% | | | | | | | |
| | Kaipara District | 312,000 | 9,235 | 24,000 | No | 46 covenants 842 ha | 37,000 | 20,000 | 15,000 | 1927 | 77 |
| | Annual income: \$17,235,000 | | 2.96% | 7.69% | | | | | | | |
| | Whangarei District | 285,000 | 7,980 | 18,000 | No | 65 covenants 1126 ha | 60,000 | 48,000 | 36,000 | 6145 | 96 |
| | Annual income: \$52,634,000 | | 2.8% | 6.31% | | | | | | | |
| Auckland Regional Council Annual council income: \$119,766,000 Weekly farmer income: \$423 | Auckland City | 66,000 | 1,056 | 19,000 | Yes (in some parts of City) | 6 covenants 156 ha | 20,000 | 3,600 | 3,000 | 2872 | 99.9 |
| | Annual income: \$347,719,000 | | 1.6% | 28.79% | | | | | | | |
| | Manukau City | 55,000 | 490 | 587 | Yes | No covenants | 10,500 | 7,000 | 5,000 | 1425 | 90 |
| | Annual income: \$132,912,000 | | 0.89% | 1.07% | | | | | | | |

80 Notes:

- No information is available for the Chatham Islands Council
- Weekly farmer figures are pre-tax (gross)
- Figures have been rounded where appropriate

| Regional Council/ Unitary authority ⁸¹ | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|------------------------------|---|---------------------------------|---------------------------------|------------------------------------|------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Auckland Regional Council <i>cont</i> | North Shore City | 13,000 | 0 | 14 | Yes | 1 covenant 20 ha | 2,600 | 1,500 | 1,000 | 5449 | 100 |
| | Annual income: \$177,974,000 | | 0% | 0.11% | | | | | | | |
| | Papakura City | 12,000 | 0 | 54 | Yes | 4 covenants 60 ha | 1,600 | 1,000 | 800 | 446 | 100 |
| | Annual income: \$12,957,700 | | 0% | 0.45% | | | | | | | |
| Rodney District | 249,000 | 1,370 | 6,000 | Yes | 54 covenants 707 ha | 43,000 | 19,000 | 16,000 | 5204 | 99 | |
| Annual income: \$84,500,000 | | 0.55% | 2.41% | | | | | | | | |
| Waitakere City | 37,000 | 0 | 48 | Yes | 12 covenants 43 ha | 23,000 | 20,000 | 14,500 | 7994 | 84 | |
| Annual income: \$133,689,000 | | 0% | 0.13% | | | | | | | | |
| Environment Waikato | Franklin District | 219,000 | 5,015 | 3,000 | No | 52 covenants 385 ha | 41,000 | 24,000 | 18,000 | 2443 | 76 |
| Annual council income: \$38,008,000 | Annual income: \$47,765,000 | | 2.29% | 1.37% | | | | | | | |
| Weekly farmer income: \$532 | Hamilton City | 9,000 | 0 | 0 | Yes | No covenants | 520 | 224 | 143 | 1308 | 100 |
| Annual income: \$76,681,000 | Annual income: \$76,681,000 | | 0% | 0% | | | | | | | |

81 Notes:

- No information is available for the Chatham Islands Council
- Figures have been rounded where appropriate

| Regional Council/Unitary authority ⁸² | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|--------------------------------|---|---------------------------------|---------------------------------|------------------------------------|-------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Environment Waikato <i>cont</i> | Hauraki District | 119,000 | 3,189 | 24,000 | No | 7 covenants 451 ha | 14,000 | 7,000 | 6,500 | 693 | 73 |
| | Annual income: \$15,510,000 | | 2.68% | 20.17% | | | | | | | |
| | Matamata — Piako District | 175,000 | 2,695 | 20,000 | Yes | 9 covenants 253 ha | 7,000 | 6,000? | 6,500? | 553 | 46 |
| | Annual income: \$20,468,000 | | 1.54% | 11.43% | | | | | | | |
| | Otorohanga District | 206,000 | 16,068 | 35,000 | Yes | 32 covenants 1636 ha | 30,500 | 22,000? | 23,500? | 813 | 31 |
| | Annual income: \$9,375,000 | | 7.8% | 17% | | | | | | | |
| | South Waikato District | 182,000 | 3,913 | 15,000 | No | 9 covenants 60 ha | 7,500 | 4,600 | 3,000 | 312 | 25 |
| Annual income: \$15,689,000 | 2.15% | | 8.24% | | | | | | | | |
| Taupo District | 695,000 | 133,510 | 177,000 | No | 4 covenants 23 ha | 166,000 | 39,000 | 17,000 | 557 | 0.6 | |
| Annual income: \$30,918,000 | | 19.21% | 25.47% | | | | | | | | |
| Thames Coromandel District | 258,000 | 10,191 | 86,000 | Yes | 29 covenants 2275 ha | 63,000 | 33,000 | 24,000 | 2306 | 84 | |
| Annual income: \$62,134,000 | | 3.95% | 33.33% | | | | | | | | |

82 Notes:

- No information is available for the Chatham Islands Council
- Figures have been rounded where appropriate

| Regional Council/Unitary authority ⁸³ | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|------------------------------------|---|---------------------------------|---------------------------------|------------------------------------|-------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Environment Waikato <i>cont</i> | Waikato District | 319,000 | 17,003 | 23,000 | No | 37 covenants 526 ha | 40,500 | 22,000 | 13,500 | 1473 | 90 |
| | Annual income: \$25,149,000 | | 5.33% | 7.21% | | | | | | | |
| | Waipa District | 147,000 | 2058 | 5,900 | Yes | 37 covenants 247 ha | 8,500 | 6,000 | 4,000 | 1032 | 79 |
| | Annual income: \$52,648,000 | | 1.4% | 4.01% | | | | | | | |
| | Waitomo District | 355,000 | 43,239 | 56,000 | Yes | 43 covenants 2132 ha | 77,000 | 59,000 | 49,000 | 1579 | 57 |
| | Annual income: \$11,667,000 | | 12.18% | 15.77% | | | | | | | |
| Environment Bay of Plenty | Kawerau District | 2,193 | 57 | 153 | Yes | No covenants | 240 | 162 | 100 | 134 | 100 |
| | Annual council income: \$4,537,000 | | 2.6% | 6.98% | | | | | | | |
| | Opotiki District | 310,000 | 66,836 | 168,000 | Yes | 10 covenants 6709 ha | 94,000 | 74,500 | 35,000 | 644 | 40.39 |
| | Weekly farmer income: \$537 | | 21.56% | 54.19% | | | | | | | |
| | Rotorua District | 262,000 | 44,199 | 6,000 | Yes | 12 covenants 467 ha | 54,000 | 26,500 | 15,000 | 1916 | 13 |
| | Annual income: \$59,242,000 | | 16.87% | 2.29% | | | | | | | |

83 Notes:

- No information is available for the Chatham Islands Council
- Figures have been rounded where appropriate

| Regional Council/ Unitary authority ⁸⁴ | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|--------------------------------|---|-------------------------------------|---------------------------------|------------------------------------|-------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Environment Bay of Plenty <i>cont</i> | Tauranga District | 17,000 | 2013 | 379 | Yes | 3 covenants 35 ha | 4,000 | 800 | 490 | 1274 | 100 |
| | Annual income: \$81,955,000 | | 11.84% | 2.23% | | | | | | | |
| | Western Bay of Plenty District | 212,000 | 15,455 | 40,000 | Yes | 52 covenants 586 ha | 44,000 | 35,000 | 28,000 | 4238 | 57 |
| | Annual income: \$33,951,000 | | 7.29% | 18.87% | | | | | | | |
| | Whakatane District | 444,000 | 44,533 | 167,500 | No | 20 covenants 534 ha | 68,000 | 58,000 | 15,000 | 1418 | 56 |
| | Annual income: \$22,886,500 | | 10.03% | 37.72% | | | | | | | |
| Gisborne District Council | (Unitary Authority) | 836,000 | 136,602 | 84,000 | Yes | 48 covenants 1747 ha | 190,000 | 50,000 | 22,000 | 563 | 7 |
| | | | Annual council income: \$47,306,000 | 16.34% | | | | | | | |
| Weekly farmer income: \$447 | | | | | | | | | | | |
| Hawke's Bay Regional Council | Central Hawke's Bay District | 333,000 | 8,325 | 16,000 | No | 20 covenants 490 ha | 20,000 | 5,500 | 4,000 | 616 | 51 |
| | | | Annual council income: \$13,838,000 | 2.5% | | | | | | | |
| Weekly farmer income: \$447 | | | | | | | | | | | |

84 Notes:

- No information is available for the Chatham Islands Council
- Figures have been rounded where appropriate

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|---------------------------------------|---|---------------------------------|---------------------------------|------------------------------------|------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Hawke's Bay Regional Council <i>cont</i> | Hastings District | 522,000 | 53,453 | 33,000 | No | 18 covenants 680 ha | 85,000 | 36,500 | 22,000 | 683 | 4 |
| | Annual income: \$50,908,000 | | 10.24% | 6.32% | | | | | | | |
| | Napier City | 10,500 | 7.35 | 488 | No | No covenants | 719 | 6 | 1 | 6 | 100 |
| | Annual income: \$40,864,900 | | 0.07% | 4.65% | | | | | | | |
| | Wairoa District | 412,000 | 37,492 | 105,000 | Yes | 18 covenants 733 ha | 73,000 | 35,000 | 25,000 | 671 | 28 |
| | Annual income: \$10,416,000 | | 9.1% | 25.49% | | | | | | | |
| Taranaki Regional Council | New Plymouth District | 221,000 | 2,630 | 53,000 | No | 42 covenants 800 ha | 47,000 | 38,000 | 35,000 | 1062 | 85 |
| | Annual council income: \$8,018,000 | | 1.19% | 23.98% | | | | | | | |
| | South Taranaki District | 358,000 | 3,938 | 57,000 | No | 15 covenants 502 ha | 78,000 | 39,000 | 24,000 | 1149 | 68 |
| | Weekly farmer income: \$646 | | 1.1% | 15.92% | | | | | | | |
| | Stratford District | 216,000 | 7,258 | 70,000 | Yes | 7 covenants 59 ha | 48,000 | 33,000 | 20,000 | 696 | 70 |
| | Annual income: \$6,505,800 | | 3.36% | 32.41% | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|-----------------------------|---|---------------------------------|---------------------------------|------------------------------------|-------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| horizons.mw Annual council income: \$22,522,000 Weekly farmer income: \$503 | Horowhenua District | 106,000 | 5,671 | 23,000 | Yes | 6 covenants 79 ha | 11,500 | 4,000? | 5,000? | 214 | 14 |
| | Annual income: \$15,401,000 | | 5.35% | 21.7% | | | | | | | |
| | Manawatu District | 262,000 | 1,886 | 29,000 | No | 29 covenants 314 ha | 15,000 | 3,000 | 2,000 | 387 | 10 |
| | Annual income: 18,803,000 | | 0.72% | 11.07% | | | | | | | |
| | Palmerston North City | 34,000 | 17 | 156 | No | 2 covenants 9 ha | 6,000 | 1,000 | 98 | 70 | 98 |
| | Annual income: \$55,727,000 | | 0.05% | 0.45% | | | | | | | |
| | Rangitikei District | 448,000 | 51,654 | 60,000 | Yes | 11 covenants 4727 ha | 98,000 | 18,000 | 5,500 | 449 | 7.9 |
| | Annual income: \$15,493,000 | | 11.53% | 13.39% | | | | | | | |
| Ruapehu District | 673,000 | 45,428 | 193,000 | Yes | 23 covenants 667 ha | 167,000 | 74,500 | 57,000 | 2039 | 16 | |
| Annual income: \$16,313,000 | | 6.75% | 28.68% | | | | | | | | |
| Tararua District | 436,000 | 9,548 | 25,000 | Yes | 51 covenants 1164 ha | 46,000 | 6,000 | 4,000 | 582 | 42 | |
| Annual income: \$17,958,000 | | 2.19% | 5.73% | | | | | | | | |
| Wanganui District | 237,000 | 13,106 | 40,000 | Yes | 30 covenants 496 ha | 55,000 | 14,000 | 7,500 | 615 | 23 | |
| Annual income: \$37,648,000 | | 5.53% | 16.88% | | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|-----------------------------|---|---------------------------------|---------------------------------|------------------------------------|------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Wellington Regional Council Annual council income: \$104,088,000 Weekly farmer income: \$597 | Carterton District | 118,000 | 850 | 26,000 | Yes | 11 covenants 63 ha | 14,000 | 3,500 | 2,000 | 308 | 88 |
| | Annual income: \$5,091,000 | | 0.72% | 22.03% | | | | | | | |
| | Hutt City | 38,000 | 669 | 6185 | No | 3 covenants 13 ha | 23,000 | 10,000 | 12,000 | 1022 | 50 |
| | Annual income: \$77,983,000 | | 1.76% | 16.28% | | | | | | | |
| | Kapiti Coast District | 73,000 | 1,329 | 35,000 | No | 8 covenants 65 ha | 12,000 | 6,500? | 7,700? | 434 | 10 |
| | Annual income: \$28,072,000 | | 1.82% | 47.95% | | | | | | | |
| | Masterton District | 230,000 | 1,840 | 13,000 | Yes | 30 covenants 937 ha | 29,000 | 4,000 | 3,500 | 540 | 49 |
| | Annual income: \$17,640,000 | | 0.8% | 5.65% | | | | | | | |
| | Porirua City | 18,000 | 268 | 563 | Yes | 9 covenants 43 ha | 5,000 | 362 | 234 | 731 | 96 |
| | Annual income: \$35,109,000 | | 1.49% | 3.13% | | | | | | | |
| South Wairarapa District | 246,000 | 3,099.6 | 61,000 | Yes | 32 covenants 2777 ha | 57,000 | 10,000 | 7,000 | 444 | 69 | |
| Annual income: \$7,599,000 | | 1.26% | 24.8% | | | | | | | | |
| Upper Hutt City | 54,000 | 0 | 1039 | Yes | 2 covenants 22 ha | 37,000 | 25,000 | 18,000 | 529 | 4 | |
| Annual income: \$21,839,000 | | 0% | 1.92% | | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|---------------------------------|---|---------------------------------|---------------------------------|------------------------------------|-------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Wellington Regional Council <i>cont</i> | Wellington City | 29,000 | 17 | 53 | No | 5 covenants 8 ha | 12,000 | 293 | 100 | 824 | 99 |
| | Annual income: \$208,000,000 | | 0.06% | 0.18% | | | | | | | |
| Top of the Southern Unitary Authorities Weekly farmer income: \$476 | Marlborough District Council | 1,249,000 | 5,621 | 317,000 | Yes | 13 covenants 657 ha | 448,500 | 30,000? | 33,000? | 1613 | 34 |
| | Annual income: \$44,306,000 | | 0.45% | 25.38% | | | | | | | |
| | Nelson City Council | 44,000 | 1,461 | 6290 | Yes | 5 covenants 248 ha | 17,000 | 8,000 | 4,000 | 637 | 26 |
| | Annual income: \$37,586,000 | | 3.32% | 14.30% | | | | | | | |
| | Tasman District Council | 1,454,000 | 0 | 631,000 | Yes | 59 covenants 1726 ha | 111,000 | 60,000? | 73,000? | 2984 | 13 |
| | Annual income: \$33,841,000 | | 0% | 43.4% | | | | | | | |
| West Coast Regional Council Annual council income: \$5,115,000 Weekly farmer income: \$476 | Buller District | 795,000 | 0 | 650,000 | Yes | 5 covenants 94 ha | 107,500 | 71,500 | 37,000 | 1782 | 46 |
| | Annual income: \$13,391,000 | | 0% | 81.76% | | | | | | | |
| | Grey District | 352,000 | 0 | 192,000 | No | 1 covenant 82 ha | 107,000 | 81,000 | 48,000 | 2687 | 61 |
| | Annual income: \$11,742,000 | | 0% | 54.55% | | | | | | | |
| | Westland District | 1,188,000 | 1,188 | 1,054,500 | Yes | No covenants | 88,000 | 44,000 | 36,000 | 1680 | 97 |
| | Annual income: \$11,837,000 | | 0.1% | 88.76% | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|------------------------------|---|---------------------------------|---------------------------------|------------------------------------|--------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Environment Canterbury Annual council income: \$44,719,000 Weekly farmer income: \$766 | Ashburton District | 619,000 | 248 | 70,682 | Yes | 5 covenants 113 ha | 103,163 | 2,000 | 2,000 | 63 | 0 |
| | Annual income: \$16,144,000 | | 0.04% | 11.42% | | | | | | | |
| | Banks Peninsula District | 116,000 | 893 | 8,004 | No | 27 covenants 398.5 ha | 20,000 | 146 | 70 | 43 | 86 |
| | Annual income: \$10,659,000 | | 0.77% | 7% | | | | | | | |
| | Christchurch City | 45,000 | 27 | 806 | Yes | No covenants | 4,000 | 26 | 20 | 119 | 98 |
| | Annual income: \$274,499,000 | | 0.06% | 1.79% | | | | | | | |
| | Hurunui District | 866,000 | 0 | 151,000 | Yes | 21 covenants 992 ha | 416,000 | 42,000 | 9,000 | 354 | 31 |
| | Annual income: \$12,832,000 | | 0% | 17.44% | | | | | | | |
| Kaikoura District | 205,000 | 738 | 33,000 | Yes | No covenants | 142,000 | 3,000 | 2,500 | 58 | 9 | |
| Annual income: \$2,987,700 | | 0.36% | 16.10% | | | | | | | | |
| Mackenzie District | 744,000 | 0 | 127,000 | Yes | 3 covenants 15 ha | 510,500 | 2,000 | 358 | 45 | 31 | |
| Annual income: \$5,336,000 | | 0% | 17.07% | | | | | | | | |
| Selwyn District | 656,000 | 66 | 192,000 | Yes | 8 covenants 277 ha | 218,000 | 11,000 | 6,000 | 258 | 0.5 | |
| Annual income: \$19,025,000 | | 0.01% | 29.27% | | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|--|------------------------------|---|---------------------------------|---------------------------------|------------------------------------|------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Environment Canterbury Annual council income: \$44,719,000 Weekly farmer income: \$766 | Timaru District | 274,000 | 438 | 20,000 | No | 20 covenants 557 ha | 91,000 | 3,000 | 2,500 | 400 | 16 |
| | Annual income: \$50,528,000 | | 0.16% | 7.3% | | | | | | | |
| | Waimakariri District | 222,000 | 733 | 31,000 | No | 6 covenants 355 ha | 58,000 | 10,000 | 5,000 | 228 | 4 |
| | Annual income: \$22,876,300 | | 0.33% | 13.96% | | | | | | | |
| | Waimate District | 358,000 | 72 | 15,000 | No | 13 covenants 477 ha | 163,000 | 4,000 | 2,500 | 223 | 25 |
| | Annual income: \$6,343,900 | | 0.02% | 4.19% | | | | | | | |
| Waitaki District | 721,000 | 0 | 71,000 | Yes | 12 covenants 1801 ha | 292,000 | 4,000 | 1,500 | 188 | 36 | |
| Annual income: \$29,159,000 | | 0% | 9.85% | | | | | | | | |
| Otago Regional Council Annual council income: \$12,539,000 Weekly farmer income: \$804 | Central Otago District | 996,000 | 0 | 12,500 | Yes | 2 covenants 11 ha | 573,000 | 1,500 | 215 | 68 | 9 |
| | Annual income: \$15,484,000 | | 0% | 1.26% | | | | | | | |
| | Clutha District | 641,000 | 2,885 | 61,000 | Yes | 13 covenants 546 ha | 98,000 | 66,500 | 17,500 | 1713 | 77 |
| | Annual income: \$21,811,000 | | 0.45% | 9.52% | | | | | | | |
| | Dunedin City | 334,000 | 1,136 | 12,000 | No | 21 covenants 260 ha | 116,000 | 13,000 | 7,000 | 3189 | 66 |
| | Annual income: \$108,616,000 | | 0.34% | 3.59% | | | | | | | |

| Regional Council/ Unitary authority | Territorial Authority | General information about circumstances in local authority area | | | | | Total area of selected LCDB classes with potential biodiversity values, not managed by DoC (ha) | Example: LCDB class "indigenous forest" not managed by DoC | | | |
|---|-----------------------------|---|---------------------------------|---------------------------------|------------------------------------|------------------------|---|--|---|--|--|
| | | Total land area (ha) | Land area in Maori title (ha/%) | Land area managed by DoC (ha/%) | General Vegetation clearance rules | QEII covenants | | Total area of indig. forest (ha) | Area of indig. forest in private ownership (ha) | Number of titles including indig. forest | % of indig. forest in private title in lowland (under 300 m) |
| Otago Regional Council <i>cont</i> | Queenstown — Lakes District | 937,000 | 0 | 309,000 | Yes | 3 covenants 1510 ha | 572,000 | 26,000 | 7,000 | 764 | 0.6 |
| | Annual income: \$29,153,000 | | 0% | 32.98% | | | | | | | |
| Environment Southland Annual council income: \$13,006,000 Average weekly income for farmers — \$528 | Gore District | 125,000 | 25 | 968 | Yes | 1 covenant 6 ha | 7,000 | 1,000 | 2.6 | 1 | 0 |
| | Annual income: \$12,338,000 | | 0.02% | 0.77% | | | | | | | |
| | Invercargill City | 49,000 | 39 | 4522 | No | 20 covenants 91 ha | 8,000 | 629 | 0 | 0 | 0 |
| | Annual income: \$52,072,000 | | 0.08% | 9.23% | | | | | | | |
| Southland District | 3,112,000 | 28,008 | 1,807,000 | No | 59 covenants 1614 ha | 357,000 | 84,500 | 796 | 20 | 17 | |
| Annual income: \$30,008,000 | | 0.9% | 58.07% | | | | | | | | |

APPENDIX 3: Biodiversity loss — immediate and underlying causes

Immediate (proximate) causes

The OECD⁸⁵ has identified six proximate causes of biodiversity loss:⁸⁶

- Habitat destruction/modification
- Exploitation of wild species
- Introduction of exotic species
- Homogenisation of agricultural systems
- Pollution
- Global environmental change.

The most important of these proximate causes in the New Zealand context⁸⁷ are:

- Habitat destruction/modification, through the removal, fragmentation and degradation of ecosystems
- The effects of introduced pests and weeds on New Zealand's indigenous biodiversity.

Exploitation of species through human predation, while probably not as much of a threat as in the past, puts pressure on species already threatened or declining.

Below, we outline the nature and scale of the key proximate threats in New Zealand (we distinguish between habitat destruction and habitat modification).

Habitat destruction

Rural:

- Clearance for pasture and exotic forestry (now thought to be small-scale)
- Wetland drainage (still occurring)
- Fragmentation of ecosystems into 'islands' surrounded by farmland (from past clearance)
- Severance of ecological corridors and sequences (from past clearance).

Urban:

- Fragmentation of forests, wetlands and grasslands from conversion for urban uses (still extensive)
- Severance of ecological connections through vegetation clearance, loss of riparian vegetation, channelling and piping of streams and waterways (still extensive).

85 OECD. *Saving Biological Diversity: Economic incentives*. OECD, Paris, 1996.

86 See also Binning et al. *Reimbursing the Future: An evaluation of motivational, voluntary, price based, property right and regulatory incentives for the conservation of biodiversity*. Biodiversity Series Paper No.9, Department of the Environment, Sport and Territories Biodiversity Unit, 1996.

87 Ministry for the Environment. *The State of New Zealand's Environment 1997*. Ministry for the Environment/GP Publications, Wellington 1997.

Habitat modification

Rural:

- Grazing of bush and other indigenous vegetation (still extensive –national statistics on unfenced bush areas not available)
- Degradation of ecosystems through loss of species and ecological processes (still extensive)
- Impacts of vegetation clearance (indigenous and exotic) on soil erosion and sedimentation of waterways and estuaries (still occurring).

Urban:

- Impacts of human habitation adjacent to natural areas — for example, pets, litter, pollution (still extensive)
- Impacts of stormwater runoff, sewage discharge and sedimentation from vegetation clearance and earthworks on waterways, estuaries, harbours (still extensive)
- Barriers to native fish migration from channelling and piping of streams and waterways (still occurring).

Introduction of exotic species

- Fragile/vulnerable indigenous biota — faster-growing exotic plants have tended to dominate
- Major pest problems nationwide — possums, rabbits, mustelids, feral cats, pigs, deer, goats (total numbers and number on private land unknown)
- Garden escapes.

Underlying causes

As noted by the OECD:

While the identification of the proximate causes of biodiversity loss provides descriptive information on how biodiversity is lost, the formulation of policy needs to be based on a view of the economic forces that are driving these changes.

The OECD concluded that all biodiversity policies need to address the underlying causes of biodiversity loss, otherwise the pressures remain and the incentive to engage in activities that are inconsistent with conservation will not have been changed.

The underlying (economic) causes identified by the OECD (and others) are:

- Patterns of consumption and production
- Population growth and population distribution
- “Economic failure”.⁸⁸

Consumption/production

Effects on biodiversity relevant to the New Zealand economy may arise from:

- High levels of material and energy consumption — there may be a lack of incentives to lower the inputs (including biodiversity-related inputs) associated with economic activity, for example, increasing settlement of coastal areas for leisure housing, use of sport/utility vehicles

⁸⁸ “Economic failure” encompasses both market and government failure.

- Pollution and waste
- Regional development issues, for example, exploitation of biodiversity to facilitate production, such as forestry, in outlying regions.

The OECD suggests that these problems may be addressed through instruments such as the removal of perverse incentives, use of environmental taxes, education about the impacts of consumption, and ecolabelling/ certification.

Population growth/distribution

Population growth in New Zealand (for example, in the Auckland area) is putting particular pressure on some urban areas by causing changes in the pattern of land use (such as, urbanisation, roading and infrastructure).

“Economic failure”

Economic failure encompasses:

- Market failure, for example, poor incentives for farmers to respect effects of farming on native flora and fauna, arising from:
 - ill-defined, disputed or non-existent property rights
 - missing markets
 - externalities and uncaptured externalities
 - public good characteristics of conserving biodiversity
 - myopia and hence high discount rates
 - uncertainty, risk aversion and irreversibility
- Temporal failure — the benefits of biodiversity conservation accrue to future generations, leading to under investment in preservation
- Uncertainty and information failure, for example, poor information on the value of species
- Intervention or institutional failure — failure of governments to build institutional arrangements within which markets can deliver socially preferred outcomes (for example, perverse incentives)
- Government integration failure — lack of alignment between government policies
- International trade, when biodiversity costs are not fully internalised into pricing.

Some of these aspects of economic failure have already been dealt with in the New Zealand context (for example, perverse incentives causing biodiversity destruction through agricultural subsidies having been removed). However, other aspects of “economic failure” remain. For example, “uncaptured” externalities exist where a farmer may not wish to make changes to farming practice that will benefit biodiversity since the whole of society, not just the farmer, will benefit. Also “negative” externalities are frequently not internalised (for example, water pollution from agricultural production).

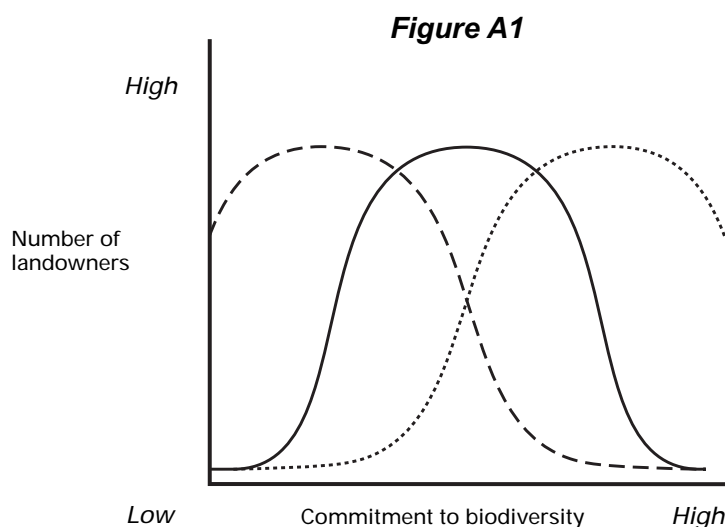
The OECD suggests that a mix of institutional change, ecological information, and incentive instruments should be used to correct economic failures. Where biodiversity loss is irreversible, incentive mechanisms may have to be underpinned by a regulatory safety net that assures an identifiable degree of protection.

APPENDIX 4: Conceptual (regulatory) risk assessment model

It seems to us that whether the potential for habitat destruction justifies regulation is a matter that can only be resolved through detailed risk assessment – assessment that requires an understanding of communities and individuals. Such assessment needs to consider each of the following three risk factors (individually and collectively): probability of an adverse event, impact, and probability of perverse consequences.

Probability of an adverse event: the likelihood that deliberate acts of destruction or modification will occur

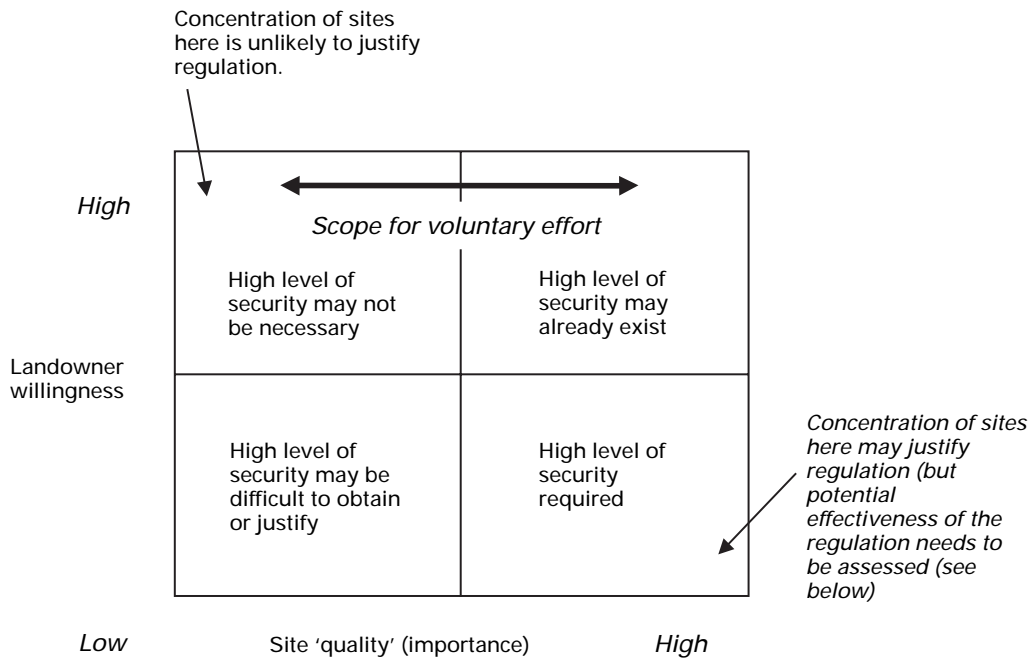
This requires (among other things) a genuine understanding of the intentions, motivations and commitment to biodiversity of the landholder community. To put it another way, one needs to understand the actual shape of the bell curve. Clearly, the *need* for a regulatory response should take into account the general level of commitment. If there were a very high level of commitment to nature conservation (as shown by the dotted line), regulation may not be necessary, although the following two risk factors would still need to be assessed. Conversely, if commitment were particularly low (as in the dashed line), regulation may be necessary, although, again, the other risk factors below would need to be assessed.



Impact: the match between ‘high-risk’ landholders and the importance of sites

In other words, one needs to understand whether most of the highest value sites are in the hands of those on the left or right-hand side of the bell curve. An alternative way to think about this is set out in figure A2 below. It is important for regulators to determine whether landholders concentrate in any of the four quadrants, and if so, which one.

Figure A2

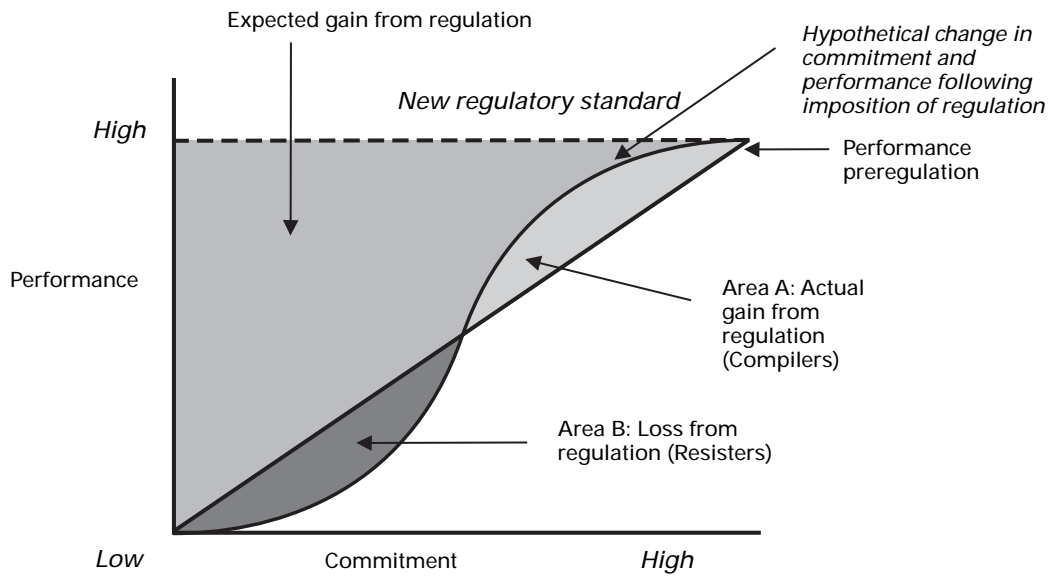


Probability of perverse consequences: the potential reaction to regulation and, in particular, the potential for perverse outcomes (accelerated loss) arising from adverse reaction from landholders

One needs to know the degree to which regulation will shift the bell curve to the left (that is, the relationship between regulation and performance). An alternative way of thinking about this is set out below. Where enforcement of regulation is difficult (as with biodiversity and private land), regulation carries a significant risk. Figure A3 shows the imposition of a regulatory standard aimed at improving the ‘performance’ of all landholders to match the current best performers. What needs to be appreciated is the affect regulation has on actual performers. Clearly there is a relationship between commitment of landholders and performance (shown as the solid diagonal line). However the relationship will change depending on reaction to regulation. Diagram A3 illustrates one possible reaction where some (committed) landholders raise their performance but others react adversely and, notwithstanding the regulation, their performance drops. In out view regulation is only worth the risk if regulators can be confident that the improvement (area A) exceeds the loss (area B).

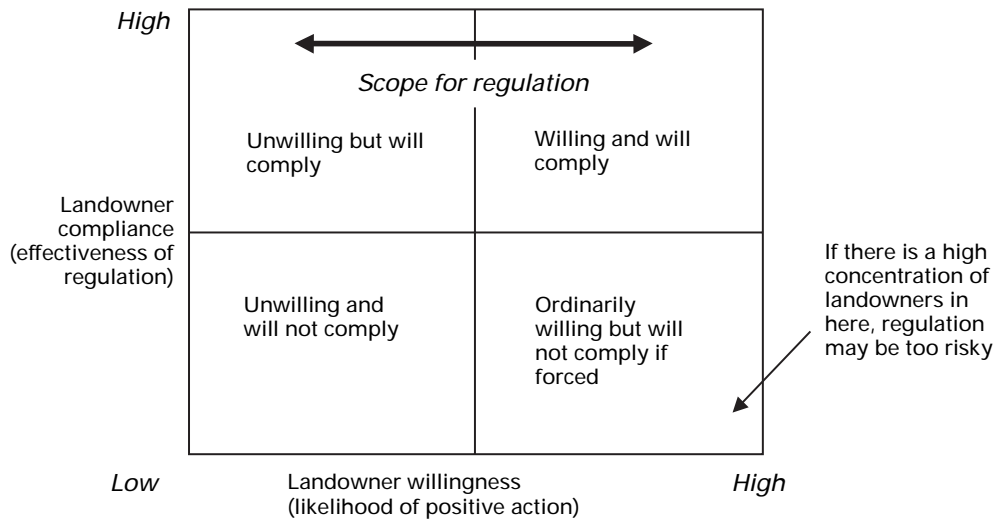
In other words, the model shows that given a finite capacity to monitor and enforce there is a point at which regulation may be counter-productive (when the resisters exceed the compliers).

Figure A3



To define the point at which regulation may be counter-productive regulators need to be able to plot their communities within the matrix shown as figure 4.

Figure A4



APPENDIX 5: Analysis of NPS benefit

Table A2: Social and Institutional factors

| Issue | Current effect on biodiversity | Likely Ability of NPS to influence outcome/ issue |
|---|---|---|
| Variable landholder commitment/ motivation | Very high | Low: a high-level policy document is unlikely to inspire landholders. |
| Variable priority to biodiversity expenditure/ services by local government | Very high | Low to moderate (though probably highly variable): a well-engaged local government sector depends on the <i>attitude</i> (and resources) of politicians, staff and constituencies. This is unlikely to be unduly influenced by national policy. |
| Low capacity in local government | Very high | Nil to low (although an NPS could be used to argue for greater resources in annual planning processes). |
| Inconsistent approaches by local authorities | Difficult to quantify | Moderate: an NPS can only provide <i>policy</i> (not rules or other methods of implementing policy). While an NPS would provide a consistent policy context, variability of response at district and regional levels would almost certainly remain. The requirement for each council to do its own section 32 analysis would remain. |
| Lack of clear national direction/ leadership on biodiversity conservation | Difficult to quantify (much conservation work is carried out by people who are, and will remain, oblivious to national policy). | High: an NPS is by definition a government statement that reveals a commitment (at least in principle) to the issue. |
| Conflict between parties over scope and application or rules in district plans | Moderate | Moderate to low: an NPS will be subject to interpretation in the Environment Court. |
| Lack of recognition of international obligations (Convention on Biological Diversity) | Difficult to quantify | High |

Table A3: RMA process factors

| Issue | Current effect on biodiversity | Likely Ability of NPS to influence outcome/ issue |
|---|--|--|
| Inadequate/inconsistent processes for landholder consultation | High: poor consultation has led to lack of support for rules designed to protect biodiversity. | Nil to low: some guidance may be possible, but whether or not councils consult is a discretion provided by the First Schedule (RMA) and cannot be overridden by an NPS. |
| Inconsistent processes/methods for information gathering | High: poor-quality information has resulted in lack of support for rules. | Moderate: however, quality of information gathered would remain dependent on the resources and expertise available to councils. |
| Inadequate protocols for use of information and who is able to access it | Moderate: information collected for other purposes (e.g. PNAP) has been used without landholder consultation, resulting in lack of support for council access to property to assess sites. | Nil to low: an NPS can only bind those exercising functions under the RMA (the PNAP is not a function under the RMA). An NPS cannot <i>require</i> consultation where discretion is provided in the First Schedule. |
| Absence of clear national goal and priorities | Moderate: lack of clear focus can be used as an excuse for inaction (or lead to poor allocation of resources/effort). | Moderate to high: this could ensure that important but politically unattractive sites/ ecosystems (e.g. wetlands) receive appropriate recognition (although the level of action will depend on individual section 32 analysis). Note: a national goal has already been provided by the NZBS. This may be taken into account under the RMA: see section 104 (1) (i). |
| Unclear requirements/ entitlements for compensation | Moderate: this may serve to deter some councils from taking action. | Nil: an NPS cannot be used to “interpret” statute – this is the role of the Courts. |
| Effects on biodiversity not always assessed by suitably qualified personnel | Moderate: there is anecdotal evidence that many applications never receive appropriate ecological scrutiny. | Moderate: an NPS could encourage proper assessment but enforcement would be difficult. |
| Variable monitoring and policy review | Possibly high: little monitoring is currently carried out. The effect of existing policies is not known. | Moderate: an NPS could encourage regular monitoring, although could not expand requirements outside the scope of section 35 of the RMA (which <i>already</i> requires councils to monitor). |

Table A4: Ecological factors

| Issue | Current effect on biodiversity | Likely Ability of NPS to influence outcome/ issue |
|---|---|--|
| Land clearance for pasture | Low: (little land clearance is thought to be occurring due to farming economics. Currently the pastoral farming sector provides a net gain in vegetation cover due to land reversion. | <p>Moderate: an NPS could include <i>policies</i> (but not rules) that discourage land clearance. But how councils choose to give effect to a policy would remain a matter of local (council) discretion. Section 32 requiring an assessment of necessity and costs and benefit would continue to apply.</p> <p>An NPS could promote adoption of non-regulatory methods (e.g. education). Similarly, those making decisions on any resource consents need only “have regard to” an NPS. Hence, the actual effect of a policy is uncertain. An NPS would, however, provide further argument for those who choose to press for rules (or other methods) and submit on consents.</p> <p>Moderate: as above.</p> |
| Land clearance for forestry | Low/moderate: some isolated incidents have been recorded. However, current land economics make extensive clearance unlikely. Some tussocklands and scrublands are thought to be under threat. | |
| Clearance/ecosystem disruption/ fragmentation associated with urban and peri-urban growth | High impact where it occurs (but mainly confined to high growth areas). | Moderate: as above. This may, in addition, provide weight to arguments of councils to push for appropriate controls/limits on designations or requiring authorities (for activities like road construction, and other infrastructure development). |
| Drainage and infilling of wetlands | Low extent (although moderate relative to what remains) high impact where it occurs. | Moderate to high: constraints discussed above apply, but as the requirement for a consent is more likely (section 14 RMA) councils would at least have to “have regard to any policy”. |

| Issue | Current effect on biodiversity | Likely Ability of NPS to influence outcome/ issue |
|---|--------------------------------|---|
| Modification through grazing | Extensive | Extensive Nil to low: existing use rights likely to apply (section 10 RMA). Possibility of enforcement action if scale or extent of effect changes but likely to be difficult to enforce. |
| Riparian management (effects of stock and lack of stream side vegetation, land disturbance) | Extensive | Nil to low: as above. Also NPS could not require positive action (like planting) except as a financial contribution in respect of a resource consent. |
| Pest and weed damage | Extensive | Nil to low: as above. |
| Coastal margin management (stock grazing, land disturbance/ estuary siltation) | High in some instances | Unlikely to have significantly greater effect than provisions of the existing NZCPS. |
| Unsympathetic management of non-indigenous vegetation providing habitat for indigenous species. | High in some areas | Difficult to predict but probably low. Individuals' land management <i>practices</i> difficult to influence by policy/ regulation. Some influence is possible by imposing conditions on consents but broader influence is probably restricted by existing use rights. |

APPENDIX 6: Scope of a National Policy Statement

Should the Government decide to proceed with an NPS we would suggest the focus be placed on the following four matters.

Policy Area 1: National significance of biodiversity

A statement to the effect that the decline of indigenous biodiversity and New Zealand's obligations under the Convention of Biological Diversity are matters of national significance.

Policy Area 2: National, regional and local goals

A statement to the effect that it is nationally significant to:

- Promote the national goal (as articulated in the National Biodiversity Strategy and reiterated in the National Policy Statement itself)
- Establish regional and district objectives consistent with the national goal.

(Ideally any NPS should set out in some detail the nationally scarce habitats).

Policy Area 3: Importance of taking action in pursuit of goals

A statement to the effect that it is a matter of national significance that all those exercising functions under the RMA take whatever measures are appropriate to pursue national, regional and local goals.

This policy should not foreclose the adoption of a range of methods (including both regulatory and non-regulatory methods), and should recognise the need to address cumulative effects.

Policy Area 4: Importance of monitoring

A statement emphasising the importance of consistent monitoring and data collection focusing on the:

- pressures on biodiversity (land use change, clearing, burning, animal and plant pests, etc.)
- state (extent and condition) of biodiversity
- responses (the implementation of the methods adopted).

APPENDIX 7: Matters to be addressed through non-statutory guidance

Guideline Area 1: Process to define biodiversity objectives at regional/local levels

1.1 Identification of regional/local biodiversity goals: These goals should be consistent with the national biodiversity goals of the New Zealand Biodiversity Strategy (NZBS) and the responsibilities for sustainable land and water management from the Resource Management Act 1991. Taking the lead from the NZBS, these goals should include matters that address:

- Community and individual action, responsibility and benefits (see NZBS Goal one):
Enhance community and individual understanding about biodiversity, and inform, motivate and support widespread and coordinated community action to conserve and sustainably use biodiversity; and enable communities and individuals to equitably share responsibility for, and benefits from, conserving and sustainably using New Zealand's biodiversity, including the benefits from the use of indigenous genetic resources.
- The Treaty of Waitangi (see NZBS Goal two):
Actively protect iwi and hapu interests in indigenous biodiversity, and build and strengthen partnerships between government agencies and iwi and hapu in conserving and sustainably using indigenous biodiversity.
- The need to halt the decline in New Zealand's indigenous biodiversity (see NZBS Goal three):
Maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, enhance critically scarce habitats, and sustain the more modified ecosystems in production and urban environments; and do what else is necessary to maintain and restore viable populations of all indigenous species and subspecies across their natural range and maintain their genetic diversity.

1.2 Development of specific regional/local biodiversity priorities: Regional/local priorities between actions for biodiversity protection are seen to sit within the broader goals discussed above, and would recognise local biophysical characteristics and threats. Priority setting would include consideration of conservation status and quality, a threats assessment, and recognise nationally, regionally and locally scarce indigenous ecosystems and habitats.

Examples of nationally scarce ecosystems include: lowland wetlands and peat bogs; indigenous vegetation and habitats on riverine plains; dunelands; coastal forest, scrub and herbfields; lowland tussock grasslands; and eastern South Island braided river ecosystems.

1.3 Relating biodiversity protection goals to other resource management priorities: Development of goals for indigenous biodiversity management recognising matters of significance to tangata whenua and the relationship between biodiversity management and the protection of natural character, intrinsic values, and amenity values.

1.4 Identifying management approaches: Development of goals addressing the importance of certain approaches to management, including integrated management and the avoidance of cumulative effects.

Guideline Area 2: Define priorities for inventory and assessment

- 2.1 Development of regional/local ecological inventory and assessment, as an important precursor to defining biodiversity priorities, and consistent with appropriate methods and existing resource information.
- 2.2 Development of appropriate guidelines for establishing significance consistent with the requirements of Section 6(c) of the Resource Management Act 1991.
- 2.3 Development of threats assessment techniques to enable local/regional priority setting and method selection.
- 2.4 Development of regional / local standards to monitor implementation.

Guideline Area 3: Consultation with landholders and other parties

- 3.1 Development of stakeholder (especially landholder) consultation and collaboration methods and standards, including recognition that local/regional biodiversity goals, inventory and other methods must be developed in close consultation with landholders and other stakeholders.

Guideline Area 4: Methods for biodiversity protection and management

- 4.1 Identification of best management options to achieve better biodiversity management consistent with statutory requirements. This work should consider the full-range of tools available, including:
 - a. recognition of biodiversity protection in the objectives and policies of statutory documents (regional policy statements, regional and district plans), consistent with the national goals
 - b. partnership building with landholders and other groups (participation in regional/local biodiversity working party or forums)
 - c. education & information (landcare groups, field days, advisory services, data bases, reports)
 - d. incentives (regional/local trusts; rates relief; & fencing assistance)
 - e. regulatory tools (permitted activity standards, regional & district rules)
 - f. management agreements (formalising outcomes sought in direct negotiation with landholders, clear outcomes sought, with rewards for good performance)
 - g. mitigation guidelines (e.g., activity specific guidelines for best practice)
 - h. further survey, information and monitoring
 - i. links to other statutory methods and processes (including biosecurity and reserve management, and implementation funding decisions through local government annual planning).

Guideline Area 5: Rules and resource consent processes

- 5.1 Identification of options to address biodiversity effects through regional/district rules, including activity standards and resource consent assessment criteria. This area of guideline development could also address links with other legislation, for example, the sustainable indigenous forest management plan and permit requirements of Part IIIA of the Forests Act 1949.
- 5.2 Development of guidelines for the preparation of assessments of environmental effects (AEEs) to ensure appropriate recognition of biodiversity effects.

Guideline Area 6: Financial contributions

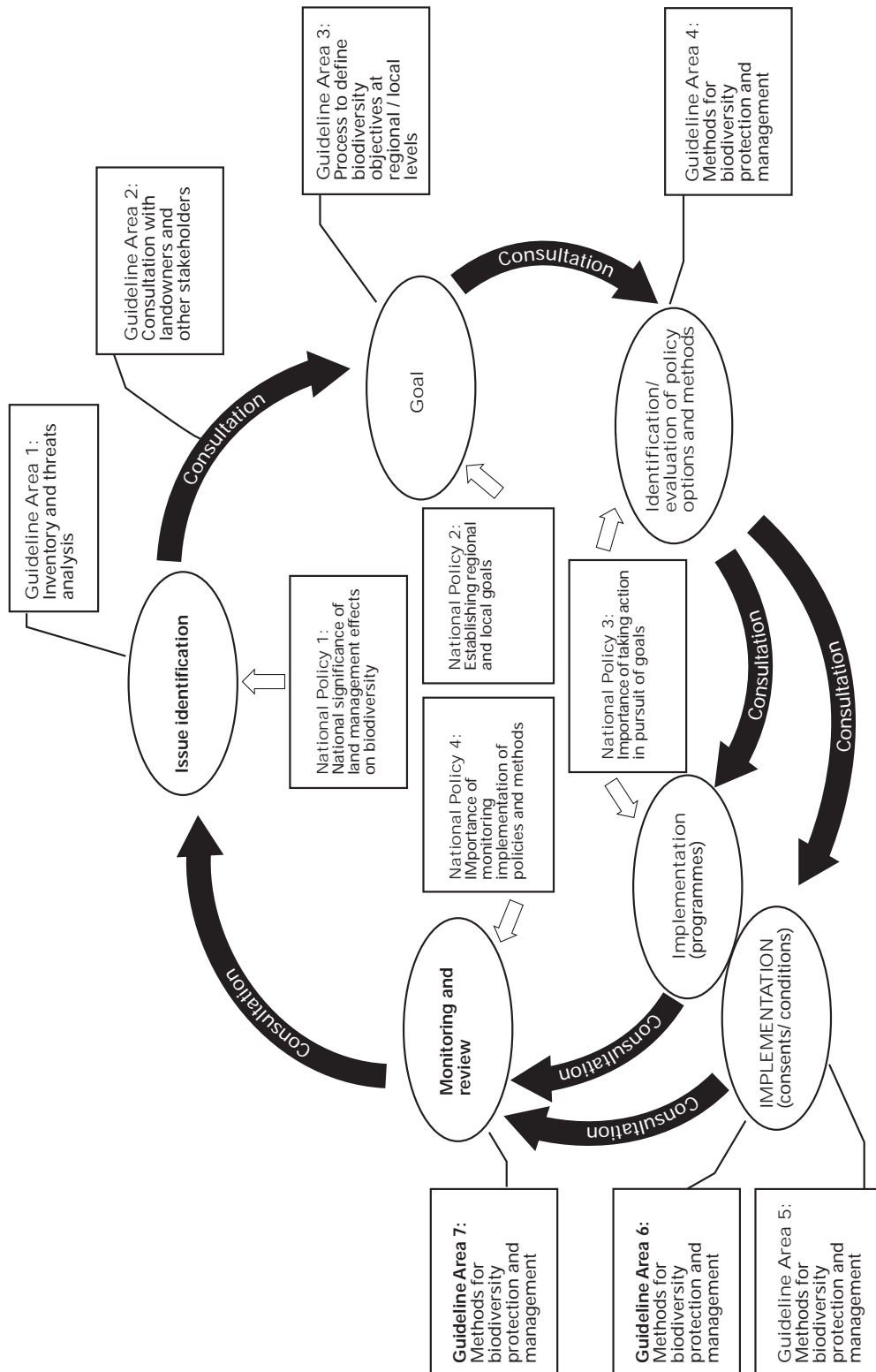
- 6.1 Identification of options to use the financial contribution provisions of the Resource Management Act 1991 to address biodiversity effects and provide positive biodiversity offsets.

Guideline Area 7: Monitoring

- 7.1 Identification of appropriate options to review policies and monitor effectiveness of regional/local initiatives, with appropriate support nationally and consistent with accepted monitoring methodologies.

Further note: It is recommended that all guidelines be supplemented by suitable good practice examples (either New Zealand or, where appropriate, from overseas).

APPENDIX 8: The Policy Development Cycle: Scope of Policy and Guidelines



APPENDIX 9: Information issues

How much information is enough?

- How much do national and local communities need to know about the size of the problem before choosing the best actions?
- How do we get the right balance between being informed enough to identify the right priorities for management and having funds left to do the management?

What is the goal?

- Do we survey for just the best bits, or should it be more comprehensive?
- Are councils considering wider ecosystem sustainability issues in fulfilment of their RMA responsibilities?

Standards for information collection

- Should information management be driven nationally or locally?
- Landholders must be consulted about the gathering and use of information describing values on their properties.

Costs of collecting information

- It can be difficult to obtain biodiversity details at no or minimal cost.
- Ordinary people are concerned about the potentially large cost of expensive information systems, particularly when it is hard for them to see the results.

Consider existing efforts and methods

- Acknowledge the existing effort by local government — some councils are doing a lot, especially in the areas of ecological survey (e.g. Protected Natural Areas Programme (PNAP) by Auckland Regional Council) and information management (e.g. GIS techniques).
- A lot of resources and effort have already been progressed locally and regionally: will the Committee's proposals mean this work is wasted?
- A lot has been done to develop and fine-tune national information systems including environmental domains system and the PNAP.
- The Ministry for the Environment has made significant progress in developing biodiversity indicators through the Environmental Performance Indicators Programme: how does this fit in?

APPENDIX 10: Forests Act/Resource Management Act interface

In our preliminary report we described the Forests Act-RMA interface issue generally, and made a commitment to investigate the exact nature and scale of the problem further the consultation phase. The matter emerged at just a few of our consultation meetings, and only a further 35 written submissions commented on the relevant options presented in our preliminary report.

Taking into account the feedback on our proposals, we have identified four issues that need to be considered:

- Comparison of Forests Act and RMA requirements for biodiversity
- The significance of the issue, including the numbers of landholders affected, the cost to them of participating in two processes, and the area of indigenous forest affected
- The approaches taken by local authority RMA plans to address sustainable forest management effects
- The future demand for Forests Act permissions.

Each of these matters is addressed in the discussion that follows. Before starting on this discussion, we believe it is important to clarify the different ways in which the Forests Act and RMA actually work, and their relationship with each other. Unlike the *direct* controls available under the RMA (e.g. regional and district rules), the Forests Act relies on *indirect* sawmill and export controls to control indigenous forest harvesting and export. (As such, the Act does not apply to harvesting not involving sawmills; for example, many firewood operations.) The Ministry of Agriculture and Forestry (MAF) is the consent authority for Forests Act plans and permits, whereas under the RMA local government principally makes resource consent decisions.

In comparing the Forests Act and RMA requirements for biodiversity, we note that both Acts require assessment and consideration of the effects of activities on ecological values. A major difference appears in the breadth of matters to be considered. The RMA enables consideration of other issues, including the effects on ecosystems, natural character, significant landscapes, and amenity. In contrast the Forests Act focuses largely on “on-site” matters, requiring the sustainability of a particular forest for the production of timber, “*while retaining the forest’s natural values*”.

While some people expressed concern to us about the ability of the Forests Act to address biodiversity effects, we suspect that some of these issues may stem from the application of the Act, rather than its content. At the crux of this issue are the forest management limitations and practices necessary to achieve the retention of natural values required by the Act. Practice to date indicates that inventories of other values, for example wildlife, rare plants, or outstanding natural features, have generally not been accepted practice in the preparation and design of sustainable forest management plans and permits.

We are advised that MAF is looking at options to improve Forests Act processes and practice in this area, and is currently developing guidelines to assist interpretation and implementation of Forests Act sustainable management prescriptions. This work is being done in consultation with DoC (a required consultee in MAF’s consideration of sustainable management plans and permits).

How important is the issue?

In considering the significance of the issue, we note that from the enactment of Part IIIA in 1993 to 30 June 2000, MAF had approved:

- 19 sustainable management plans covering 23,300 hectares with an annual timber volume of 51,200 cubic metres
- 232 sustainable management permits, covering a total of 29,600 hectares with a 10-year volume of 65,700 cubic metres.

Nearly 500 personal-use permits have also been approved in the same period.

Approaches taken by local authority resource management plans

The Forests Act clearly states that its provisions do not derogate from the requirements of the RMA. We interpret this provision to mean that both Acts therefore apply to sustainable forest harvesting operations.

Our study indicates that some, but not all, district plans require Forests Act approval holders to also obtain an RMA consent for their operations. For those councils that do require a resource consent, we observe a considerable range in the approaches taken. We attribute this variation to a number of factors, including local government uncertainty about the relationship between the Forests Act and the RMA, and the different philosophies to plan preparation. There are also some areas where sustainable forest harvesting has not been a major issue, for example in districts where very few areas of merchantable indigenous timber remain.

Differences in district plan practice range from general indigenous vegetation clearance rules requiring consent through to no controls on indigenous forest clearance (e.g. proposed New Plymouth District Plan). Some other districts require an RMA consent for Forests Act harvesting within identified significant natural areas. Elsewhere councils provide an RMA general clearance rule but expressly permit Forests Act approved activities. In some places regional soil disturbance rules also apply. Some councils have also adopted the practice of waiving RMA processing costs for consents affecting significant natural areas.

Where an RMA consent is currently required, we heard through our consultation that in the majority of cases the local authority will grant the application subject to the conditions already specified in Forests Act permit. We query whether this practice is fully addressing the sustainable management requirements of the RMA.

MAF and DoC have a protocol formalising their agreed position on the Forests Act-RMA relationship. This protocol advocates improved inter-agency communication about their input into RMA plan processes. MAF and DOC have agreed that they will seek rules in plans that require an RMA consent for sustainable harvesting activities undertaken in accordance with the Forests Act. Where a plan identifies significant sites under section 6 of the RMA, then the protocol proposes a higher test for activities within those sites, and a permitted activity status for Forests Act activities outside those sites. We understand that this protocol has been applied with varying degrees of success throughout the country, but of course has not removed councils' discretion to propose different approaches.

Future demand for FA permissions

During our consultation we heard that the Government's decisions on the allocation of the Crown's West Coast indigenous production forests could significantly affect how many Forests Act applications are lodged in the future. Some commentators observe that processors may turn to privately owned sources of timber, especially podocarps, once the Crown's sustainable logging operations in South Westland are brought to an end. While this appears quite possible, we do not have the information to predict the actual extent of growth in this area, and the potential threats to biodiversity that could result from additional harvesting activity.

We note that increasing pressure on privately owned forests could increase the profile of the interface issue, as well as increase the need to improve the functioning of the Forests Act standards. MAF's indigenous forests team is based in Christchurch, and there may be an issue in the resources available to effectively monitor and enforce the Act throughout the rest of the country (particularly when compared with local government).

We have observed that current practice has varied outcomes for biodiversity as well as landholders. In some cases, landholders have to get both a Forests Act and an RMA consent for their sustainable harvesting operations, creating further cost and potential delays. In assessing the scale of the issue, we note the relatively low numbers of Forests Act approvals involved but the comparatively large total area of indigenous forest affected.

A number of people question the need for additional provisions for the sustainable management of indigenous forests, given the potential for the effects of sustainable harvesting to be addressed more comprehensively under the RMA. This is a view with which we have some sympathy.

We acknowledge that a lot of forest sustainability expertise has been built up within MAF. This is important, and this body of skill may be at risk of dissipation if Part IIIA of the Forests Act is removed and all indigenous forest harvesting decisions placed under the RMA. Opening Forests Act approval processes up to RMA-style public submissions is also likely to significantly affect the climate for indigenous forest harvesting.

However, we are not attracted to the option of placing all indigenous forest management decisions under the Forests Act. We do not think MAF's Indigenous Forest Unit has the expertise needed to fulfil this wider role, including the process for public involvement. This option would hinder the achievement of integrated management.

In the immediate term, we prefer an approach that:

- Removes any uncertainty about the relationship between the RMA and the Forests Act, clarifying that the sustainability requirements of the Forests Act are not the same as those under the RMA and that the RMA does apply to Forests Act approvals
- Provides clearer guidance on the biodiversity requirements of the Forests Act
- Improves the present function and relationship between the two Acts.

The two processes would work more effectively with clear guidance to local government and Forests Act plan/permit applicants on the different scope and requirements of the Forests Act and RMA provisions, and the roles of MAF, DoC and local government in these processes.

We recommend that such guidance be prepared by central government.

In the longer term, there is a strong case for a more specialist review of Part IIIA of the Forests Act. We still remain to be convinced of the need for separate indigenous forest legislation, but consider a full review of the present arrangements outside our terms of reference.

It has been suggested that a national policy statement under the RMA could be used to clarify the relationship between the RMA and Forests Act. At this point, however, we consider that sufficient direction can be delivered through non-statutory guidance.

Alternatively, the Government could use an NPS to state, among other things, that the standards involved in the Forests Act are a minimum for all indigenous forest lands. If this were the case, we anticipate these standards being adopted nationally, and in the longer term removing the need for the very specific provisions contained within Part IIA of the Forests Act. At this time, however, this course of action is not recommended for the reasons outlined elsewhere in this report.