



He Kura Koiora i hokia

A discussion document on a proposed National Policy
Statement for Indigenous Biodiversity

He Kura Koiora i hokia – The nurturing of our treasured species

Te Koiora is life and life-force – it represents the vitality, integrity and intricacy of life. It encapsulates the notion that biological function is essential, and the life-sustaining whakapapa of individual organisms and ecosystem integrity are vital. It reflects the interconnectedness and interdependence of people and nature. Our indigenous species are treasures (**Kura**) to us, and the word **hokia** means to holdfast, to keep and protect. But **hokia** also means to go back, to re-track and rethink the historical presence and biological abundance that was and is still there. It is a constant reminder of our responsibilities to our indigenous biodiversity and its role in the environment.

Title and translation provided by Puke Timoti, Ngāi Tahu

Disclaimer

The opinions and options contained in this document are for consultation purposes only and do not reflect final Government policy. Please seek specific legal advice from a qualified professional person before undertaking any action based on the contents of this publication. The contents of this discussion document must not be construed as legal advice.

Acknowledgements

We would like to thank the Biodiversity Collaborative Group individual members and organisations for the time and effort they invested into developing a draft National Policy Statement for Indigenous Biodiversity (NPSIB), recommendations for complementary measures and explanatory report.

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Message from the Associate Minister for the Environment

Ko Ranginui e tu iho nei, ko Papatūānuku e takoto nei.
Tihei mauri ora.

Tēnā tātou katoa



In Aotearoa New Zealand, we have a special relationship with te taiao. Whether tramping or camping, mountain biking, accessing areas for mahinga kai purposes, or gathering rongoa, nature inspires us. Māori have always acknowledged their special connection with land through whakapapa, to and with its environs and ecosystem. That's why the role of kaitiaki, guardians for Te Tini a Tāne (fauna) and Te Wāo Nui a Tāne (flora) continues to be a core objective for whānau and hapū around the country. As New Zealanders, what we do to protect our important biodiversity is part of healthy ecosystems contributing to our way of life.

We are facing a crisis and we must not take our indigenous biodiversity for granted. The native plants and animals of Aotearoa New Zealand are in serious decline. Nearly half of all our bird species have disappeared since our ancestors landed here. The large numbers of people already involved in mahi to protect and restore our taonga is amazing. Over the past few decades, several councils have worked hard to manage and restore biodiversity. There have been extensive efforts by iwi/Māori, landowners and community groups to tackle the biodiversity crisis. At the same time, scientists tell us this is not enough to maintain biodiversity. We need clear, strong direction at the national level. Some native plants and animals will disappear altogether if we do not work together to increase our national efforts to halt the decline, and start to restore what has been lost.

In August, Minister Sage launched a discussion document *Te Koiroa o Te Koiroa – Our shared vision for living with nature*, for all New Zealanders to help shape our biodiversity strategy for the next 20 years. The strategy will need a range of tools to help New Zealand reach its goals for biodiversity and one of these tools is the proposed National Policy Statement for Indigenous Biodiversity (NPSIB).

The proposed NPSIB is consistent with the purpose of the Resource Management Act 1991 (RMA), which is to promote the sustainable management of natural and physical resources. It recognises the national importance of biodiversity and gives more direction to section 6(c) of the RMA. This section requires recognition and provision for the protection of areas of significant indigenous vegetation, and significant habitats of indigenous fauna.

The proposed NPSIB requires councils to identify areas where there is significant vegetation and habitats of indigenous fauna, and to manage their protection through plans and consent processes under the RMA. In some areas, this is already happening with great results. For example, in Auckland alone there are over 3000 of these areas identified and protected in the Unitary Plan. Surveys identifying Significant Natural Areas (SNAs) have also been done throughout much of the Waikato region. In Tasman and Marlborough districts, territorial authorities are working closely with landowners to identify SNAs on private land. The Far North, Kaipara and Whangarei District Councils are being efficient by jointly mapping SNAs in

their districts. Overall, close to half the territorial authorities have either identified SNAs or are planning to undertake surveys.

The proposed NPSIB also places importance on people and partnerships, and on the protection, restoration and enhancement of indigenous biodiversity. These are values shown in action in Te Matau-a-Māui/Hawke's Bay. There, local hapū, iwi, landowners and regional communities, as well as the Department of Conservation and Hawke's Bay Regional Council, are working together to restore native species across 26,000 hectares of mainly primary productive farmland in the "Cape to City" ecological restoration project.

I have heard directly from council planners there is a need for technical and financial support for councils, landowners and iwi/Māori to support the proposed NPSIB. We are interested in your views on the different proposals in the proposed NPSIB, and what support you think is needed to successfully implement the proposed NPSIB and protect indigenous biodiversity.

I would like to acknowledge the extensive work of the Biodiversity Collaborative Group (BCG) in reaching this point in our journey. The BCG included representatives from forestry, farming, infrastructure industries, environmental non-government organisations (NGOs), and an advisor from the Iwi Chairs' Forum. This group worked for 18 months to produce a draft National Policy Statement, which formed the basis of the policy presented in this discussion document.

I also acknowledge the work of many others, including councils and experts, who have contributed to the development of this proposed National Policy Statement.

Preserving New Zealand's taonga is going to be up to all of us, from private landowners to iwi to community groups and local government. Together, we as New Zealanders have a responsibility to look after and nurture our indigenous biodiversity.

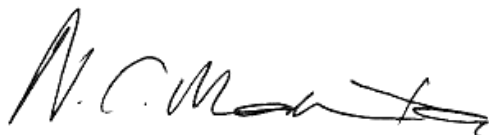
Hutia te rito o te harakeke, kei whea te korimako e ko?

Ka rere ki uta, ka rere ki tai.

Ki mai koe ki au, he aha te mea nui i te ao?

Maku e ki atu, He tangata! He tangata! He tangata!

Your feedback will help ensure the Government is getting this right, for the sake of our treasured native plants and animals. I encourage you to have your say today on the parts of the proposed NPSIB that are important to you.



Hon Nanaia Mahuta
Associate Minister for the Environment

Biodiversity Collaborative Group

foreword

Aotearoa New Zealand's indigenous biodiversity is unique. Millions of years of geographic isolation have resulted in a vast assemblage of plants and animals found nowhere else in the world. Humans, however, have caused widespread extinction and massive reductions in extent of habitats in a very short period since their arrival here between 700 and 800 years ago.

Today, 80 per cent of native birds, 88 per cent of lizards and 100 per cent of frogs are threatened with extinction. Between 1996 and 2012, there was a net loss of approximately 71,000 hectares of indigenous habitat, mostly in areas of lowlands, wetlands and coastal habitats. All of these habitats have been most reduced by human actions. Predators and weeds introduced by humans wreak havoc. These effects are ongoing. Climate change further threatens many ecosystems. The decline in our country's indigenous biodiversity on land, in freshwater and in the surrounding seas is one of our most insidious environmental problems.

New Zealanders have a strong attachment to the country's landscapes and natural heritage. It is one of the features that defines us as a nation and as a people. Māori have a whakapapa relationship with the natural environment, and many native species are taonga. A very large effort by many iwi and hapū, individuals, businesses, community groups, councils and government agencies is being made to protect those taonga, nurture our indigenous biodiversity, and halt its decline. However, the overall national policy framework for this effort is not comprehensive, robust or totally aligned.

There is a strong system for legal protection of public conservation areas, but this represents only a third of the country, mainly in mountainous areas. We tend to think nature is looked after because we have these protected areas. But it isn't. Increased effort is needed to manage areas already protected. More importantly, better direction is required to ensure indigenous biodiversity outside protected areas is allowed to thrive and be resilient to a changing climate.

Improving our country's indigenous biodiversity policy framework has been a goal of successive governments for over 20 years. But they have been unable to achieve consensus on how to do this, especially outside protected areas. An obvious tool to create consistency across the country is a national policy statement (NPS) under the Resource Management Act. Government first began to discuss the prospect of an NPS for biodiversity in 1999 and there have been a number of attempts to produce one since that time. Their failure to come to fruition is the product of the intense debate this issue creates, and the Government's subsequent response (to step back from progressing the instrument).

In the meantime, New Zealanders' attachment to nature and efforts to halt the decline in indigenous biodiversity have grown. New Zealand promotes itself in the world as a place of unspoiled nature. Many of our overseas markets are demanding proof of our protection of the environment as part of their willingness to support our products. And while these trends gather pace, we continue to have an unsettled framework, resulting in division, costly debates, and litigation.

This draft NPS is the result of two years' commitment by those with a major stake in managing our land and looking after indigenous biodiversity – industry, landowners, tangata whenua, and environmental non-governmental agencies.

The Biodiversity Collaborative Group (BCG) came together to agree on an NPS that will work for our country's interests. The BCG worked hard to make the right decisions on the best available information at the time and find consensus on the core parts of the NPS, wider recommendations, and ways to support its implementation. The Government has taken up the BCG's draft NPS and refined it into the proposed NPS that it is now released for public submissions.

Now is the time to test the NPS with the community of New Zealand and seek your input on whether it represents the best approach, or if further refinements are required from your input, to create a policy statement that leads us to positive biodiversity, cultural and community outcomes.

A handwritten signature in black ink, appearing to read 'Sally Gepp'.A handwritten signature in black ink, appearing to read 'Chris Allen'.

Sally Gepp and Chris Allen, as trustees and on behalf of members of the Biodiversity Collaborative Group

Introduction: Addressing the decline in New Zealand's indigenous flora and fauna

Aotearoa New Zealand's indigenous biodiversity is at a crisis point. Despite progress in conservation management over the past 20 years, we have around 4000 species threatened or at risk of extinction.

Our economic success relies on our natural environment. It gives us a competitive advantage that underpins our top two export earners – tourism and primary production. Our unspoilt nature is our brand, which is used to promote our exports. Indigenous ecosystems provide services such as clean water, nutrient cycling, pollination, and pest management. Safeguarding our indigenous ecosystems and the services they provide is important for New Zealand's future prosperity.

However, the provisions protecting and maintaining indigenous biodiversity under the Resource Management Act 1991 (RMA) are unclear, and subject to different interpretations, applications and monitoring by councils. Biodiversity is also indirectly managed by protecting natural character (section 6(a)) and outstanding natural features and landscapes (section 6(b)). This has led to inadequate regulatory protection, repeated litigation costs, confusion and uncertainty, and an undervaluing of biodiversity in decision-making – and ultimately indigenous biodiversity loss.

A clearer regulatory approach is necessary, along with a wider programme to respond to the decline in indigenous biodiversity. The proposed National Policy Statement on Indigenous Biodiversity (NPSIB) will address this. It would be a national direction tool under the RMA, applying across all land (including public, private and Māori land). At this stage, the scope is the terrestrial environment, and guidance and other non-regulatory support are essential for the proposed NPSIB to be successfully implemented. Throughout this discussion document, we are asking for your feedback on non-regulatory complementary measures that would support the implementation of the proposed NPSIB.

In 2018, a stakeholder-led Biodiversity Collaborative Group (BCG) – all of whom have a strong interest in biodiversity management – drafted a NPSIB, and recommendations for supporting measures. The policy proposals set out in this discussion document are based on the BCG's draft NPSIB.¹

Many groups have been working hard, alongside central and local government, to protect our indigenous biodiversity. These include tangata whenua, community organisations, landowners, foresters, and farmers. But while there is much effort being made to protect and restore our indigenous biodiversity, the overall national policy framework has significant gaps. A national policy statement can guide decision-making in a way that non-regulatory measures cannot.

¹ Draft NPSIB by Biodiversity Collaborative Group.
www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf.

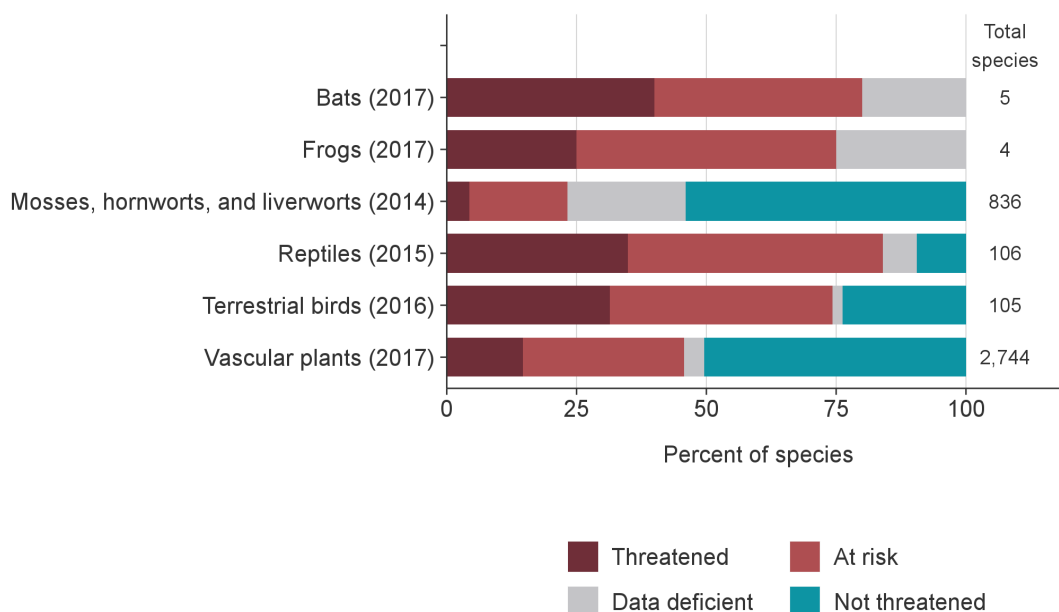
Why do we need to act now?

Our current legislative system to protect biodiversity includes the Resource Management Act (RMA) 1991, the Conservation Act 1987, the National Parks Act 1980, and the Reserves Act 1977.

The Conservation Act, National Parks Act, and Reserves Act provide a strong system for legal protection of public conservation areas in New Zealand. However, public conservation land does not cover a full range of ecosystems. It includes a higher proportion of alpine ecosystems and montane indigenous forest than ecosystems such as lowland forest, coastal forest, or wetlands.²

Coastal and lowland ecosystems that were once widespread (including wetlands) continue to decline in extent. Almost two-thirds of rare and naturally uncommon ecosystems³ are now threatened, with the proportion of threatened ecosystems being higher in coastal and lowland environments.⁴ For example, more than three-quarters of our rare coastal ecosystems are threatened with collapse. Figure 1 shows the current conservation status of native land species in New Zealand.

Figure 1: Conservation status of indigenous species



Data source: Department of Conservation

Source: Adapted from *Environment Aotearoa 2019*

² Ministry for the Environment and Stats NZ. 2018. *Our Land 2018 – data to 2017: At a glance*. Wellington: Ministry for the Environment and Stats NZ. Page 44.

³ Defined as either naturally covering very small areas, or having very little of their original extent remaining.

⁴ Ministry for the Environment and Stats NZ. 2019. *Environment Aotearoa 2019*. Wellington: Ministry for the Environment and Stats NZ. Page 18.

Natural areas have been degraded, lost and fragmented; predators, weeds, pests and diseases are threatening our indigenous biodiversity. There is increasing demand for natural resources and land for housing, and, at the same time, increasing global pressures such as the effects of climate change are impacting our indigenous biodiversity.

New Zealand's decline in native flora

Native forests once covered about 80 per cent of New Zealand's land area. About 65 per cent of our original native forest has been removed.

Native vegetation cover has continued to decline, even in recent years – being converted to land cover like exotic grassland (pasture) and plantation forestry, and urban areas. Between 1996 and 2012 there was a 1.3 per cent loss of tussock grassland (reduced by 31,000 hectares), a 1.3 per cent loss of indigenous shrubland (reduced by 24,000 hectares), and a 0.2 per cent loss of native forests (reduced by 16,000 hectares).

Almost two-thirds of rare and naturally uncommon ecosystems are now threatened, with most of these in coastal and lowland environments (*Environment Aotearoa, 2019*⁵).

Reversing the decline of indigenous biodiversity in Aotearoa New Zealand is a long-term policy objective. It is a complex objective that will require a toolkit of measures implemented over a sustained period. A new Aotearoa New Zealand Biodiversity Strategy (NZBS) is being developed to set the vision and targets for looking after our natural environment at a strategic level. This strategy will look at how all relevant tools, both regulatory (such as the proposed NPSIB) and non-regulatory, can work together to improve biodiversity outcomes in New Zealand.

An NPSIB is an essential instrument to protect indigenous biodiversity, particularly where it is nationally or regionally significant, and/or threatened with extinction, and where it is not protected through the Conservation or Reserves Acts.

Building on existing approaches

The proposed NPSIB is complementary to other priorities of the current Government. For example, maintaining indigenous biodiversity and promoting restoration has a positive impact on climate change adaptation and mitigation. The restoration of wetlands helps to filter water for healthy ecosystems and improves the quality of our freshwater. Indigenous vegetation and habitat contributes to natural character and landscape values. This means there are interactions between the proposed NPSIB and other government policy, including national direction under the RMA (see [The proposed NPSIB and other government priorities](#) in Section E).

The proposed NPSIB intends to support existing good practice, innovation and collaboration, such as that illustrated in the following example.

⁵ Ministry for the Environment and Stats NZ. 2019. *New Zealand's Environmental Reporting Series: Environment Aotearoa 2019*. Wellington: Ministry for the Environment and Stats NZ. www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/environment-aotearoa-2019.pdf.

INDIGENOUS BIODIVERSITY PROGRAMME | RESTORING NATURE, CONNECTING COMMUNITIES

Te Kaunihera ā Rohe o Waikato/Waikato Regional Council runs an indigenous biodiversity programme called 'Restoring Nature, Connecting Communities'. The programme began in 2016 and is funded by the 2015–2025 Long Term Plan. It is an implementation framework for groups such as territorial authorities, mana whenua, interest groups, and landowners to work together more effectively to protect and enhance indigenous biodiversity in the Waikato.

The Council believes a coordinated, collaborative and strategic approach to biodiversity management is essential for local environmental, social and economic wellbeing.

There are more than 200 native plant and animal species under threat of extinction in the Waikato region. Over time, urban and agricultural development has led to changes in the way the land is used, and to the loss of native plants and animals. The Council recognises reducing on-farm environmental impacts can increase agricultural productivity, leading to economic benefits, as well as social and cultural opportunities.

The Council is initially taking the lead on the programme. However, it is envisaged that it will transition into a community-led toolbox approach, with territorial authorities and local communities developing and undertaking actions to protect and enhance indigenous



biodiversity. As part of this programme, the costs and benefits of restoration have been assessed, such as converting small areas of a sheep and beef farm to indigenous vegetation, and making returns on mānuka honey while the indigenous vegetation is maturing.

More information about the programme can be found on the Council's website:

www.waikatoregion.govt.nz/environment/natural-resources/biodiversity/indigenous-biodiversity-programme/.

Restoring Nature, Connecting Communities – Haumaru Taiao, Tūhono Hapori. The name and logo depict the full intent of the project, which is perfectly expressed in the whakataukī (Māori proverb):

Nāku te rourou, nāu te rourou, ka ora te iwi – With your food basket and my food basket, the people will flourish.

The RMA and indigenous biodiversity

The RMA is the key piece of legislation for managing New Zealand's indigenous biodiversity outside public conservation land, including on private land, Māori land, and Treaty settlement land. The RMA governs the use of all New Zealand's natural resources and manages the effects of activities on the natural environment, including on indigenous biodiversity. The RMA is administered by the Ministry for the Environment, and almost all of its provisions are implemented by local government.

The RMA's key provisions recognising biodiversity are outlined on the following page.

Key provisions in the RMA recognising biodiversity

- Section 5 sets out the purpose of the Act, “to promote sustainable management of natural and physical resources” and biodiversity is a type of natural resource. As such, it is indirectly managed through all matters of section 5(2).
- Section 6 outlines matters of national importance that everyone must recognise and provide for when exercising functions and powers under the Act. Section 6(c) covers the maintenance of biodiversity, referring to the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Biodiversity is also indirectly managed by protecting natural character (section 6(a)) and outstanding natural features and landscapes (section 6(b)).
- Section 7 outlines the indirect management of biodiversity through the maintenance and enhancement of the quality of the environment (section 7(f)), and the intrinsic value of ecosystems (section 7(d)).
- Section 30(1)(c)(iia) covers the function of regional councils to control the use of land to maintain and enhance ecosystems in water bodies and coastal waters.
- Section 30(1)(ga) outlines the function of regional councils to establish, implement and review objectives, policies and methods for maintaining indigenous biological diversity.
- Section 31(b)(iii) states that it is a territorial authority function to control the effects of the use of land on the maintenance of indigenous biological diversity.
- Section 62(1)(i)(iii) requires that a regional policy statement states the local authority responsible, in the whole or any part of the region, for specifying the objectives, policies and methods for the control of the use of land to maintain indigenous biodiversity.

The RMA includes several mechanisms that can be used by the Crown, and primarily councils, to help maintain indigenous biodiversity. These mechanisms include:

- national directions
 - national policy statements
 - national environmental standards
 - national planning standards
- regional policy statements
- regional plans
- district plans
- the resource consent and designation process.

At a national level, the existing national directions that support aspects of biodiversity management in New Zealand are outlined below.

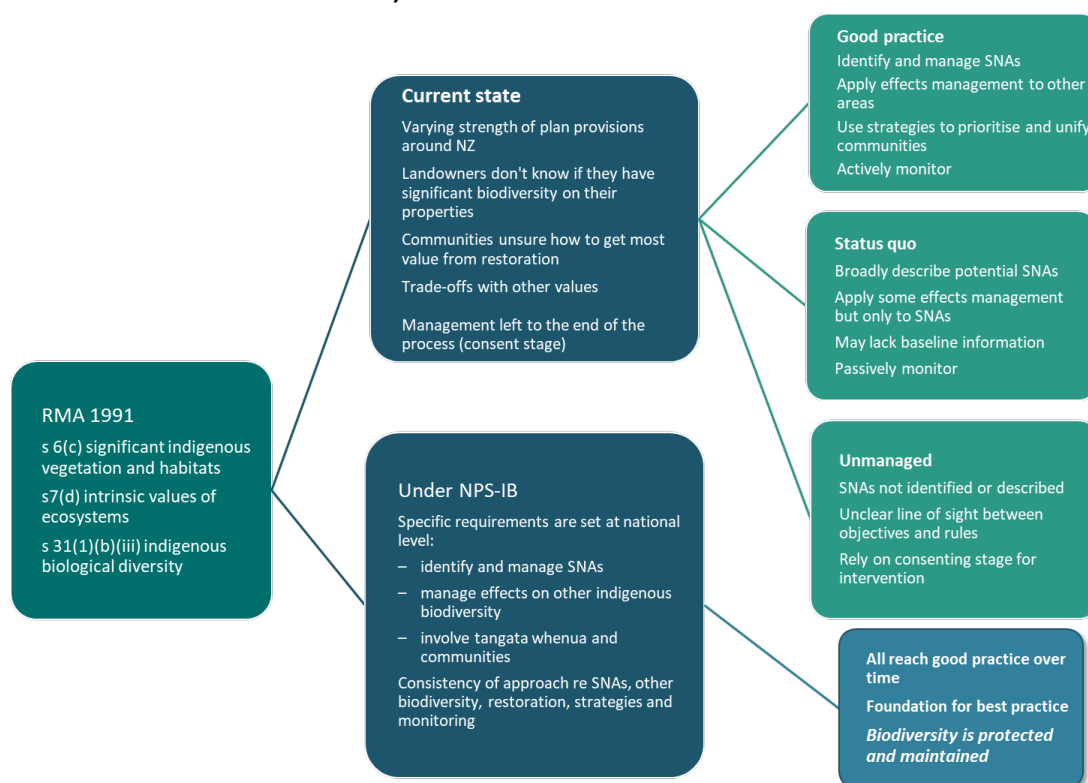
Current national direction that supports the maintenance of biodiversity in New Zealand

- The New Zealand Coastal Policy Statement 2010 (NZCPS) provides guidance on national priorities for biodiversity in the coastal environment.
- The National Policy Statement for Freshwater Management 2014 (NPS-FM) includes direction around ecosystem health.
- The National Environmental Standards for Plantation Forestry 2017 (NESPF) includes requirements around the protection of Significant Natural Areas and habitats of specific species within plantation forests.

While the RMA requires councils to manage indigenous biodiversity, the current approaches vary in style, from being stated in plans or through resource consent conditions. For example, some councils identify and map Significant Natural Areas (SNAs) in their plans with community involvement, while other councils do not identify SNAs until a landowner or developer applies for a resource consent that may disturb indigenous vegetation or habitat of indigenous fauna. This has resulted in uncertainty and debate for councils and communities, and litigation that is costly and time-consuming for councils, landowners, tangata whenua, and community groups.

The proposed NPSIB is intended to give consistency to councils' interpretations and application of the RMA. This will result in more consistency in councils' monitoring and management approaches, and result in better outcomes for biodiversity.

Figure 2: Effect of proposed NPSIB is to standardise a 'bottom line' of the good practice needed to reverse the decline in indigenous biodiversity (councils can go further if their communities wish to)



Developing the proposed NPSIB

There is a clear need for national direction that supports indigenous biodiversity management under the RMA. There have been recommendations for a national policy statement on this since 2000. Most recently, a proposed National Policy Statement on Indigenous Biodiversity (NPSIB) was publicly consulted on in 2011. Submissions showed diverging views between the public and stakeholders, reflecting the reality that indigenous biodiversity loss is a complex problem of public interest. There were concerns about the proposed NPSIB's potential economic impact, particularly to industry and landowners, including owners of Māori land. There was a need to bring the wider community on board.⁶

⁶ A timeline of events in the development of a proposed NPSIB, including the proposed 2011 NPSIB and summary of submissions, is available on the Ministry for the Environment's website at www.mfe.govt.nz/more/biodiversity/upcoming-government-biodiversity-initiatives/developing-national-policy-statement.

Drafting by the Biodiversity Collaborative Group (BCG)

A stakeholder-led Biodiversity Collaborative Group (BCG) was set up in 2017 to represent a range of strong interests in biodiversity management (see table 1).⁷ The group spent 18 months, from March 2017 until October 2018, developing a draft NPSIB and recommendations for supporting measures.⁸

We consider this consensus-building process has given a strong platform for the successful development of the proposed NPSIB. This discussion document also seeks your views on what kind of support would ensure successful implementation of the proposed NPSIB.

Table 1: Overview of the Biodiversity Collaborative Group

Group members	<ul style="list-style-type: none">• Royal Forest and Bird Protection Society of New Zealand Inc• Federated Farmers of New Zealand Inc• New Zealand Forest Owners' Association• Environmental Defence Society Incorporated• Extractive/infrastructure industries• Iwi Chairs' Forum, through the Pou Taiao Iwi Leaders' Group.
Observers to the Group	<ul style="list-style-type: none">• Ministry for the Environment• Department of Conservation• Ministry for Primary Industries• Local Government New Zealand• Regional council representation• Land Information New Zealand• Te Puni Kōkiri
Purpose	To ensure that Aotearoa New Zealand's unique biodiversity is protected and supported to thrive through the collaborative efforts of iwi, landowners, stewards, the Government, and advocates.
Role	<ol style="list-style-type: none">To develop a draft National Policy Statement on Indigenous Biodiversity.To make recommendations for system improvements and non-regulatory support.

Programme of engagement with the BCG and other NPSIB stakeholders

Since October 2018, we have reviewed and revised the BCG's draft NPSIB. This has been informed by a programme of early engagement with Treaty partners (through over 20 hui nationwide) and councils, as the primary implementers of the proposed NPSIB. We held meetings with the BCG in July and August 2019 to discuss revisions to its draft.

The policy proposals in this discussion document are based on the BCG's draft NPSIB. We have made clear our changes to the BCG's recommendations and the reasons for these changes. All content of the proposed NPSIB has been designed to be broadly consistent with the intent of the BCG's draft NPSIB.

⁷ More information about the group, as well as its proposed NPS and supporting measures, is available at www.biodiversitynz.org/ and www.mfe.govt.nz/more/biodiversity/upcoming-government-biodiversity-initiatives/developing-national-policy-statement.

⁸ *Report of the Biodiversity Collaborative Group October 2018*: http://www.biodiversitynz.org/uploads/201/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf.

The BCG was also tasked with recommending supporting measures to accompany the implementation of the proposed NPSIB. The [Section 32 Report and Cost Benefit Analysis](#) and [Regulatory Impact Statement](#) (RIS) note that increased guidance, support and training is critical to support effective implementation of the proposed NPSIB. Most of the non-regulatory measures and system improvements recommended by the BCG will be considered as part of the development and implementation of the New Zealand Biodiversity Strategy. [Section E](#) of this discussion document outlines the measures that we propose are implemented alongside the proposed NPSIB.

Overview of the proposed NPSIB

The proposed National Policy Statement on Indigenous Biodiversity (NPSIB) is an instrument under the Resource Management Act 1991 (RMA). The proposed NPSIB provides direction to councils on their responsibilities for protecting and maintaining indigenous biodiversity under the RMA.

The primary objective of the proposed NPSIB is to maintain indigenous biodiversity (Part 1.7(2) and (3) and Part 2.1 Objective 1 of the proposed NPSIB). Maintaining indigenous biodiversity requires, at the least, no reduction in:

- a. the size of populations of indigenous species
- b. indigenous species occupancy across their natural range
- c. the properties and function of ecosystems and habitats
- d. the full range and extent of ecosystems and habitats
- e. connectivity between, and buffering around, ecosystems
- f. the resilience and adaptability of ecosystems.

The proposed NPSIB contains more detailed provisions to guide the ways that would lead to biodiversity being maintained. The proposed NPSIB will apply across all land in New Zealand (including public, private and Māori land). It will impact managing indigenous biodiversity, particularly in lowland areas and on private and Māori land where many of our threatened species, habitats, and ecosystems are found. The proposed NPSIB would mostly be used in relation to new activities, for example new land uses that need to be authorised under the RMA. The intent of the proposed NPSIB is to ensure that significant biodiversity values are maintained, while allowing for existing uses of land and certain activities.

Councils would still be required to manage indigenous biodiversity in other types of environments, such as freshwater and the coastal marine area (under national level instruments such as the National Policy Statement on Freshwater Management (NPS-FM) and the New Zealand Coastal Policy Statement 2010 (NZCPS)).

The proposed NPSIB includes promoting the restoration of wetlands, recognising that wetlands are often parts of, or next to, other areas that are significant indigenous vegetation or significant habitat of indigenous fauna. Managing effects on wetlands is proposed as part of the Government's *Action for Healthy Waterways*.⁹

⁹ Ministry for the Environment and Ministry for Primary Industries. 2019. *Action for healthy waterways: A discussion document on national direction for our essential freshwater*. Wellington: Ministry for the Environment and Ministry for Primary Industries. Retrieved from <https://www.mfe.govt.nz/publications/fresh-water/action-healthy-waterways-discussion-document-national-direction-our>.

- Q1. Do you agree a National Policy Statement for Indigenous Biodiversity (NPSIB) is needed to strengthen requirements for protecting our native plants, animals and ecosystems under the Resource Management Act 1991 (RMA)? Yes/no? Why/why not?
- Q2. The scope of the proposed NPSIB focuses on the terrestrial environment and the restoration and enhancement of wetlands. Do you think there is a role for the NPSIB within coastal marine and freshwater environments? Yes/no? Why/why not?
- Q3. Do you agree with the objectives of the proposed NPSIB? Yes/no? Why/why not? (see Part 2.1 of the proposed NPSIB)

Structure of this discussion document

This discussion document has an introduction, five sections that relate to the core components of the proposed NPSIB, and two sections on context and submission information. At the end of this discussion document there are instructions on the consultation process and how you can make a submission.

Throughout the document, there are hypothetical scenarios to guide your feedback on policies 3.9 to 3.16 in the proposed NPSIB. The scenarios do not represent every eventuality of the proposed policies. We invite you to share your situation and how the proposed policies may impact you.

Introduction: Addressing the decline in New Zealand's indigenous flora and fauna

The introduction outlines why indigenous biodiversity is important and why a national policy statement under the RMA is proposed to maintain indigenous biodiversity.

Section A: Recognising te ao Māori and the principles of the Treaty of Waitangi

Section A shows how the proposed NPSIB recognises the principles of the Treaty of Waitangi and applies approaches from te ao Māori to improve the status of New Zealand's biodiversity. It discusses Hutia te Rito, the proposed core concept and provisions designed to guide decision-making from a te ao Māori perspective.

Section B: Identifying important biodiversity and taonga

Section B outlines proposals that would require each territorial authority to identify and map areas of significant indigenous vegetation and habitat of indigenous fauna within its district, known as Significant Natural Areas (SNAs). It also sets out measures for identifying and managing taonga species or ecosystems, and animals that are highly mobile or migrate between different habitats.

Section C: Managing adverse effects on biodiversity from activities

[Section C](#) discusses proposals for managing adverse effects on indigenous biodiversity, both inside and outside SNAs, from activities and developments on land. This includes proposals on specific biodiversity issues relating to the developing Māori land, climate change, use of the precautionary approach, and use of biodiversity offsets and biodiversity compensation.

Section D: Restoration and enhancement of biodiversity

[Section D](#) looks at restoration and enhancement as essential to reversing the decline in New Zealand's indigenous biodiversity. Tools proposed in this area include developing regional biodiversity strategies, restoration and enhancement of priority areas, and setting targets for increased indigenous vegetation cover.

Section E: Monitoring and implementation

[Section E](#) outlines requirements for monitoring the impact of the proposed NPSIB, as well as implementation provisions, how this NPS works in the terrestrial part of the coastal environment, and what non-regulatory support is required.

Section F: Statutory frameworks

[Section F](#) sets out the statutory framework the proposed NPSIB sits within and looks at other statutory and legislative documents that interact with the proposed NPSIB.

Section G: Consultation process

[Section G](#) lets you know how to make a submission and sets out the discussion document questions.

Looking after our indigenous biodiversity together

This visual shows how the proposed National Policy Statement will protect, maintain and restore our indigenous biodiversity



The indigenous biodiversity package

This discussion document is one of the resources available to support consultation. Other documents include [the proposed NPSIB](#) itself, [the Section 32 report and Cost Benefit Analysis](#) and the [Regulatory Impact Statement](#). Table 2 sets out what each of these documents covers, who might find each document useful to read and links to where they can be obtained.

Table 2: Documents in the indigenous biodiversity package

Package document	What it covers	Reading notes
This discussion document, <i>He Kura Koiora i hokia</i>	Overview of the proposed NPSIB to inform public submissions.	Appropriate for all submitters.
<i>He Kura Koiora i hokia: A summary</i>	A high-level summary of this discussion document	Appropriate for all.
The proposed NPSIB	The proposed NPSIB approved for public consultation.	More technical information.
The Section 32 report and Cost Benefit Analysis	<p>Detailed analysis of the proposed NPSIB as per section 32 of the RMA. Sets out how the proposed NPSIB meets the purpose of the RMA, the efficiency and effectiveness of each of the provisions in meeting the objectives, benefits and costs of the proposed NPSIB.</p> <p>The Section 32 report is currently draft, for public consultation. It will be informed by public consultation and finalised when policy decisions are made.</p>	May be more suited to local government decision-makers and planning practitioners, as well as those who would like to comment in more detail on the impacts of the proposal.
The Regulatory Impact Statement (RIS)	<p>A Regulatory Impact Statement (RIS) provides a high-level summary of the problem that needs to be addressed, the options for government intervention, the costs and benefits, and implementation and monitoring considerations of the preferred option (the proposed NPSIB and non-regulatory support).</p> <p>The RIS is draft for public consultation. It will be informed by public consultation, and finalised when policy decisions are made.</p>	More technical information, appropriate for submitters wishing to comment on wider options.

Next steps

Following consultation, we will summarise the submissions, undertake further analysis and testing, and change the policies if necessary. If a decision is made to proceed with a national direction tool, the Minister for the Environment will recommend that Cabinet approves its gazettal. If this happens, we expect the proposed NPSIB would be gazetted approximately mid-2020. From this time, all resource consent decision-makers will need to have regard to the NPSIB. Councils will also be required to give effect to the proposed NPSIB by

preparing/updating their planning documents in line with implementation timeframes set out in the proposed NPSIB.

The Government intends to provide implementation support to help councils, tangata whenua, landowners, and others to implement the proposed NPSIB. You can read more about this in [Section E: Monitoring and implementation](#).

Consultation on this proposed NPS is open until 14 March 2020.

Section A: Recognising te ao Māori and the principles of the Treaty of Waitangi

A.1 – Providing for the concept of Hutia te Rito



Proposed NPSIB: Part 1.7(1), Part 2.1 Objective 3, Part 2.2 policy 1 and Part 3.2.

Hutia te Rito is a concept drawn from a well-known whakataukī (proverb) that underpins the proposed National Policy Statement for Indigenous Biodiversity (NPSIB).

Hutia te Rito

Hutia te rito o te harakeke

Kei hea te kōmako, e kō?

Kī mai ki ahau

He aha te mea nui o te ao?

Māku e kī atu

he tangata, he tangata, he tangata.

When the centre of the flax bush is picked, where will the bellbird sing? You ask me what is the greatest thing in the world? My reply is it is people, it is people, it is people.

Hutia te Rito recognises the environment's intrinsic value as well as people's connections and relationships with it. The concept recognises our dependence on the environment comes with a responsibility to look after it; the health of the environment supports the health of people.

What is the problem with the current approach?

New Zealand's environmental management system is mainly underpinned by Western science. Te ao Māori, mātauranga, and tikanga Māori have not always been considered in decisions about our indigenous biodiversity.

From hui held around the country we have heard that:

- Tangata whenua whakapapa back to te taiao (the environment) – the mauri (life force) of our native flora and fauna lies at the heart of who they are. The Waitangi Tribunal described the relationship tangata whenua have to te taiao as follows:

In te ao Māori, all of the myriad elements of creation – the living and the dead, the animate and inanimate – are seen as alive and interrelated. All are infused with mauri (that is, a living essence or spirit) and all are related through whakapapa...The people of a place are related to its mountains, rivers and species of plant and animal, and regard them in personal terms. Every species, every place, every type of rock and stone, every person (living and dead), every god, and every other element of creation

is united through this web of common descent, which has its origins in the primordial parents Ranginui (the sky) and Papa-tū-ā-nuku (the earth).¹⁰

- Tangata whenua should be part of the decision-making process when it comes to decisions about our indigenous biodiversity.
- Mātauranga Māori provides a deeper and more profound lens through which to look at the health and wellbeing of our indigenous biodiversity. It is the knowledge that is handed down between generations.

While provisions already exist in the Resource Management Act 1991 (RMA) for decision-makers to recognise and provide for the relationships of tangata whenua with te taiao, the implementation of these provisions has been inconsistent, unmonitored and, in some cases, non-compliant.

What are we proposing to change and/or introduce?

The Biodiversity Collaborative Group (BCG) introduced the concept of Hutia te Rito to the proposed NPSIB as a way of transitioning our biodiversity management system to one that acknowledges and incorporates te ao Māori, and mātauranga and tikanga Māori. It is intended to be the overarching reference point for decision-making and flow through all of the proposed NPSIB.

Hutia te Rito is a fundamental concept in the proposed NPSIB. Part 3.2 requires decision-makers to hold Hutia te Rito at the forefront of considerations when making decisions about biodiversity management. At a minimum, this requires decision-makers to recognise and provide for the interrelationships between te hauora o te tangata (the health of the people) and:

- te hauora o te koiora (the health of indigenous biodiversity)
- te hauora o te taonga (the health of species and ecosystems that are taonga)
- te hauora o te taiao (the health of the wider environment).

Hutia te Rito reflects the Treaty of Waitangi and its principles by providing for greater involvement for iwi/Māori as kaitiaki in council activities that plan for, protect, and manage indigenous biodiversity processes. It promotes the maintenance of indigenous biodiversity, as well as the role of Māori in biodiversity management at central and local government level. There are supporting provisions and mechanisms within legislation for natural resources and Treaty of Waitangi settlements that also recognise the relationships of tangata whenua with te taiao, and Hutia te Rito would be implemented in this wider context.

Hutia te Rito is consistent with wider government policy, including the Vision Mātauranga Policy¹¹ and the National Policy Statement for Freshwater Management's Te Mana o te Wai.¹²

¹⁰ Waitangi Tribunal. 2011. *Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity* (WAI 262). Wellington: Waitangi Tribunal. Page 267.

¹¹ <https://www.mbie.govt.nz/science-and-technology/science-and-innovation/agencies-policies-and-budget-initiatives/vision-matauranga-policy/>.

¹² <https://www.mfe.govt.nz/publications/fresh-water/national-policy-statement-freshwater-management-2014-amended-2017>.

In addition, the centrality of mātauranga (as profound knowledge that is handed down within whānau, hapū and iwi) in the concept of Hutia te Rito references the Waitangi Tribunal's WAI 262 report. The Government has recently announced it intends to conduct a whole of Government approach to the issues raised by the WAI 262 claim and the subsequent Waitangi Tribunal report *Ko Aotearoa Tēnei*.¹³

What would successful implementation of Hutia te Rito by regional councils and territorial authorities look like?

We have been asked by regional councils and territorial authorities what the successful implementation of Hutia te Rito could look like. The BCG envisaged Hutia te Rito as:

Local authorities will initiate consultation early to ensure that Māori perspectives are considered when pen is first put to paper to draft plans and policies, not as an afterthought. This will help to ensure that local authorities have the information and relationships to work with tangata whenua to incorporate mātauranga and tikanga Māori into the core of the planning framework, in environmental monitoring, effects management (for example through what effects are controlled, how they are assessed, and through tikanga tools like rāhui), and to ensure indigenous biodiversity management is through the lens of Hutia te Rito.¹⁴

One current example that could provide a basis for setting up this relationship is the Mana Whakahono ā Rohe iwi participation arrangements (under sections 58L–58U of the RMA). A good relationship under this arrangement might include how te ao Māori worldviews are valued alongside other community values in managing te taiao, and how tangata whenua are involved in decision-making processes for managing te taiao.

The proposed NPSIB provides for a broader participation, allowing councils to involve iwi/Māori – as opposed to only iwi authorities. The following approaches show how councils, tangata whenua, and communities could work together well, specifically for implementing the proposed NPSIB. Those with an iwi participation agreement may wish to include the proposed NPSIB (when finalised) in their agreement.

Councils would discuss important local indigenous biodiversity matters with tangata whenua and the community. Councils would then demonstrate that the health and wellbeing of indigenous biodiversity has been considered in relation to decision-making about the natural environment in their area. This would then be reflected in the strategies, policies and plans of each local authority, and shown in the relationships between councils and tangata whenua.

Where appropriate, tangata whenua and scientists would work together to monitor and restore our indigenous biodiversity using approaches formed by science and/or mātauranga Māori.

Hutia te Rito would be included in wider conversations between regional councils, territorial authorities, and their stakeholders about managing effects on indigenous biodiversity.

¹³ Waitangi Tribunal. 2011. *Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity (WAI 262)*. Wellington: Waitangi Tribunal.

¹⁴ Biodiversity Collaborative Group. 2018. Report of the Biodiversity Collaborative Group. Wellington: Biodiversity Stakeholder Trust. Page 19 located at: www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf.

- Q4. Hutia te Rito recognises that the health and wellbeing of nature is vital to our own health and wellbeing. This will be the underlying concept of the proposed NPSIB. Do you agree? Yes/no? Why/why not?
- Q5. Does the proposed NPSIB provide enough information on Hutia te Rito and how it should be implemented? Yes/no. Is there anything else that should be added to reflect te ao Māori in managing Indigenous Biodiversity?

A.2 – Providing for the principles of the Treaty of Waitangi and engaging with tangata whenua



Proposed NPSIB: 2.1 Objective 2, Part 2.2 Policy 1 and Part 3.3

The RMA (including when Treaty Settlement Acts impact the way the RMA is implemented) currently provides for involvement of iwi/Māori in environmental management in a number of ways:

- decision-makers are required to recognise and provide for the relationship of Māori and Māori culture and traditions with ancestral lands, water, sites, wāhi tapu, and other taonga (section 6(e))
- those operating under the legislation must have particular regard to kaitiakitanga (section 7(a)), and take into account the principles of the Treaty of Waitangi (section 8)
- various provisions provide opportunities for iwi/Māori to be involved in decision-making
- Mana Whakahono ā Rohe provides for relationship agreements between councils and iwi authorities (sections 58L–58U).

What is the problem with the current approach?

The BCG considers the implementation of these provisions has been inconsistent, unmonitored and, in some cases, non-compliant with legislation. They draw on the criticisms and recommendations for change made by the Waitangi Tribunal's report on the WAI 262 claim to support this view.¹⁵

The BCG identified a number of barriers to effective and meaningful engagement with tangata whenua. These are set out on page 18 of the BCG report¹⁶ and include:

- Mātauranga and tikanga are not a defined part of the foundation of the legislation, but additional considerations within the legislative framework.
- Decision-makers, including the judiciary, have struggled to understand the meaning and importance of Māori interests and how to interpret evidence focused on Māori considerations.
- The RMA doesn't include a process to identify and then manage taonga.
- Existing mechanisms for Māori influence in environmental management and partnerships between kaitiaki and the Crown are underused.
- There has been a failure to recognise the unique limitations that apply to Māori land.

Similar concerns about the involvement of Māori in environmental processes were raised in the hui we held across New Zealand in early 2019.

What are we proposing to change and/or introduce?

We agree the provisions in the RMA for involving Māori in environmental management decisions are applied inconsistently. The proposed NPSIB gives greater clarity to how councils can meet RMA obligations in relation to the Treaty of Waitangi when making decisions about indigenous biodiversity. Councils would be able to report on how they are implementing these policies through their reporting processes (eg, council annual reports).

¹⁵ In its report, the Tribunal: "found that a Treaty-compliant environmental management regime is one that is capable of delivering the following outcomes, by means of a process that balances the kaitiaki interest alongside other legitimate interests:

- *Control* by Māori of environmental management in respect of taonga where it is found that the kaitiaki interest should be accorded priority.
- *Partnership* models for environmental management in respect of taonga, where it is found that kaitiaki should have a say in decision-making, but other voices should also be heard, and
- *Effective influence and appropriate priority* to kaitiaki interests in all areas of environmental management when the decisions are made by others."

Waitangi Tribunal. 2011. *Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity* (WAI 262). Wellington: Waitangi Tribunal. Section 3.8, Summary of recommendations.

¹⁶ Biodiversity Collaborative Group. 2018. *Report of the Biodiversity Collaborative Group*. Wellington: Biodiversity (Land and Freshwater) Stakeholder Trust.
www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf.

Enhancing the role of tangata whenua in decision-making

The BCG intended for the proposed NPSIB to enhance the role of tangata whenua in decision-making about New Zealand's indigenous biodiversity and to incorporate tikanga and mātauranga Māori into managing our indigenous biodiversity. We agree with the BCG's recommendations.

Tangata whenua are kaitiaki, and the proposed NPSIB provides for their greater involvement in managing indigenous biodiversity within the RMA framework in their rohe. The proposed NPSIB requires councils to engage early with tangata whenua, and encourages meaningful relationships to be built between tangata whenua and RMA decision-makers. This would mean that tangata whenua are involved in decision-making on council documents including regional policy statements, regional and district plans, and proposed regional biodiversity strategies.

The following example is a case study where tangata whenua exercise kaitiakitanga and work with others on an ecological restoration project in Te Tai Tokerau. The proposed NPSIB would encourage processes similar to this case study by requiring councils to involve tangata whenua in decision-making.

ECOLOGICAL RESTORATION IN THE WARAWARA FOREST

Reconnecting Northland is an ecological restoration programme. Underlying the programme's approach is the fundamental connection between te tāngata (the people) and Papatūānuku (the land). Whenua ora, waiora, tangata ora – the health and wellbeing of the ngahere (forest) and the waiora (health) that flows from it, and that of the people, are intimately connected.



Tarakeha maunga in Matihetihe looking south towards Hokianga harbour. Photo credit: Bronwyn Bauer-Hunt

This means through helping support the restoration of the health of their ngahere, the whānau and hapū themselves will be revitalised.

One of the four projects that Reconnecting Northland initially assisted iwi to initiate was the Warawara Whakaora Ake. The Warawara Ngahere, situated in the North Hokianga of the Far North District, is one of the cultural redress mechanisms contained in the Te Rarawa Historical Treaty Claims

Settlement. It covers a total of 13,324 hectares, half of which was conservation land, and half privately-owned land. Warawara Whakaroa Ake is seen as a way for tangata whenua to actively exercise their kaitiakitanga, and work with others on this large-scale, intergenerational ecological challenge.

The mana of this project rests primarily with the mana whenua hapū, acting through their 10 mandated marae representatives on a Kaitiaki Komiti. The Kaitiaki Komiti works with four partner organisations – Te Rarawa Anga Mua, the Department of Conservation, Northland Regional Council, and Reconnecting Northland Trust – under a Mana-Enhancing Agreement.

A predator control programme is being carried out to restore the health of the kauri forest and the indigenous biodiversity it houses, including kiwi and titipounamu/rifleman. The moemoeā (vision) underpinning the project is: *E whakaora ake te ngahere, ngā maunga, ngā tamariki me ngā taonga katoa e whakaheke mai kei roto i te wao nui o Tāne*. To restore the health of our forest, the mountains, the living offspring and all things precious that descend from the great forest of Tāne (god of the forest). It is hoped that ultimately this work will revitalise the Warawara Ngahere.



Photo taken in 2018 at the Annual Warawara Day with members of the Warawara Whakaora Ake Kaitiaki Komiti, marae representatives from the 10 mana whenua hapū, and partners from Reconnecting Northland, DOC, and Northland Regional Council. Photo credit: Bronwyn Bauer-Hunt

See [Warawara project](https://reconnectingnorthland.org.nz/project/warawara-project/) for more information:

<https://reconnectingnorthland.org.nz/project/warawara-project/>.

Incorporating mātauranga Māori and tikanga Māori

The proposed NPSIB explicitly includes mātauranga Māori and tikanga Māori in decision-making and environmental management. This would mean council working with local iwi/Māori to include tikanga and mātauranga Māori in managing indigenous biodiversity where tangata whenua consider it appropriate. Other mechanisms under the RMA (such as Mana Whakahono ā Rohe arrangements) and Treaty settlements also provide opportunities for local authorities and tangata whenua to have meaningful dialogue about their relationship, participation and respective visions and objectives for an area. Where appropriate, iwi and councils may choose to use Mana Whakahono ā Rohe arrangements to work together to implement the proposed NPSIB.

Regional councils and territorial authorities would need to work with local tangata whenua to bring together their worldviews in ways that would uphold the integrity of both mātauranga Māori and Western science. Only tangata whenua can identify and demonstrate their relationships and the cultural practices associated with their ancestral lands, rohe, sites, wāhi tapu, and taonga.

At hui around the country, we were told that when the proposed NPSIB encourages councils to incorporate mātauranga Māori into their practices, this must be with the consent of tangata whenua. Mātauranga Māori must be recognised as the profound intergenerational knowledge held by local iwi/Māori. We have taken steps to ensure the language of the proposed NPSIB reflects this.

Customary take

The proposed NPSIB provides for regional councils and territorial authorities to consider opportunities for tangata whenua to have sustainable, customary take and use of indigenous vegetation, as well as being consistent with taonga protection and other legislation (eg, the Wildlife Act 1953, Treaty Settlements under the Treaty of Waitangi Act 1975, Conservation Act 1987, Reserves Act 1977, and National Parks Act 1980). In its report, the BCG recognises Māori have an interest in resource use as well as protection.

We believe one measure of the health of our indigenous biodiversity is tangata whenua can practice cultural harvest when biodiversity is at a sustainable level. We are seeking your views on this.

- Q6. Do you think the proposed NPSIB appropriately takes into account the principles of the Treaty of Waitangi? Yes/no? Why/why not?
- Q7. What opportunities and challenges do you see for the way in which councils would be required to work with tangata whenua when managing indigenous biodiversity? What information and resources would support the enhanced role of tangata whenua in indigenous biodiversity management?
- Q8. Local authorities will need to consider opportunities for tangata whenua to exercise kaitiakitanga over indigenous biodiversity, including by allowing for sustainable customary use of indigenous flora. Do you think the proposed NPSIB appropriately provides for customary use? Yes/no? Why/why not?
- Q9. What specific information, support or resources would help you implement the provisions in this section (section A)?

Section B: Identifying important biodiversity and taonga

This section explains how significant indigenous biodiversity and taonga will be identified in Resource Management Act 1991 (RMA) processes. Identification is the first step in knowing what needs to be managed and how. Identifying an area does not mean absolute protection.

Section C discusses the provisions that aim to balance the effects on indigenous biodiversity of new and existing activities, to reach the desired outcomes.

B.1 – Identifying and mapping Significant Natural Areas



Proposed NPSIB: Part 2.2 Policy 6, Part 3.8 and Appendix 1 and Appendix 2

Significant Natural Areas (SNAs) are areas of significant vegetation, such as forests and shrubland, as well as habitats of significant fauna, such as threatened kiwi. SNAs represent the most iconic and highly valued indigenous biodiversity. Their identification and management is driven by the requirements of section 6(c) of the RMA, which states that the protection of significant indigenous vegetation and significant habitats of indigenous fauna be recognised and provided for as a matter of national importance.

Territorial authorities identify and map SNAs in partnership with tangata whenua, landowners, and local communities.

What is the problem with the current approach?

Protection of SNAs requires an understanding of which sites within a district or region are 'significant' but this term is not defined in the RMA. As a result, assessments of significance vary widely across the country. Multiple definitions make it difficult and costly for everyone involved, and often result in inadequate protection for indigenous biodiversity.

To define significance, a set of ecological significance criteria must first be defined. Analysis of regional and district plans in late 2018¹⁷ identified only 64 per cent of district and regional plans have significance criteria. Of those plans with set criteria, there is such variation in criteria and methodology that baseline or trend data and site comparisons cannot be made, which is a prerequisite to ensuring biodiversity is recognised and valued in decision-making. Defining significance criteria has also resulted in a large amount of litigation over the years, which takes up resource.

¹⁷ Myers SC. 2018. A Biodiversity Planning Snapshot: How Well Are Councils Protecting Biodiversity? *Proceedings of the NZ Ecological Society Conference*. Wellington 2018.



Harvey Phillips, Greater Wellington Regional Council, with rare *Alepis flavida* Mistletoe plant find on Bernard West's property in Kaiwhata Valley, Masterton district. Photo credit: Rob Suisted, Naturespic.

Identifying areas of significance is the next step. Again, the RMA is silent on how this should be done, and, as a result, there are many different approaches in how territorial authorities identify SNAs. Of the 59 territorial authorities assessed, 61 per cent currently have lists of SNAs in their plans. It is estimated only 19 per cent of these lists are comprehensive, and about another 20 per cent moderately completed. Other plans have limited or no areas identified, or are missing information or have information based on old data. Some plans have ecological descriptions of both the values and criteria that have been met, while others only list the criteria that have been met. Some assessments are based primarily on desktop analysis, while others are based on surveys in close consultation with landowners.

Several plans do not identify SNAs at all, but the territorial authority will assess significance when it receives an application for resource consent for an activity that will adversely affect indigenous vegetation or habitat. The drawback of this approach is that territorial authorities do not have a comprehensive view of which areas in their districts are significant, or oversight of the impacts of activities that do not require consent. This often results in overly strict rules for vegetation clearance.

We recognise in some districts identifying SNAs has been very contentious. However, in many districts the SNA identification process has also been a positive one that has forged better relationships between the council and landowners. SNAs are our most significant indigenous biodiversity, and identifying them is critical to making informed decisions about their management and protection. The process in the proposed NPSIB is designed to provide certainty and transparency to landowners and/or managers, councils and the community.

There can be overlap between protecting SNAs and protecting natural character (section 6(a) of the RMA) and outstanding natural features and landscapes (section 6(b) of the RMA). In many cases, protecting natural character and outstanding natural features does not specify the detail of what indigenous biodiversity is protected as their values are mostly based on amenity rather than ecology. This distinction is important to protect indigenous biodiversity. However,

protecting SNAs under section 6(c) of the RMA contributes to achieving the outcomes of section 6(a) and section 6(b) of the RMA.

The following case study sets out the process used by Auckland Council to identify significant ecological areas (SEAs, a different name for SNAs) while developing the Auckland Unitary Plan. This is one example of an SNA identification process in an urban area that involved frequent engagement with landowners.

IDENTIFYING SIGNIFICANT ECOLOGICAL AREAS IN AUCKLAND

In Auckland, there are currently over 3000 Significant Natural Areas (SNAs) identified and managed in the Auckland Unitary Plan. Significant Ecological Area (SEA) identification was begun as part of the process of developing the Auckland Unitary Plan (AUP) when the Auckland Council was created in 2010. The Council worked with affected landowners between 2011 and 2015 in both non-statutory and statutory phases of the AUP development to develop and finalise the AUP's SEA overlays.

The Council began with an initial identification process, developing a SEA overlay to be included in the Draft Auckland Unitary Plan (DAUP). The DAUP was released for an 11-week early consultation period in March 2013. The Council alerted all 6000+ owners of properties in the draft SEA overlay, to allow them to participate in the consultation. The Council incorporated this feedback into the SEA overlay for the Proposed Auckland Unitary Plan (PAUP), notified in September 2013.

The Council then contacted property owners again to alert them to the inclusion of their properties within the PAUP overlay, and to advise them of the opportunity to lodge a submission on the PAUP SEA overlay. Based on their submissions, the Council then carried out further survey work of all sites subject to submissions challenging the accuracy of the overlay mapping. This phase of work resulted in some changes to proposed SEAs, as well as the identification of some potential new SEAs.

Between September 2014 and 2015, the Independent Hearings Panel process was carried out. This involved further surveys and consultation with landowners, before the final SEA overlay for the AUP was produced.¹⁸

What are we proposing to change and/or introduce?

The proposed National Policy Statement on Indigenous Biodiversity (NPSIB) defined significance using a standard set of ecological criteria (table 3) for terrestrial biodiversity (Appendix 1 of the proposed NPSIB).¹⁹ These criteria are consistent with good

¹⁸ Note that the Independent Hearings Panel directed no new SEAs were to be added unless there was explicit support from the affected landowner, as it considered this would be contrary to the Clearwater test established through *Clearwater Resort Ltd v Christchurch City Council*, unreported HC AP34/02 at para 66 – which sets out that the Court cannot permit a planning instrument to be appreciably amended without real opportunity for participation for those potentially affected.

¹⁹ Officials recognise there are differences between these criteria and criteria used by councils to identify indigenous biodiversity in the coastal area under the New Zealand Coastal Policy Statement 2010 (NZCPS). Current practice indicates there are methods of identifying indigenous biodiversity within the landward coastal environment using both the proposed NPSIB significance criteria and the NZCPS without conflict.

practice and recent guidance²⁰ and some criteria currently used by councils. SNA criteria are not intended to capture all indigenous biodiversity in an area, but to identify the significant vegetation and habitats that need protection and management, to maintain indigenous biodiversity across New Zealand.

The proposed NPSIB requires each territorial authority to identify and map all SNAs within its district, using these criteria and a clear and transparent process to work with communities and landowners (table 3). This must be completed within five years of the proposed NPSIB being completed. At the same time, territorial authorities would be required to classify the SNAs as high or medium, according to the attributes in Appendix 2 of the proposed NPSIB. The high and medium classifications help with managing specific activities within SNAs, and are as proposed by the BCG. For more information, see [section C.2 – Providing for specific new activities within SNAs](#) in this discussion document.

Territorial authorities will be required to identify SNAs, rather than regional councils. This builds on emerging council practice and links to territorial authorities' responsibilities for land use. Identifying SNAs is a technical and scientific exercise, and they must be identified and managed on both public land (ie, Crown or council-owned land) and land that is privately owned or Māori-owned.

The overall approach to SNA identification in the proposed NPSIB is in line with the recommendations of the BCG, with technical adjustments to clarify how ecological criteria should be used.

²⁰ Davis M, Head NJ, Myers SC, Moore SH. 2016. *Department of Conservation Guidelines for Assessing Significant Ecological Values*. Wellington: New Zealand Department of Conservation. Retrieved from www.doc.govt.nz/globalassets/documents/science-and-technical/sfc327entire.pdf. Bellingham M, Lloyd K, Lundquist C, Quinn J, Roper-Lindsay J, Davis A, Fuller S. 2017. *Assessing Significant Ecological Values in New Zealand*. Wellington: EIANZ New Zealand Chapter & Ecology Special Interest Section. Retrieved from www.eianz.org/document/item/4153

Table 3: What territorial authorities would have to consider when identifying and mapping SNAs

Principles to follow in the process of identifying SNAs (in proposed NPSIB)	Ecological criteria for identifying and mapping SNAs (Appendix 1 in proposed NPSIB)
<p>a. partnership: territorial authorities must seek to engage with landowners early and share information about indigenous biodiversity, potential management options and any support and incentives that may be available:</p> <p>b. transparency: territorial authorities must clearly inform landowners about how information gathered will be used and make existing information, draft assessments and other relevant information available to relevant landowners for review:</p> <p>c. quality: wherever practicable, the values and extent of natural areas assessed as potentially meeting the criteria in Appendix 1 for classification as an SNA should be verified by physical inspection:</p> <p>d. access: where permission to access a property on a voluntary basis is not given, territorial authorities should first rely on a desktop assessment by an ecological expert, and powers of entry under section 333 of the Act should be used only as a last resort:</p> <p>e. consistency: the identification of an SNA must be based on the indigenous biodiversity present, identified through the consistent application of the criteria in Appendix 1, and regardless of who owns the land:</p> <p>f. boundaries: an area assessed as significant indigenous vegetation and significant habitat of indigenous fauna must be determined by the extent and ecological integrity of the indigenous vegetation or habitat as whole, unaffected by artificial margins such as property boundaries.</p>	<p>i Representativeness – where indigenous vegetation or habitat of fauna is typical or characteristic of the indigenous biodiversity of the ecological district; this can include commonplace vegetation/habitats where it is representative, depending on the wider natural environment</p> <p>ii Diversity and pattern – the extent that the expected natural range of diversity of flora and fauna and physical aspects are present in the area</p> <p>iii Rarity and distinctiveness – where there are rare, depleted or distinctive flora or fauna, habitats or ecosystems, such as threatened and at-risk species, and naturally uncommon ecosystems</p> <p>iv Ecological context – how the size, shape and configuration of the area contributes to the wider surrounding landscape and ability for biodiversity to be maintained.</p>

We recognise the identification and mapping of SNAs is resource intensive and welcome any recommendations on how the Government can support the process. In areas where councils have already comprehensively identified SNAs, the proposed NPSIB would not require territorial authorities to re-do this process and sets out a transitional arrangement. See [Section E: Monitoring and implementation](#) for more details on the support that would be needed for identifying SNAs, and the timeframes and transitional provisions for implementing the proposed NPSIB.

- Q10. Territorial authorities will need to identify, map and schedule Significant Natural Areas (SNAs) in partnership with tangata whenua, landowners and communities. What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?
- Q11. Of the following three options, who do you think should be responsible for identifying, mapping and scheduling of SNAs? Why?
- a. territorial authorities
 - b. regional councils
 - c. a collaborative exercise between territorial authorities and regional councils.
- Q12. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPSIB appropriate for identifying SNAs? Yes/no? Why/why not?
- Q13. Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs? (see Part 3.8(2) of the proposed NPSIB) Yes/no? Why/why not?
- Q14. The NPSIB proposes SNAs are scheduled in a district plan. Which of the following council plans should include SNA schedules? Why?
- a. regional policy statement
 - b. regional plan
 - c. district plan
 - d. a combination.
- Q15. We have proposed a timeframe of five years for the identification and mapping of SNAs and six years for scheduling SNAs in a district plan. Is this reasonable? Yes/no? What do you think is a reasonable timeframe and why?

B.2 – Recognising and protecting taonga species and ecosystems



Proposed NPSIB: Part 2.2 Policy 12 and Part 3.14

This section is about particular species, ecosystems, sites and individual plants or animals that are treasured by tangata whenua. These are referred to as taonga in the proposed NPSIB. The RMA (sections 6(e) and 7(a)) provides for the relationship iwi/Māori have with taonga.

What is the problem with the current approach?

There is no clear RMA process for iwi/Māori to proactively identify their kaitiaki interest in taonga species; the current approach is ad hoc and relies on a good relationship between

iwi/Māori and councils. Existing RMA frameworks offer scope to better provide for the kaitiaki role of iwi/Māori in respect of taonga species than is currently followed.²¹

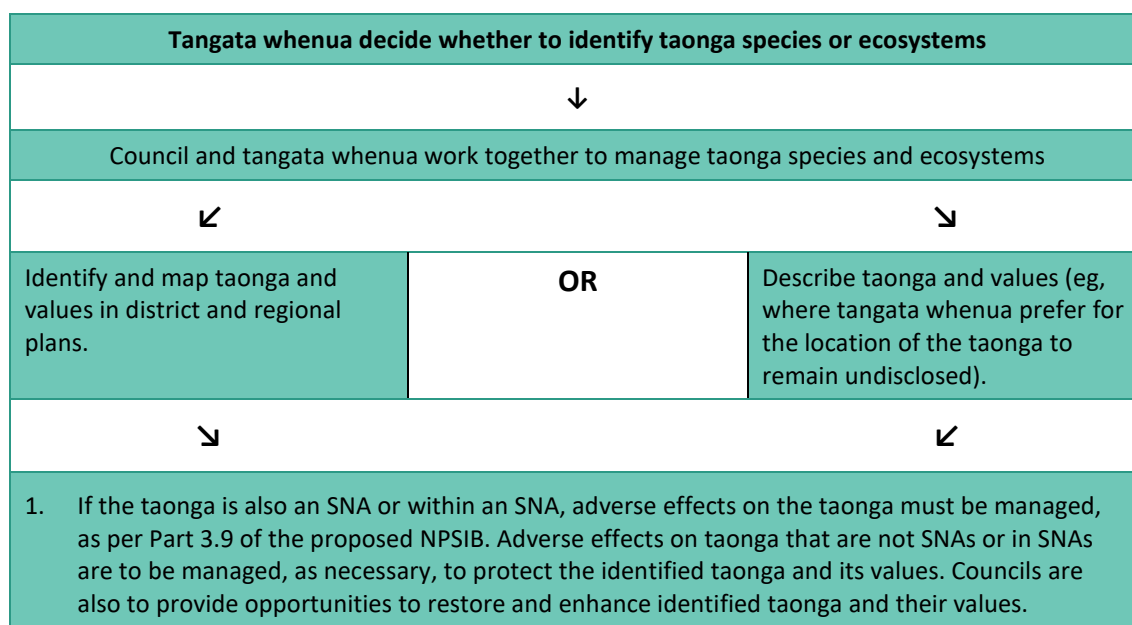
What are we proposing to change and/or introduce?

The BCG recommended a draft policy requiring councils to work with tangata whenua to identify species, populations and ecosystems that are taonga in their RMA planning documents. This identification was to be through either describing and mapping, or just describing, the taonga and its values. The policy then required any adverse effects on taonga to be avoided if the taonga was also an SNA or contained an SNA. In other situations, adverse effects were to be managed as necessary to protect the identified taonga and its values.

During the early engagement hui, concern was expressed the process of identifying and describing taonga could lead to these being more widely known, and the taonga species or ecosystem being disturbed or lost.

The proposed NPSIB has addressed this concern by making the process of identifying taonga location and description optional, and the level of detail provided on taonga to be determined by tangata whenua. Should iwi/Māori choose not to identify taonga, then there should be a dialogue between iwi/Māori and councils exploring the possible consequences and effects on taonga not being managed in relevant RMA plans and consent decisions. The proposed NPSIB process for identifying and managing taonga is set out in figure 3. Should tangata whenua decide to work with councils, the effects on identified taonga would then be managed to protect their values.

Figure 3: Process for the consideration and protection of taonga species or ecosystems



²¹ Waitangi Tribunal. 2011. *Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity* (WAI 262). Wellington: Waitangi Tribunal. Section 3.11 Summary of recommendations.

Q16. Do you agree with the proposed approach to identifying and managing taonga species and ecosystems? (see Part 3.14 of the proposed NPSIB) Yes/no? Why/why not?

B.3 – Surveying for and managing ‘highly mobile fauna’



Proposed NPSIB: Part 2.2 Policy 13 and Part 3.15

Highly mobile indigenous fauna are animals that move frequently between environments (see table 4). They might move to find food, safe locations, locate mates, or seek out certain climates. These movements can occur over a district, regional, national or international scale, and might take place over a day, weeks or months.

Table 4: Examples of highly mobile fauna

Movement behaviour	Example
Migratory species that leave their breeding areas to go somewhere else for a range of reasons (loafing/resting sites, moulting sites, wintering habitat).	Migratory river species such as banded dotterels, black-fronted terns and wrybill.
Mobile species that use the landscape less predictably, generally cycling around habitat patches that vary in their suitability and resources (eg, food supplies) over time.	Forest kākā, matuku/Australasian bittern using wetland networks and pekapeka/bats across complex habitat areas.

The ecology of one indigenous highly migratory species, the long-tailed bat, is discussed below.

ENDANGERED PEKAPEKA/LONG-TAILED BATS

Pekapeka/long-tailed bats are an endangered native New Zealand mammal, widely distributed throughout the mainland, and on Stewart, Little Barrier, Great Barrier, and Kāpiti Islands. Long-tailed bats have recently been reclassified with the highest threat ranking of ‘nationally critical’. They are believed to produce only one offspring per year.

Pekapeka are a type of highly mobile fauna with habitats in both native forests and rural landscapes, and a very large home range of up to 100 square kilometres. Native trees tend to produce natural cavities, some of which offer stable conditions for bats to roost and have their young. Where there are fewer native trees, long-tailed bats are forced to use cavity-forming exotic trees, which tend to provide a lower quality habitat for roosting. They move trees most nights, carrying their young with them to the next tree hollow. Knowledge of the location of their roosting and foraging areas is therefore essential in the management of the species.



Pekapeka/long-tailed bat. Photo credit: Department of Conservation

Survival of Pekapeka is influenced by predators including cats, stoats, rats and possums. Habitat loss is caused by clearance and logging of lowland forests, cutting of old-age trees for firewood, and introduced animals excluding bats from their roosts. Pekapeka are also at risk from human activities including urban development, forestry, and wind farms.

The New Zealand Transport Agency has worked with the Department of Conservation (DOC) to develop a Bat Management Framework.²² This is being used as a guide for roading and other development projects.

DOC is working with the forestry industries to develop a plan to allow bats to survive long-term in forestry blocks. DOC is also developing a set of guidelines for bats and wind farms. Regional councils and territorial authorities can also play a role in the survival of this highly threatened species by surveying their regions and/or districts to identify possible bat habitats, and helping protect and restore these areas with community groups and landowners. Currently Auckland Council, Hamilton City Council, and Timaru District Council are considering potential management frameworks to better manage bats. Radio-tracking studies of bats in these areas provides essential information on roosting and foraging areas.

What is the problem with the current approach?

The current approach to maintaining indigenous biodiversity under the RMA often neglects highly mobile fauna whose range is not necessarily limited to areas easily defined on maps. Many of these highly mobile fauna are rare and require protection. They need a separate approach, as SNA criteria are unlikely to cover all their necessary habitats. For instance, pekapeka/long-tailed bats forage in open farmland and often roost within forestry plantations. Migratory waders, such as oystercatchers, stilts and dotterels, require overland flyways. Loss and fragmentation of these flyways is a major threat. The problem is highlighted at the consent application stage, where a lack of basic information on the presence of highly mobile fauna, or how an activity may affect them, can lead to decisions that fail to recognise these species. This can lead to a loss in indigenous biodiversity.

Outcomes for highly mobile fauna could be improved through better management, and collaboration across council boundaries.

What are we proposing to change and/or introduce?

Part 3.15 guides the identification and management of highly mobile, at-risk or threatened indigenous fauna species that are likely to depend on habitats beyond identified SNAs, and whose presence in the environment might be difficult to detect.

Part 3.15 requires regional councils and territorial authorities to work together to survey and record areas outside SNAs to:

- identify the likely presence or absence of highly mobile indigenous fauna in their districts
- include maps in regional and district plans of areas where these species are likely to be present, where this will help protect them
- provide people and communities with information about these species and their habitat requirements, as well as how to protect them and their habitats

²² Bat Management Framework is available at www.nzta.govt.nz/resources/research/reports/623.

- include objectives, policies or methods in resource management plans for managing adverse effects on highly mobile fauna and for maintaining viable populations of these species across their natural range.

Where the presence of highly mobile fauna (that are threatened or at risk) is known or certain, then these areas would be identified as SNAs under Appendix 1 of the proposed NPSIB (eg, rarity and distinctiveness criteria) and managed as SNAs under Part 3.9 of the proposed NPSIB.

Where the presence of highly mobile fauna is uncertain or there is limited information, the proposed NPSIB Part 3.15 would allow more flexible management of adverse effects. This is consistent with the BCG recommendations, with one minor amendment. The BCG's approach specified that adverse effects must be avoided, remedied or mitigated. Part 3.15 proposes more broadly *managing* the adverse effects, as necessary to maintain viable populations of these fauna across their natural range. This is to provide management flexibility at a local level for each highly mobile fauna species, to promote the best outcomes for indigenous biodiversity. For example, councils could determine strong management if appropriate (eg, avoiding an effect), or an adaptive management or action plan approach if the course of action and outcomes for highly mobile fauna is not certain and needs to be tested.

In practice for example, according to the district plan rules, it might mean that a farmer who is carrying out a new activity on their land can undertake normal farming activities most of the year, except for several weeks of the breeding season, to reduce risk to nesting birds such as banded dotterel. Alternatively, in urban areas, it might mean protecting and restoring wildlife corridors and stepping stones for bats in the area.

How would this be implemented, including alongside DOC administering the Wildlife Act 1953?

Current information on highly mobile fauna is incomplete. Early engagement feedback from councils indicates they often do not have the necessary information to actively manage highly mobile fauna. There was also concern that specifying this function for councils could overlap with DOC's role under the Wildlife Act 1953. We are considering what support would be needed for councils to implement Part 3.15 successfully, and welcome any suggestions.

If implemented, we anticipate that:

- Under the RMA/NPSIB: Councils would need to proactively survey for the movement patterns of threatened and at-risk, highly mobile fauna within and across boundaries. Councils would also need to be prepared to manage adverse effects on the habitat of highly mobile fauna when developing their regional and district plans and assessing consent applications for new activities.
- Under the Wildlife Act: People would need to apply for authorisations from DOC when they might disturb any wildlife/fauna that are protected under the Act.

While this is consistent with RMA roles for councils, it potentially represents a shift in current practice for them. We recognise this, and welcome any feedback on Part 3.15 and on guidance, information and support that would be required to look after highly mobile fauna effectively.

- Q17. Part 3.15 of the proposed NPSIB requires regional councils and territorial authorities to work together to identify and manage highly mobile fauna outside of SNAs. Do you agree with this approach? Yes/no? Why/why not?
- Q18. What specific information, support or resources would help you implement the provisions in this section (section B)?

3.15 – Highly mobile fauna

Native birds and our activities

Tamati has enjoyed seeing native birds nesting and feeding in his cultivated and cropped paddocks over some parts of his farm at certain times of the year. He's been told the birds' conservation status has now changed to 'threatened' but he has always cultivated the paddocks in spring for crops. Under the proposed NPSIB, Tamati's local authority must provide him with information about the native birds and their movements, as well as their habitats and best practice techniques for managing adverse effects on the birds once he starts cultivating his paddocks.

Section C: Managing adverse effects on biodiversity from activities

C.1 – Managing adverse effects on biodiversity within Significant Natural Areas



Proposed NPSIB: 2.1 Objective 6, Part 2.2 Policy 6, Part 3.9

Managing Significant Natural Areas (SNAs) is critical to the maintenance of indigenous biodiversity in New Zealand. How SNAs are identified is described in [Section B: Identifying important biodiversity and taonga](#). This section is about how adverse effects within SNAs are managed in general, to avoid four main effects. The next sections talk about some specific activities that may be managed differently to this general approach, for example, where SNAs are classified as medium.

What is the problem with the current approach?

Maintaining indigenous biodiversity is a mandatory function of district and regional councils under the Resource Management Act 1991 (RMA).

However, there is a lack of clarity about what that means, and how it should happen. In the absence of national policy, there are currently many different approaches to managing adverse effects on indigenous biodiversity. SNAs must be protected, as per section 6(c) of the RMA, but the RMA does not say how this should be done, or acknowledge the new and existing activities that may negatively affect SNAs.

The lack of clear standards for protecting SNAs has led to a lack of certainty for councils and resource management users and, in some cases, to inadequate protection for significant indigenous biodiversity. This is contributing to a continued decline of indigenous biodiversity.

What are we proposing to change and/or introduce?

Part 3.9 of the proposed National Policy Statement on Indigenous Biodiversity (NPSIB) would require local authorities to ensure four adverse effects on SNAs are avoided, while other adverse effects are to be managed more broadly.

Manaaki Whenua Landcare Research advised the Biodiversity Collaborative Group (BCG) on a list of adverse effects that must be avoided in SNAs to maintain indigenous biodiversity. The BCG refined this to five main adverse effects that must be avoided in each SNA. We have further refined these to four main effects territorial authorities would be required to ensure are avoided in any subdivision, use and development within an SNA (Part 4B.2). These are:

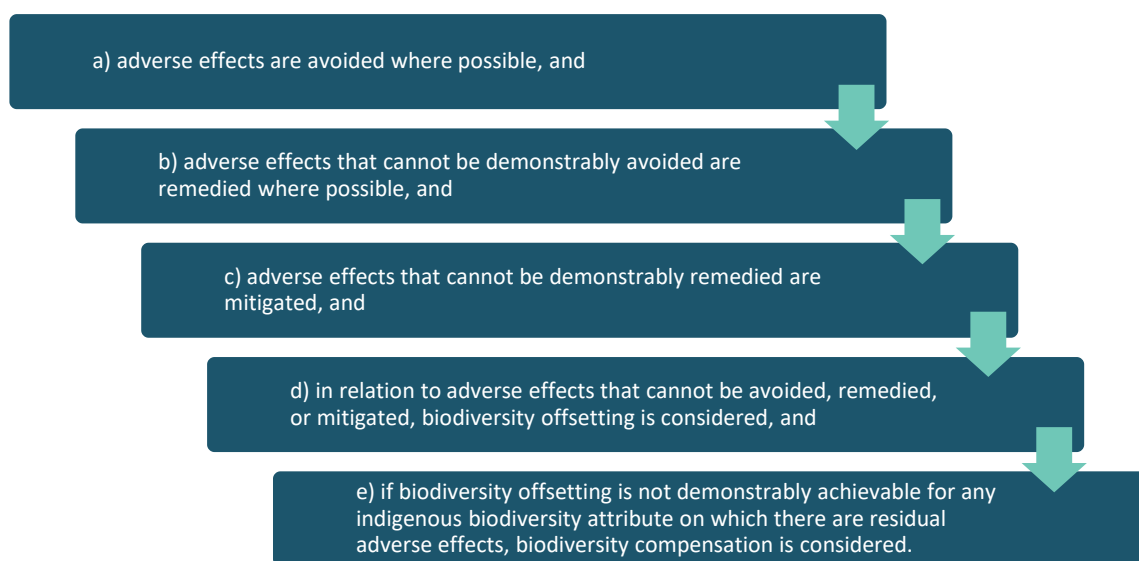
1. loss of ecosystem representation and extent
2. disruption to ecological sequences, mosaics or processes

3. fragmentation or loss of buffering or connectivity within and between ecosystems or habitats
4. a reduction in population size or occupancy of any indigenous taxa that are listed as 'threatened' or 'at risk' in the New Zealand Threat Classification System lists.²³

The BCG proposed a list of additional adverse effects that needed to be *managed* within SNAs to protect the ecological integrity of SNAs. This outcomes-based approach is set out in its report published on 25 October 2018 in Policy 6(b).²⁴ Following the BCG's approach, territorial authorities would have needed detailed ecological evidence to determine an acceptable level of adverse effects to still enable the protection of the SNA's ecological integrity. However, the intention was to allow for flexible and tailored approaches to managing adverse effects to SNAs (beyond the four effects that must be avoided), as long as the ecological integrity was protected.

Council feedback and our recommendation is it would be beneficial to spell out what *managing* entails through a clear effects management hierarchy (figure 4). In place of the BCG's outcomes-based approach, the proposed NPSIB includes the effects management hierarchy for additional adverse effects, which means, for the purposes of this NPS, an approach to managing the adverse effects of an activity as set out below.

Figure 4: Effects management hierarchy



We see this hierarchy as best practice in council plans and international examples, and as essential for protecting biodiversity.

Feedback from some BCG members indicates a concern that a focus on the effects management hierarchy means councils may decline resource consent applications for some activities that could have minimal impact to biodiversity, or where a better biodiversity outcome could be gained through offsetting or compensation. However, the risk to

²³ New Zealand Threat Classification System lists available at: <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/nz-threat-classification-system/>.

²⁴ Refer to page 61 of the Report of the Biodiversity Collaborative Group available here: http://www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf.

biodiversity and the potential for loss in biodiversity increases each step down the hierarchy, particularly in using ‘[biodiversity offsetting and biodiversity compensation](#)’. Use of the term ‘where possible’ was chosen over ‘where practicable’ to ensure resource consent applicants adequately consider each step of the hierarchy, and assess what may be technically or financially feasible. Use of ‘where practicable’ is considered weaker and, in practice, results in less avoidance of effects than is actually possible.

In the proposed NPSIB, the requirement to avoid four main effects within SNAs is very similar to the BCG’s draft NPSIB. We propose a change from the BCG’s approach by requiring territorial authorities to:

- ensure that any subdivision, use and development within an SNA manages additional adverse effects through following the effects management hierarchy, and
- consider the adverse effects listed in Part 1.7(4), as well as any other relevant adverse effects, when applying the effects management hierarchy.

This is considered more practical for territorial authorities to implement.

Scenarios – How would this work for you?

Rural landowner with an SNA and wanting to change land use

Kevin owns property in the Waipa district, so SNAs are already identified in the district/regional plan. Under the proposed NPSIB, Kevin doesn’t need to do anything new. The council will review the SNA in time and involve him in that process if he wishes. This will include assessing the SNA’s status. In future, if he wishes to change the use of his land in a way that would impact on the SNA, he will need to discuss with his council how the SNA needs to be managed.

Q19. Do you think the proposed NPSIB provides the appropriate level of protection of SNAs? Yes/no? Why/why not? (see Part 3.9 of the proposed NPSIB)

Q20. Do you agree with the use of the effects management hierarchy as proposed to address adverse effects on indigenous biodiversity instead of the outcomes-based approach recommended by the Biodiversity Collaborative Group? Yes/no? Why/why not?

Q21. Are there any other adverse effects that should be added to Part 1.7(4), to be considered within and outside SNAs? Please explain.

C.2 – Providing for specific new activities within SNAs



Proposed NPSIB: Part 2.1 Objective 6, Part 2.2 Policies 8 and 10, Part 3.7, 3.9 and Appendix 2

Land used for industry, farming, forestry, infrastructure and other purposes can also be important for indigenous biodiversity. The proposed NPSIB sets out how these activities would continue to be provided for through council plans, while maintaining indigenous biodiversity.

What is the problem with the current approach?

The RMA is unclear on how exactly SNAs should be protected while providing for existing and new activities that are important to New Zealand's social, cultural and economic wellbeing. Indigenous biodiversity is threatened by the impacts of human activity, while many of these activities are important to our wellbeing. Clear national direction is needed to clarify how indigenous biodiversity should be maintained while allowing for existing and new activities.

What are we proposing to change and/or introduce?

The proposed NPSIB sets out what adverse effects are to be avoided and managed within SNAs to protect significant indigenous biodiversity (Part 3.9). This is accompanied by provisions where there is flexibility from avoiding the four key effects for some specific new activities (Part 3.7, 3.9). This clarifies what is required to maintain indigenous biodiversity while providing for existing and new activities that are important to New Zealand's overall wellbeing.

Specific activities exempt from avoiding adverse effects

Part 3.9(4) sets out an exemption from the SNA management framework under specific circumstances. This means that adverse effects of the following would not need to be avoided:

- a. adverse effects arising from a use or development that is for the purpose of protecting, restoring or enhancing an SNA
- b. adverse effects arising from a use or development that addresses a severe and immediate risk to public health or safety
- c. area comprises kānuka or mānuka and is identified as an SNA solely because it is at risk from myrtle rust
- d. indigenous vegetation or habitat of indigenous fauna was established and managed for a purpose other than the maintenance, restoration, or enhancement of indigenous biodiversity, and the use or development is necessary to meet that purpose.

We consider these activities are likely to have minimal impact on indigenous biodiversity overall, and can be managed flexibly through council plans, depending on local circumstances. Note that as per Part 4.1(2), the Ministry for the Environment will review (within five years of this proposed NPSIB coming into effect) whether it is appropriate for kānuka or mānuka to be identified as an SNA solely because of the risk from myrtle rust.

Allowing for specific activities in medium-value SNAs

Part 3.9(2) and (3) set out a more flexible and pragmatic management approach for some specified new activities. This management approach relies on Appendix 2 of the proposed NPSIB which determines whether an identified SNA is of medium or high value, an approach recommended by the BCG and discussed in [Section B: Identifying important biodiversity and taonga](#) of this discussion document. This ensures protection where needed for indigenous biodiversity maintenance (for high-value SNAs), while also recognising the need for a more flexible management approach in some cases to provide for social, economic and cultural outcomes (for medium-value SNAs). If these specified activities cannot feasibly occur at another location, they may occur within medium-value SNAs, with adverse effects managed using the effects management hierarchy.

This high and/or medium distinction may either weaken the ability to protect SNAs or create uncertainty about what can be done within SNAs. We have considered other options to the high- and medium-value SNA split, of providing for nationally important activities while still protecting and maintaining indigenous biodiversity, but have not found another solution that achieves this balance. We welcome feedback and alternatives to this approach.

The specific activities for which a more lenient management approach is proposed are:

- nationally significant infrastructure
- mineral and aggregate extraction
- the provision of papakāinga, marae and ancillary community facilities associated with customary activities on Māori land²⁵
- the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of tangata whenua
- a single dwelling on an allotment created before the date this proposed NPSIB comes into effect. This is seen as important to balance a landowner's intention to use this site for residential purposes, while still maintaining biodiversity and managing effects from wider housing developments.

The list of specified activities is broadly consistent with what the BCG recommended.

Nationally significant infrastructure

'Nationally significant infrastructure' is consistent with the definition proposed in the *Essential Freshwater* package²⁶ and the Kāinga Ora – Homes and Communities Bill. This common definition will help create regulatory certainty, particularly for industry. The exception for nationally significant infrastructure acknowledges that some infrastructure is essential to the

²⁵ Reference to Māori land is defined as Māori customary land and Māori freehold land, as defined in Te Ture Whenua Māori Act 1993. Section 129 (2) of the Act states:

- (a) land that is held by Māori in accordance with tikanga Māori shall have the status of Māori customary land:
- (b) land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order, shall have the status of Māori freehold land.

²⁶ Ministry for the Environment and Ministry for Primary Industries. 2019. *Action for healthy waterways: A discussion document on national direction for our essential freshwater*. Wellington: Ministry for the Environment and Ministry for Primary Industries. Retrieved from <https://www.mfe.govt.nz/publications/fresh-water/action-healthy-waterways-discussion-document-national-direction-our>.

nation and often constrained to specific areas. Infrastructure such as renewable electricity generation contributes to broader government goals, such as the Government's 100 per cent renewable electricity and zero carbon targets, and needs to be provided for according to other RMA national direction instruments.²⁷

Mineral and aggregate extraction

The BCG recommended the exception within medium-value SNAs for mineral and aggregate extraction should only apply to extraction that is essential to provide a domestic supply for New Zealand's mineral or aggregate needs. We do not consider it appropriate for the proposed NPSIB to determine whether mineral or aggregate is used domestically or exported, as this is not consistent with the effects-based approach that underpins the RMA. The proposed NPSIB intends to reflect existing government policy around minerals, comply with international trade agreements, and not reduce the potential for exploration and development of the 'green' minerals sector. We welcome your views on whether you think any parameters should exist around mining and aggregate in the proposed NPSIB, and what these should be.

Māori land

We have added the use of Māori land to the BCG's list, where this could significantly contribute to enhancing the social, cultural or economic wellbeing of tangata whenua. While the BCG drafted a specific policy on the development of Māori land, we heard during nationwide hui that developing Māori land is best provided for under the more permissive Part 3.9(2). The issues surrounding Māori land are discussed further in [section C.6 – The use and development of Māori land](#).

- Q22. Do you agree with the distinction between high- and medium-value SNAs as the way to ensure SNAs are protected while providing for new activities? Yes/no/unclear? Please explain. If no, do you have an alternative suggestion?
- Q23. Do you agree with the new activities the proposed NPSIB provides for and the parameters within which they are provided for? (see Part 3.9(2)-(4) of the proposed NPSIB) Yes/no? Why/why not?
- Q24. Do you agree with the proposed definition for nationally significant infrastructure? Yes/no? Why/why not?

²⁷ For example, the National Policy Statement for Renewable Electricity Generation (NPSREG), the National Policy Statement for Electricity Transmission (NPSET) and the National Environmental Standards for Electricity Transmission Activities (NES ETA).

C.3 – Managing significant biodiversity in plantation forests



Proposed NPSIB: Part 3.10

What is the problem with the current approach?

A number of existing SNAs are next to, or surrounded by, plantation forests which are harvested about every 25 years. Because the forests provide a stable environment for a long time, threatened or at-risk flora or fauna may use or become established in these plantations. Under the proposed criteria in Appendix 1 of the proposed NPSIB, the presence of these species may trigger identification of an SNA within productive forest areas. If the SNA management approach in clause 3.9(1) were to apply, forestry harvest would likely not be possible in many parts of the country, as it would be impossible to avoid the four adverse effects to the SNA within plantation forests. This would have a significant impact on the economic viability of those forests, which can also provide important environmental benefits for emissions, erosion and water quality while they grow.

The National Environmental Standards for Plantation Forestry (NESP), an existing national direction tool under the RMA, already contains some provisions to manage biodiversity in plantation forests. In particular, these provisions relate to bordering SNAs and bird species that are nationally critical, endangered or vulnerable. These include the kiwi, falcon and North Island weka.

Additionally, a large proportion of the forestry sector follows industry guidelines on protecting biodiversity, such as those developed by the Forest Owners Association, or certification through the Forest Stewardship Council.

What are we proposing to change and/or introduce?

To avoid confusion, the proposed NPSIB and NESP need to align to provide consistent direction to councils. Resource users and agencies have been working together on a possible approach. The proposed NPSIB introduces the concept of plantation forest biodiversity areas (PFBAs). These are plantation forests that are deliberately established and that contain significant indigenous vegetation or habitat of indigenous fauna (identified using Appendix 1 of the proposed NPSIB).

Such PFBAs are not to be managed as SNAs under either the proposed NPSIB or the NESP and the standard SNA effects management regime in clause 3.9 of the proposed NPSIB would not apply. Instead, forestry activities would have to be managed under Part 3.10, to firstly maintain long-term populations of threatened or at-risk indigenous fauna over the course of consecutive rotations, and secondly, to manage adverse effects on threatened or at-risk flora.

Where an SNA is identified alongside plantation forestry, the SNA effects management regime outlined in [Section C: Managing adverse effects on biodiversity from activities](#) would still apply to the SNA.

The Government is currently undertaking a review of how the NESPF is being implemented, and to address any issues that have arisen in its first year. Over time, and as information becomes available, the NESPF review will address gaps regarding nationally threatened and at-risk flora and fauna and naturally uncommon ecosystems. Ultimately, an approach will be outlined in the NESPF that supports the proposed NPSIB. In the interim, councils would have the ability under the proposed NPSIB to develop appropriate policies and rules to manage:

- effects on threatened and at-risk flora and fauna in plantation forestry where these are not covered by the NESPF
- SNAs alongside plantation forestry where they can demonstrate the need to be more stringent than the NESPF.

Q25. Do you agree with the proposed approach to managing significant indigenous biodiversity within plantations forests, including that the specific management responses are dealt with in the NESPF? (see Part 3.10 of the proposed NPSIB) Yes/no? Why/why not?

Scenario – How would this work for you?

Plantation of pine trees has attracted bats

Jane has a small property in the Kaipara district that appears to have no obvious native flora. She has a small plantation of pine trees being grown for firewood and posts in a corner of the farm. She sees a few bats have moved in now that the trees have grown. The trees are ready to mill. Under the proposed NPSIB, the trees would need to be milled in a way that maintains the bat population over time. This may require consecutive rotations of milling, or if the bats are only in one tree, then leaving that tree intact.

Also note the National Environment Standard for Plantation Forestry has rules for indigenous biodiversity in plantation forests.

C.4 – Providing for existing activities, including pastoral farming



Proposed NPSIB: Part 2.1 Objective 6, Part 2.2 Policies 8 and 10, Part 3.10, Part 3.12

Existing uses of land such as industry, farming, forestry and infrastructure are important for our social and economic wellbeing, and can also be important for indigenous biodiversity. The proposed NPSIB sets out how these activities would continue to be provided for through council plans, while managing impacts to indigenous biodiversity.

What is the problem with the current approach?

The RMA is unclear about how exactly SNAs should be protected while providing for the continuation of existing activities. Sections 10 and 20A of the RMA provide for particular existing use rights when plan rules change, and these existing use rights cannot be overridden

by the proposed NPSIB. However, there is a gap in direction for how to manage the impacts on biodiversity from other existing uses of land.

What are we proposing to change and/or introduce?

The proposed NPSIB acknowledges the importance of existing uses of land. It also recognises the adverse effects of some existing uses of land increase in scale or intensity, meaning more indigenous biodiversity is lost.

- Part 3.12 of the proposed NPSIB aims to balance existing activities in SNAs with the maintenance of indigenous biodiversity. There may be some instances where the adverse effects of existing uses of land (where not already covered by sections 10 and 20A of the RMA) may need to be managed to maintain indigenous biodiversity.
- Part 3.9 of the proposed NPSIB applies to new subdivision, use or development that takes place in, or affects, an SNA. It does not apply to existing uses of land.

This means the four adverse effects listed in Part 3.9(1) of the proposed NPSIB that apply to new activities would not have to be avoided for the existing uses under Part 3.12 of the proposed NPSIB. Instead, Part 3.12 of the proposed NPSIB specifies the circumstances where biodiversity would need to be managed alongside existing uses.

Part 3.12 of the proposed NPSIB sets out that ‘regional councils must make or change their policy statements to specify where, how and when plans must provide for existing activities that may adversely affect indigenous biodiversity’.

Part 3.12 of the proposed NPSIB is based on the BCG’s policy 9, which has been amended to avoid duplication of the RMA and to make it easier to implement. If existing activities are taking place within an SNA, Part 3.12 of the proposed NPSIB would require local authorities to ensure the effects on biodiversity do not increase in character, scale or intensity, and ensure that continuing the activity would not lead to the loss of extent or degradation of the SNA’s ecological integrity, or the cumulative loss of any ecosystem.

For pastoral farming, Part 3.12(4) of the proposed NPSIB includes direction on managing improved pasture (regular pastoral farming activities). There are some parts of the country where pastoral farming occurs on grasslands that may have been over sown with exotic pasture grasses but also have important indigenous biodiversity present. Some of this biodiversity would be significant and meet the criteria in Appendix 1 of the proposed NPSIB. For example, the mixed exotic and indigenous grasses that are used for grazing may include rare indigenous grasses or habitat of rare indigenous animals. The provision intends to allow existing farming activity to continue, while making sure the impact to indigenous biodiversity does not increase. This provision for managing biodiversity in improved pasture, Part 3.12, was drafted in collaboration with Forest and Bird and Federated Farmers.

Q26. Do you agree with managing existing activities and land uses, including pastoral farming, proposed in Part 3.12 of the proposed NPSIB? Yes/no? Why/why not?

Scenario – How would this work for you?

Regenerating indigenous biodiversity

Lucinda manages a high-country station in Otago. The farm runs extensive sheep and beef. As the property is large, maintaining pasture on any part of the property only occurs as part of a programme to improve pasture composition every few years and sometimes out to a decade or more. Matagouri has started to regenerate but Lucinda wants to continue to cultivate or top-dress areas. Under the proposed NPSIB, as long as the regenerating matagouri has not itself become a SNA since Lucinda last cleared it, the periodic clearance to maintain improved pasture is unlikely to compromise the protection of SNAs or the maintenance of indigenous biodiversity, and the farming activities can continue.

C.5 – Managing adverse effects on biodiversity outside SNAs



Proposed NPSIB: Part 1.7(4), Part 2.1 Objective 6, Part 2.2 Policy 7 and Part 3.13

SNAs only contain exemplar indigenous biodiversity. A lot of indigenous biodiversity exists outside SNAs, and this biodiversity is still important.

What is the problem with the current approach?

The decline of indigenous biodiversity cannot be halted through managing SNAs alone. If there was no management of biodiversity outside SNAs, it would likely mean more species and ecosystems would become threatened. Indigenous biodiversity outside of SNAs is important for a multitude of reasons, including habitat patches for highly mobile fauna to use while moving across a landscape, and providing us with green spaces to enjoy and feel nourished by. Our early engagement with iwi/Māori (November–May 2019) and the Aotearoa New Zealand Biodiversity Strategy (NZBS) Te Ao Māori reference group emphasised the need for us to manage all indigenous biodiversity for its intrinsic value as an important part of whakapapa, as well as for the many benefits it provides us with.

Many territorial authorities have provisions in their plans for managing indigenous biodiversity outside SNAs, including general vegetation clearance rules. These may have multiple purposes, such as erosion control or water quality, and might not have a biodiversity focus. The effectiveness of biodiversity provisions for managing indigenous biodiversity outside SNAs is varied, and biodiversity continues to decline.

What are we proposing to change and/or introduce?

The proposed NPSIB would set the management framework to maintain indigenous biodiversity outside of SNAs.

The base level of management proposed by the BCG was to require territorial authorities to *control* adverse effects on biodiversity outside SNAs, to reach specified biodiversity

outcomes.²⁸ Following the BCG's approach, territorial authorities would need detailed ecological evidence to determine an acceptable level of adverse effect that would mean no reduction in specific attributes (such as indigenous character, ecosystem connectivity or buffering, or species occupancy across their natural range). However, it was intended to be a flexible approach with the appropriate response tailored clearly to the outcome.

Council feedback has been that it would be beneficial to clarify the specific management requirements for *controlling* adverse effects.

The proposed NPSIB Part 3.13 therefore requires regional policy statements to specify where, how and when subdivision, use and development outside of SNAs should be controlled to maintain indigenous biodiversity. In place of the BCG's outcomes-based approach, it then requires that adverse effects be controlled through the effects management hierarchy. Adverse effects to consider include those set out in 1.7(4).

The management of adverse effects on indigenous biodiversity outside SNAs is more flexible than within SNAs. There is no requirement to avoid key adverse effects; instead, adverse effects should be avoided where possible, following the effects management hierarchy. When working through the hierarchy, territorial authorities and resource consent applicants have the flexibility of using biodiversity offsets and/or biodiversity compensation instead of having to consider biodiversity offsetting ahead of biodiversity compensation.

The effects management hierarchy is common in RMA plans for managing a range of environmental issues. However, requiring it in national direction is feasible but new. Its inclusion in the proposed NPSIB is intended to support best practice and ensures risks to indigenous biodiversity are minimised. The aim of this management framework is to ensure a base level of protection for indigenous biodiversity outside SNAs, with enough flexibility to allow many community outcomes to be met, by a council determining where, how and when biodiversity outside SNAs should be managed.

However, a number of BCG members have indicated a strong concern that requiring strict application of the effects management hierarchy will drive perverse and inflexible approaches, which are not well tailored to the outcomes sought. This concern is increased given the level of detail in the proposed NPSIB around biodiversity offsetting and biodiversity compensation (Appendices 3 and 4 of the proposed NPSIB). They have expressed a preference for the BCG's original, outcomes-based proposal. We are therefore seeking feedback on this specific issue.

Part 3.13 of the proposed NPSIB also sets out that councils must include in their plans where, how and when an assessment (using Appendix 1 of the proposed NPSIB) of ecological significance in an area outside of an SNA is required. This is to recognise that environments constantly change, and over time, new areas may become significant.

Councils must also have particular regard to the potential of Māori land to provide for the social, cultural and economic wellbeing of Māori. This consideration would determine where, how and when subdivision, use and development outside of SNAs should be controlled to maintain indigenous biodiversity.

²⁸ Biodiversity Collaborative Group. 2018. *Report of the Biodiversity Collaborative Group*. Wellington: Biodiversity (Land and Freshwater) Stakeholder Trust. Retrieved from www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf, Policy 11 on page 64.

- Q27. Does the proposed NPSIB provide the appropriate level of protection for indigenous biodiversity outside SNAs with enough flexibility to allow other community outcomes to be met? Yes/no? Why/why not?
- Q28. Do you think it is appropriate to consider both biodiversity offsets and biodiversity compensation (instead of considering them sequentially) for managing adverse effects on indigenous biodiversity outside of SNAs? Yes/no? Why/why not?

Scenarios – How would this work for you?

Homeowner wanting to cut down trees

Tui's Marlborough property is adjacent to land that has been designated a Significant Natural Area (SNA). Tui has some native trees on her land that are not ecologically significant. Tui wants to cut down these trees to build a house. The proposed NPSIB proposes Tui carry out an environmental assessment. If her activity is identified as having a significant impact, Tui will have to cut down the trees on her property in such a way as to manage the adverse effects to the SNA next door.

C.6 – The use and development of Māori land



Proposed NPSIB: Part 3.7, 3.9, 3.13 and 3.16

Providing for activities on Māori land²⁹ is important for historic and cultural reasons, and because of the barriers to the full and optimal use of Māori land for economic development that have arisen through New Zealand's history. A much higher proportion of Māori land is covered in indigenous forest than any other land (other than public conservation land), although analysis suggests that much of this land is medium-value SNA rather than high-value SNA (refer [Section 32 report and cost-benefit analysis](#)).

What is the problem with the current approach?

The proposed NPSIB requires regional councils and territorial authorities to work with landowners to identify SNAs. We are mindful that, due to historical limitations placed on Māori land,³⁰ these lands are less likely to have been developed and more likely to have retained their indigenous cover. As a result, protections for SNAs could unfairly impact on Māori, and worsen disadvantages created by historic confiscation and loss of land.

²⁹ Reference to Māori land is defined as Māori customary land and Māori freehold land as defined in Te Ture Whenua Māori Act 1993. Section 129 (2) of Te Ture Whenua Act states:

- (a) land that is held by Māori in accordance with tikanga Māori shall have the status of Māori customary land;
- (b) land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order, shall have the status of Māori freehold land.

³⁰ For example, being landlocked, held in multiple ownership or other historical inequities.

Large tracts of land were taken from Māori after the European colonisation of Aotearoa New Zealand, and what now remains in Māori ownership is often remote and difficult to develop or use productively. This is compounded by barriers to the use of Māori land, which include complex ownership arrangements, restrictions on sale, lack of access to finance, inefficiencies of legal processes relative to general land, and difficulties in physically accessing land.

While these factors are outside the scope of the proposed NPSIB, they are important context when making decisions on managing indigenous biodiversity that may impact the use and development of Māori land.

What are we proposing to change and/or introduce?

The BCG proposed that, when preparing policy statements and plans, councils must have regard to opportunities for developing Māori land and the benefits of providing for papakāinga, marae, and ancillary community facilities.

Having listened to iwi/Māori at regional hui, we considered this not sufficiently strong enough to prevent owners of Māori land being further disadvantaged by the SNA provisions. We have therefore added that the use of Māori land in a way that would make a significant contribution to enhancing the social, cultural or economic wellbeing of tangata whenua should be managed through the more permissive Part 3.9(2) management framework. This framework also includes an exemption for the provision of papa kāinga, marae and ancillary community facilities.

This means the activity can proceed provided it is on land that is within a medium-value SNA, and there is no practicable alternative location. Adverse effects would be addressed through the effects management hierarchy, which is a common approach under the RMA, instead of avoided as per Part 3.9(1).

We are aware that some Māori land may be almost entirely covered with indigenous biodiversity classified as a high-value SNA. If these blocks of land are small, the landowners may have limited alternatives for development. Under the proposed NPSIB, this land would fall under the more restrictive Part 3.9(1), where four main adverse effects would need to be avoided and other effects managed through the effects management hierarchy. We are aware this would impose significant constraints and seek feedback on how we can best work with affected landowners.

In addition to providing for use and development on Māori land where there are SNAs, the proposed NPSIB also requires councils to have particular regard to use and development of Māori land when managing biodiversity outside SNAs (Part 3.13).

When restoring and enhancing priority areas (Part 3.16), the proposed NPSIB encourages councils to provide incentives for restoration and enhancement, particularly on Māori land. This recognises the opportunity cost of maintaining indigenous biodiversity on this land in particular. The [Section 32 report and Cost Benefit Analysis](#) provides detailed information on the potential implications of the proposals relating to use and development of Māori land.

Q29. Do you think the proposed NPSIB adequately provides for the development of Māori land? Yes/no? Why/why not?

C.7 – Consideration of climate change in biodiversity management



Proposed NPSIB: Part 2.2 Policy 3 and Part 3.5

The *Global Assessment Report on Biodiversity and Ecosystem Services 2019*³¹ noted the significant impacts of climate on biodiversity globally. The report points out that greenhouse gas emissions have doubled since 1980, raising average temperatures by at least 0.7 degrees Celsius. This has resulted in “climate change already impacting nature from the level of ecosystems to that of genetics – impacts expected to increase over the coming decades, in some cases surpassing the impact of land and sea-use change and other drivers”.

In terms of specific impacts, the report estimates that: “The distribution of almost half (47 per cent) of land-based flightless mammals, for example, and almost a quarter of threatened birds, may already have been negatively affected by climate change”.

In New Zealand, climate change is already having an impact on our native species and ecosystems. Some will be more vulnerable, including alpine, freshwater and coastal ecosystems. Many of our vulnerable native species lack the ability to adapt to the impacts of the climate changing at the rate expected, and may need us to intervene specifically. This includes species:

- with reduced genetic variation because of a limited number of breeding pairs, for example the little spotted kiwi, takahē, and black robin
- with limited distribution, such as the rock wren, black-eyed gecko, and Archey’s frog
- whose habitat is in the vulnerable coastal environment, such as sand-dune habitats.

What is the problem with the current approach?

Section 7(i) of the RMA requires decision-makers to have particular regard to the effects of climate change. However, there is currently no specific policy direction on how councils should do this in the context of biodiversity management.

What are we proposing to change and/or introduce?

Part 3.5 of the proposed NPSIB would require councils to consider the impacts of climate change when making or changing resource management plans and regional biodiversity strategies. Part 3.5 is broadly in line with the BCG’s intent, with one change to remove the reference to the ‘precautionary approach’ that focuses on scientific uncertainty.

This allows the climate change provision to address a broader range of options for protecting indigenous biodiversity in the context of climate change (whether known, or if there is scientific uncertainty). For example, this could include proactive planning of habitat restoration

³¹ Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services (IPBES). 2019. *Global Assessment Report on Biodiversity And Ecosystem Services*. Bonn, Germany: IPBES secretariat. Retrieved from www.ipbes.net/global-assessment-report-biodiversity-ecosystem-services.

to support ecosystem resilience to climate impacts. The proposed NPSIB includes the precautionary approach as a discreet policy and direction (Part 2, Policy 2 and Part 3.6).

The proposed climate change provision means councils would need to consider likely changes in climate (such as temperature, rainfall and sea-level rise), so management of indigenous biodiversity can be more effective over the long term and promote ecosystem resilience. It is crucial our planning frameworks allow for potential changes to give species and ecosystems the best chance of surviving changing conditions over time.

The following example shows how climate change can impact an indigenous fauna population.

THE IMPACTS OF CLIMATE CHANGE ON INDIGENOUS BIODIVERSITY

Indigenous habitats at risk of disappearing because of sea-level rise

Some coastal locations are vulnerable to sea-level rise because of climate change. Flooding of these low-lying coastal areas means the habitats and ecosystems of many native animals would disappear. Across a range of species, there is potential for at least part of the land they occupy to become completely underwater by the end of this century.

The Chesterfield skink

The Chesterfield skink is an extremely rare lizard, found only on the West Coast of the South Island in an area of less than one hectare. It is listed as 'nationally critical', and is perhaps the most colourful skink in New Zealand. There are estimated to be only 150–200 individuals. The Chesterfield skink lives on a thin strip of coastal habitat between farms and sand dunes.



Chesterfield skink. Photo credit: Sabine Bernert



Habitat loss is a big threat to the Chesterfield skink. Photo credit: Antje Wahlberg

Habitat loss is a big threat to this population. Climate change will likely exacerbate this threat because of flooding from rising sea levels and increasing frequency of severe storms. In February 2018, Cyclone Fehi caused major damage to the Chesterfield skink habitat in the West Coast, as shown in the picture to the left.

The proposed NPSIB increases the profile of the effects of climate change on indigenous biodiversity, and clarity on what is required to protect biodiversity from these effects. This is designed to alleviate the risks to species, such as the Chesterfield skink, which would need to be considered in resource management plans. In future, this could contribute to improved protection of the Chesterfield skink, as councils would be required to manage for the effects of climate change on its habitat.

Part 3.5 highlights some of the main factors that will need to be provided for in council plans to enable indigenous biodiversity to adapt to a changing climate. These include:

- natural adjustments of ecosystems (such as range changes)
- considering likely changes when undertaking ecological restoration activities
- managing and reducing biosecurity risks
- connectivity between ecosystems and habitats.

We have heard from council planners and ecologists that while climate change adaptation is an important consideration for addressing the loss of New Zealand's indigenous biodiversity, this proposed NPSIB proposal will come with significant implementation challenges. The impacts of climate change on indigenous biodiversity are complex and often highly uncertain, which means planning for them can be difficult. This is often compounded by a lack of data on climate change impacts in different regions.

We recognise further work needs to be done to fill crucial information gaps and support the implementation of Part 3.5.

Q30. Part 3.5 of the proposed NPSIB requires territorial authorities and regional councils to promote the resilience of indigenous biodiversity to climate change. Do you agree with this provision? Yes/no? Why/why not?

C.8 – Applying a precautionary principle to managing indigenous biodiversity



Proposed NPSIB: Part 2.2 Policy 2 and Part 3.6

A precautionary approach is a way to plan for areas of scientific uncertainty.

What is the problem with the current approach?

Decision-makers attempting to halt the decline of New Zealand's indigenous biodiversity are challenged by gaps in information about biodiversity trends, states and pressures. Taking a precautionary approach in circumstances where there is uncertainty but potential for significant harm is implied, but not made clear, in the RMA.

What are we proposing to change/include?

The proposed NPSIB includes a precautionary principle (Part 3.6) for managing indigenous biodiversity. This principle was discussed by the BCG, but only recommended by some members and not agreed to by others. The provision is consistent with the approach taken in the New Zealand Coastal Policy Statement 2010 (NZCPS), which requires a precautionary approach to be taken when considering activities that have an effect on the coastal environment.

The precautionary approach states where there are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures. The approach acknowledges that it is not always possible to have clear information around a potential serious threat to the environment. For example, a threatened species may inhabit an area that is subject to a resource consent for an activity that is likely to impact on the species. There may be limited baseline knowledge of the species, but it is known there is the potential for the species to be wiped out completely by the activity. A precautionary approach would favour caution in this example.

This principle must be considered by councils at the consent decision stage and/or be included in a resource management plan.

Q31. Do you think the inclusion of the precautionary approach in the proposed NPSIB is appropriate? (see Part 3.6 of the proposed NPSIB) Yes/no? Why/why not?

C.9 – Managing effects on geothermal ecosystems



Placeholders in proposed NPSIB: Part 1.5(2)(c), Part 2 Policy 9 and Part 3.11

What are geothermal ecosystems?

Geothermal systems are land and water areas characterised by heat sources within the earth. Heat may come up through the ground, or come from heated water or steam. Some plants and animals live within, and rely on, geothermal systems that form unique geothermal ecosystems. Geothermal ecosystems are sensitive and difficult to rehabilitate after an activity or development has changed their structure, temperature, water levels, or chemistry.

Spotlight on geothermal ecosystems

- New Zealand's geothermal areas are home to distinct and unique collections of plants, animals and microorganisms. Some of these species are very valuable to science because of their adaptation to extreme temperatures and toxic environments.
- Geothermal ecosystems exist predominantly in the Taupō Volcanic Zone, which straddles the Bay of Plenty and Waikato regions. Other geothermal ecosystems exist in Northland (associated with the Ngawha geothermal field), Hawke's Bay and the South Island (west coast, associated with the Alpine fault). For more information on geothermally active regions see [GNS Science](#). For more information on geothermal ecosystems see [Landcare Research](#).
- Geothermal systems are valued by tangata whenua and also for electricity generation,³² heating and tourism.

³² The Waikato region contains approximately 70 per cent of New Zealand's geothermal systems and has 9 geothermal power stations.

What is the problem with the current approach?

Geothermal ecosystems are among the most distinctive and rare natural systems in New Zealand. Many have been modified, destroyed or are under threat from development, human activity, and pest plants and animals. Once degraded, these ecosystems are incredibly difficult, if not impossible, to recover.

Geothermal areas are also highly valued for their thermal energy, for tourism, and their historic and cultural values. Geothermal energy provides about 13 per cent of New Zealand's national electricity supply, and geothermal heat and fluid are used for bathing, space heating, industrial processing, horticulture, and aquaculture.

Our largest geothermal area is the Taupō Volcanic Zone, spread across the Waikato and Bay of Plenty regions. Both these regions have well-tested geothermal management approaches in place. These approaches balance use and protection, recognising both the rarity of geothermal ecosystems and the national importance of this resource for renewable electricity generation.

Elsewhere in the country, adverse effects on geothermal ecosystems are managed on a consent-by-consent basis. There is currently no nationally consistent regulatory framework to maintain geothermal ecosystems.

What is the role of the NPSIB in relation to geothermal ecosystems?

Given their rarity, if included in the proposed NPSIB, geothermal ecosystems are all likely to be identified as high-value SNAs. Management through Part 3.9 would then mean that little or no new development (such as electricity generation or iwi/Māori development opportunities) could occur. The National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) Policy E4 states that: "Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing electricity generation activities using geothermal resources to the extent applicable to the region or district." The impact of managing through Part 3.9 may be that local authorities are quite restricted in their ability to implement Policy E4 of the NPSREG.

We believe a specific approach for geothermal ecosystems is required in the proposed NPSIB, given:

- their importance for renewable electricity generation
- the requirements of the NPSREG
- existing use and practice in council plans
- iwi/hapū aspirations.

Options for geothermal ecosystem management

We consider it appropriate to manage geothermal ecosystems as part of the proposed NPSIB to ensure a robust policy framework applies across the country.

We consider geothermal ecosystems to include geothermally influenced habitat, thermo-tolerant fauna (including microorganisms) and associated indigenous biodiversity. We recognise a definition will need to be developed, and welcome input on this.

While there are both water and terrestrial aspects to geothermal ecosystems, it does not make sense to separate the different parts of geothermal ecosystems when managing them, or the effects of activities on them. In other words, we believe it would not be appropriate to manage terrestrial parts of geothermal ecosystems in the proposed NPSIB and other parts through the *Essential Freshwater* package.³³ The NPS-FM does not manage geothermal water, as under the RMA, the definition of “freshwater” specifically excludes geothermal water and the scope of the NPS-FM does not extend to geothermal water.

We recognise the Bay of Plenty Regional Council and the Waikato Regional Council already have well-developed frameworks in place for managing adverse effects on their geothermal ecosystems. It is not the intent of the proposed NPSIB to undermine these approaches.

We are in ongoing conversations with Bay of Plenty Regional Council, Waikato Regional Council, and Northland Regional Council – the three regions where large-scale geothermal systems exist and are used for renewable electricity generation – as well as with industry representatives on the BCG, on how to include geothermal ecosystems in the scope of the proposed NPSIB. We have developed three options for the purposes of public consultation. Note these indicative options do not necessarily represent the views of the three councils and BCG industry representatives.

Option 1: *Status quo* for all geothermal ecosystems

Description

The proposed NPSIB scope (Part 1.5) would specifically exclude geothermal ecosystems. Where geothermal ecosystems exist, they would continue to be managed under the geothermal ecosystem provisions in the relevant policy statement and plan, which would not be affected by the proposed NPSIB.

Evaluation

- In the Waikato and Bay of Plenty, where the majority of geothermal ecosystems exist, there are already well-developed management frameworks in place for managing adverse effects on geothermal ecosystems. This option would ensure we do not undermine these existing frameworks and associated case law.
- For geothermal ecosystems elsewhere in the country, where there are not already well-developed management frameworks in policy statements and plans, excluding geothermal ecosystems from the proposed NPSIB would mean a missed opportunity to guide the development of provisions in those plans and policy statements that relate to geothermal ecosystems.
- This option would not lead to national consistency.
- This option could complicate SNA identification under Part 3.8 of the proposed NPSIB. SNAs would need to exclude geothermal ecosystems.
- An outcome of this option might be that local authorities were less constrained in implementing the NPSREG Policy E4.

³³ Ministry for the Environment and Ministry for Primary Industries. 2019. *Action for healthy waterways: A discussion document on national direction for our essential freshwater*. Wellington: Ministry for the Environment and Ministry for Primary Industries. Retrieved from <https://www.mfe.govt.nz/publications/fresh-water/action-healthy-waterways-discussion-document-national-direction-our>.

Option 2: *Status quo* for geothermal ecosystems in TVZ only

Description

The proposed NPSIB scope (Part 1.5) would specifically exclude geothermal ecosystems within the Taupō Volcanic Zone only. Within the Taupō Volcanic Zone, where geothermal ecosystems exist, they would continue to be managed under the geothermal ecosystem provisions in the relevant policy statement and plan, which would not be affected by the proposed NPSIB.

Outside of the Taupō Volcanic Zone, the proposed NPSIB would apply to the management of any geothermal ecosystems. Given their rarity, geothermal ecosystems are likely to be identified as high-value SNAs using Appendix 1 and 2 of the proposed NPSIB. This means the adverse effects listed in Part 3.9(1) would need to be avoided. Outside of the Taupō Volcanic Zone, the proposed NPSIB would apply for existing and new activities impacting on geothermal ecosystems.

Evaluation

- In the Waikato and Bay of Plenty, where the majority of geothermal ecosystems exist, there are already well-developed management frameworks in place for managing adverse effects on geothermal ecosystems. This option would ensure we do not undermine these existing frameworks and associated case law.
- For parts of the country without well-developed management frameworks for managing adverse effects on geothermal ecosystems, this option would ensure the proposed NPSIB prompts and guides management to ensure maintenance of indigenous biodiversity.
- This option relies on the continued adequacy of regional management practices within the Taupō Volcanic Zone to maintain geothermal ecosystems. The option has an element of national consistency outside the Taupō Volcanic Zone, but overall would not lead to national consistency.
- This option could complicate SNA identification under Part 3.8 of the proposed NPSIB within the Taupō Volcanic Zone. SNAs would need to exclude geothermal ecosystems.
- An outcome of this option within the Taupō Volcanic Zone might be that local authorities were less constrained in implementing the NPSREG Policy E4.
- Outside of the Taupō Volcanic Zone, an outcome of this option might be that local authorities were quite constrained in implementing the NPSREG Policy E4. If a geothermal ecosystem was identified as a high-value SNA then the impact of proposed NPSIB Part 3.9(1) would be that little or no new development (such as electricity generation or iwi/Māori development opportunities) could occur.

Option 3: A specific framework in the proposed NPSIB would apply to all geothermal ecosystems

Description

Under this option, the proposed NPSIB scope (Part 1.5) would include geothermal ecosystems. The proposed NPSIB would include a specific policy (Part 2.2 Policy 9 *placeholder*) and implementation requirement (Part 3.11 *placeholder*) directing management of geothermal ecosystems.

The proposed NPSIB would require 'geothermal system' classification at a regional level, consistent with the classification approach applied in the Taupō Volcanic Zone. This would be according to the geothermal system's suitability for use and development, or protection

(categories in the Taupō Volcanic Zone include protection, small, research, low temperature, Rotorua, limited development, conditional development, and development). This does not preclude other more appropriate geothermal system classifications.

Regional councils and territorial authorities would be required to manage the adverse effects of use and development on geothermal ecosystems, as appropriate to the system classification within which that geothermal ecosystem exists.

Where a geothermal system has not yet been classified, or where there is insufficient information to classify a system, the system would by default be a 'research' system until classified, and proposed NPSIB Part 3.9(1) would apply to any geothermal ecosystems within that system. This reflects a precautionary approach.

Where a geothermal system has been classified as 'development', the proposed NPSIB would require adverse effects on geothermal ecosystems within that system to be remedied, where possible, and mitigated where they cannot demonstrably be remedied. Where mitigation is not demonstrably possible, biodiversity offsetting (using Appendix 3) might be considered. If this is not demonstrably possible, then biodiversity compensation (using Appendix 4) might be considered for any biodiversity attribute in the geothermal ecosystem suffering residual adverse effects. There is no requirement to avoid adverse effects on geothermal ecosystems within 'development' systems.

Where a geothermal system has been classified as 'limited development' or 'conditional development', adverse effects on geothermal ecosystems located within that system would need to be managed using the proposed NPSIB effects management hierarchy (see definitions).

For all other geothermal system classifications, adverse effects on geothermal ecosystems located within that system would need to be managed through Part 3.9(1).

The proposed NPSIB Part 3.12 would apply to existing activities.

Evaluation

- This option would ensure geothermal ecosystems are consistently managed at a national level. It would provide a nationally consistent framework for managing adverse effects on geothermal ecosystems.
- The option reflects existing well-developed management frameworks in the Taupō Volcanic Zone for managing adverse effects on geothermal ecosystems. By requiring all regions to adopt a 'geothermal system' classification consistent with that applied in the Taupō Volcanic Zone, Waikato Regional Council, and Bay of Plenty Regional Council would not need to adopt a new geothermal system classification approach.
- This option aligns with early engagement feedback that geothermal system classification is best done regionally. This is because geothermal system classification is determined using a number of factors, of which biological drivers are only one.
- This option would provide direction around what is required to maintain indigenous biodiversity whilst acknowledging the use and development of geothermal resources.

These options are relevant for both regional councils and territorial authorities. The options are high level and have yet to be rigorously tested with councils and industry. Further work will need to occur during and after public consultation.

We are interested in your views on the options outlined. We will use your feedback to refine a preferred option for inclusion in the proposed NPSIB, after public consultation.

Q32. What is your preferred option for managing geothermal ecosystems? Please explain.

- a. Option 1
- b. Option 2
- c. Option 3
- d. Or your alternative option – please provide details.

Q33. We consider geothermal ecosystems to include geothermally influenced habitat, thermo-tolerant fauna (including microorganisms) and associated indigenous biodiversity. Do you agree? Yes/no? Why/why not?

C.10 – Biodiversity offsetting and biodiversity compensation



Proposed NPSIB: Part 3.9, 3.13, Part 3.19, Appendix 3 and 4

Under the RMA, resource consent applicants must consider how their proposed activities avoid, remedy or mitigate any adverse effects on the environment, including on indigenous biodiversity. Councils must consider applications that propose (or agree with a suggestion made by a decision-maker) to offset or compensate for any residual effects (those left after avoidance, remediation and mitigation).

Biodiversity offsets and biodiversity compensation balance residual adverse effects by providing positive effects elsewhere. They differ from each other in the requirement on offsets to demonstrate that a no-net-loss or net-gain outcome is achievable. Both tools are different to avoidance, remediation, and mitigation, which address the onsite effects of the proposed activity itself. Because biodiversity offsets and biodiversity compensation address the loss of biodiversity values associated with the activity by generating biodiversity gain elsewhere, they pose a higher risk for indigenous biodiversity. A successful outcome for indigenous biodiversity is less certain.

Note: For more information on biodiversity offsetting and compensation under the RMA, see the LGNZ 2018 guidance.³⁴ *Guidance on good practice biodiversity offsetting in New Zealand* provides additional technical detail.³⁵

³⁴ LGNZ. 2018. *Biodiversity Offsetting under the Resource Management Act: A guidance document*. Wellington: LGNZ. Retrieved from www.lgnz.co.nz/assets/Uploads/7215efb76d/Biodiversity-offsetting-under-the-resource-management-act-full-document-....pdf.

³⁵ Department of Conservation. 2014. *Guidance on Good Practice Biodiversity Offsetting in New Zealand*. Wellington: Department of Conservation. Retrieved from www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/.

What is the problem with the current approach?

Biodiversity offsetting and biodiversity compensation are being used inconsistently and, at times, inappropriately around the country. In some cases, consent applications have been inappropriately approved, resulting in unacceptable loss of indigenous biodiversity.

What are we proposing to change and/or introduce?

Appendices 3 and 4 of the proposed NPSIB outline a national policy framework for the use of biodiversity offsetting and biodiversity compensation. References to these appendices would be needed in applying the effects management hierarchy and the Assessment of Environmental Effects (AEE) (see below). The frameworks would support appropriate and consistent use of both concepts in practice, minimising risk to biodiversity.

Effects management

In the proposed NPSIB, the use of biodiversity offsets and compensation is permitted in specific situations both within and outside SNAs (proposed NPSIB Part 3.9 and 3.13) as part of the effects management hierarchy (defined in the NPSIB). The effects management hierarchy approach aligns with best practice and case law and is essential for protecting biodiversity, as the risk to biodiversity increases along the hierarchy. The hierarchy is considered essential to ensuring biodiversity offsets and compensation are used appropriately. Both are considered high-risk instruments, and following the effects management hierarchy means successful biodiversity outcomes are more certain.

Assessment of Environmental Effects (AEE)

The proposed NPSIB includes a provision (Part 3.19) to strengthen information requirements for Assessments of Environmental Effects (AEEs) for effects on indigenous biodiversity. This is set out in more detail in the AEE section of this document. This provision requires that enough information be provided in AEEs to determine if there has been effective implementation of the effects management hierarchy and compliance with the biodiversity offsetting and biodiversity compensation frameworks. This is consistent with the BCG's recommendations.³⁶

Definitions

The proposed NPSIB includes definitions for 'biodiversity offset' and 'biodiversity compensation'. These have been revised from those drafted by the BCG to reflect best practice. We have also added definitions for 'no net loss' and 'net gain', as these are key terms. The goal of a biodiversity offset is to achieve no net loss and preferably a net gain, of indigenous biodiversity values.

³⁶ Biodiversity Collaborative Group. 2018. *Report of the Biodiversity Collaborative Group*. Wellington: Biodiversity (Land and Freshwater) Stakeholder Trust. Retrieved from www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf, page 67.

Frameworks

The proposed NPSIB sets out a framework of criteria in Appendix 3 for the use of biodiversity offsets. The criteria are based on a series of widely accepted principles that underpin good biodiversity offsetting. They are split into those that:

- must be met
- should be met for an action to qualify as a biodiversity offset.

The proposed biodiversity offsetting framework provides more clarity and detail than that proposed by the BCG.³⁷ The BCG's proposal consisted of six principles, and referred decision-makers to non-statutory guidance. We propose removing the reference to external guidance and ensuring the framework stands alone. We have added offsetting criteria to those proposed by the BCG to ensure consistency with both the New Zealand Government guidance 2012³⁸ and the LGNZ 2018 guidance.³⁹ The proposed framework focuses on the specific requirements of each criteria. Detail on how these requirements are to be fulfilled will be outlined in future guidance.

There is also a proposed framework of criteria (Appendix 4 of the proposed NPSIB) for the use of biodiversity compensation. While the BCG draft did not include such a framework, we recommend one is included, to:

1. address confusion regarding biodiversity offsets and compensation
2. clarify the use of the term 'compensate' in the RMA, which is currently undefined (the term 'compensate' can apply to a much broader range of values than just biodiversity, so the term 'biodiversity compensation' is used for the purpose of the proposed NPSIB)
3. provide a standard for assessment to ensure compensation is used appropriately.

The proposed framework for the use of biodiversity compensation includes some criteria *must* be met and other criteria that *should* be met. It is expected where *should* criteria are not adhered to, reasons for not doing so are provided. Criteria were developed based on ecological advice, interpretation of existing guidance and engagement with councils.

A different approach to biodiversity compensation can be seen in a recent Environment Court decision.⁴⁰ The part of this decision that relates to biodiversity compensation limits is provided as an excerpt on the following page. This decision is currently under appeal, and the approach taken to limits on the use of biodiversity compensation is not reflected in the proposed NPSIB.

In your feedback on the proposed NPSIB framework for biodiversity compensation, you may wish to consider the limits for biodiversity compensation set out in *Oceana Gold (New*

³⁷ Ibid, page 81.

³⁸ Department of Conservation. 2014. *Guidance on Good Practice Biodiversity Offsetting in New Zealand*. Wellington: Department of Conservation. Retrieved from www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/.

³⁹ LGNZ. 2018. *Biodiversity Offsetting under the Resource Management Act: A guidance document*. Wellington: LGNZ. Retrieved from www.lgnz.co.nz/assets/Uploads/7215efb76d/Biodiversity-offsetting-under-the-resource-management-act-full-document-pdf.

⁴⁰ *Oceana Gold (New Zealand) Limited v Otago Regional Council*, NZEnvC41 15 March 2019, retrieved from www.environmentcourt.govt.nz/assets/Documents/Publications/2019-NZEnvC-041-Oceana-Gold-New-Zealand-Limited-v-Otago-Regional-Council.pdf

Zealand) Limited v Otago Regional Council as an alternative option to that set out in the proposed NPSIB Appendix 4.

Environment Court Decision: *Oceana Gold (New Zealand) Limited v Otago Regional Council*

On 15 March 2019, the Environment Court issued a decision (NZEnvC41) on the proposed Otago Regional Policy Statement provisions relating to mining, which confirms strict limits around the use of biodiversity offsets and biodiversity compensation. On 5 April, Oceana Gold Ltd lodged an appeal to the High Court on NZEnvC41, including concerns around the prescriptiveness of the limits. This appeal is still to be resolved. The limits for biodiversity compensation set out in NZEnvC41 are:

Consider the use of biological diversity compensation:

(a) when:

- (i) Adverse effects of activities cannot be avoided, remedied, mitigated or offset, and*
- (ii) The residual adverse effects will not result in:*
 - (1) The loss of an indigenous taxon (excluding freshwater fauna and flora) or of any ecosystem type from an ecological district or coastal marine biogeographic region;*
 - (2) Removal or loss of viability of habitat of a threatened or at-risk indigenous species of fauna or flora under the New Zealand Threat Classification System (NZCTS);*
 - (3) Removal or loss of viability of an originally rare or uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna;*
 - (4) Worsening of the NZTCS conservation status of any threatened or at-risk indigenous freshwater fauna.*

(b) By applying the following criteria:

- (i) the compensation is proportionate to the adverse effect;*
- (ii) the compensation is undertaken where it will result in the best practicable ecological outcome, preferably;*
 - (1) close to the location of development;*
 - (2) within the same ecological district or coastal marine biogeographic region;*
- (iii) the compensation will achieve positive biological diversity outcomes that would not have occurred without that compensation;*
- (iv) The positive ecological outcomes of the compensation last for at least as long as the adverse effects of the activity, and*
- (v) The delay between the loss of biological diversity through the proposal and the gain or maturation of the compensation's biological diversity outcomes is minimised.*

Outstanding issue

Biodiversity offsets and compensation are intended to apply to residual adverse effects, after steps to avoid, remedy or mitigate adverse effects have been sequentially exhausted. This ensures residual adverse effects are as small as possible, and that biodiversity offsets or compensation are also small and cost effective.

We have not yet come to a conclusion on the level of residual adverse effects that should trigger the requirement to consider biodiversity offsets and biodiversity compensation. Our assessment is there are two options:

1. More than minor adverse effects aligns with the RMA that some effects do not need to be addressed. 'More than minor' is a question of fact and degree. It is a threshold around which practice has developed in assessing effects for notification purposes. In all situations, it will require considering offsets or compensation, except when residual effects will be minimal or just a remote possibility. This aligns with the intended level of effects to be offset/compensated for under government guidance⁴¹ and the international Business and Biodiversity Offsets Programme (BBOP).⁴²
2. Residual adverse effects aligns with NZEnvC41 approach where all adverse effects need to be addressed.

- Q34. Do you agree with the framework for biodiversity offsets set out in Appendix 3? Yes/no? Why/why not?
- Q35. Do you agree with the framework for biodiversity compensation set out in Appendix 4? Yes/no? Why/why not? Include an explanation if you consider the limits on the use of biodiversity compensation set out in Environment Court Decision: *Oceana Gold (New Zealand) Limited v Otago Regional Council* as a better alternative.
- Q36. What level of residual adverse effect do you think biodiversity offsets and biodiversity compensation should apply to?
- a. More than minor residual adverse effects
 - b. All residual adverse effects
 - c. Other. Please explain.
- Q37. What specific information, support or resources would help you implement the provisions in this section (section C)?

⁴¹ Department of Conservation. 2014. *Guidance on Good Practice Biodiversity Offsetting in New Zealand*. Wellington: Department of Conservation. Retrieved from www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/.

⁴² Business and Biodiversity Offsets Programme (BBOP). 2018. Working for Biodiversity Net Gain: An Overview of the Business and Biodiversity Offsets Programme (BBOP) 2004–2018. Washington, DC. More information at: https://www.forest-trends.org/bbop_pubs/overview2018/.

Section D: Restoration and enhancement of biodiversity

D.1 – Restoration and enhancement of degraded Significant Natural Areas, connections, buffers and wetlands



Proposed NPSIB: Part 2.1 Objective 5, Part 2.2 Policy 11 and Part 3.16

Along with protection, restoration and enhancement are an important part of maintaining New Zealand's indigenous biodiversity. Without restoration and enhancement actions, some of our species and ecosystems are likely to disappear.

What is the problem with the current approach?

Maintaining indigenous biodiversity requires more than just protecting what is left. Some ecosystems in New Zealand have suffered so much loss the only way they can be maintained is through the restoration, reconstruction and enhancement of indigenous habitat. In 2014, there were 71 identified rare ecosystems, with 45 of them threatened with collapse.⁴³ Wetlands are now only about 10 per cent of their pre-human extent. Critical thresholds mark the line between decline or persistence of an ecosystem and its species.

The Resource Management Act 1991 (RMA) doesn't explicitly set out what 'maintaining biodiversity' requires. We need to recognise that restoration and enhancement are essential to maintaining indigenous biodiversity and turning the tide on its loss. We must also focus restoration and enhancement action on those areas that most require it. There is a need for some prioritisation.

⁴³ Ministry for the Environment and Stats NZ. 2019. *Environment Aotearoa 2019*. Wellington: Ministry for the Environment and Stats NZ. Retrieved from www.mfe.govt.nz/publications/environmental-reporting/environment-aotearoa-2019.

KĀPITI COAST DISTRICT COUNCIL: INCENTIVES FOR THE PROTECTION AND ENHANCEMENT OF ECOLOGICAL SITES

Kāpiti Coast District Council (KCDC) began a process of mapping Significant Natural Areas (SNAs) in 1995. Since then, the Council has worked closely on indigenous biodiversity management with landowners who have SNAs. This has included providing incentives for protection and enhancement. The following quotation is a Council officer's experience of this process.

"Through 11 years with Council dealing directly with landowners who've had ecological sites (SNAs) identified on their land, my experience has been that the overwhelming majority support identification and protection once the justification and implications are fully explained. I've found the identification and protection process, if properly implemented with non-regulatory incentives, creates positive relationships between Council and landowners."

KCDC offers rates remissions for private landowners with land in areas identified in the district plan as SNAs. To qualify, applicants need to develop a Heritage Management Plan specifying how the site will be protected. This can be a simple document describing a basic set of actions to address threats, such as maintenance of stock-proof fencing and pest animal and plant control. The Council offers free advice from a biodiversity specialist on protective and restorative management to develop these plans. Applying for a rates remission is not a prerequisite for landowners to get advice from the biodiversity specialist. The Council sees great benefit in offering this free service: "Having a biodiversity specialist on staff as an accessible point of contact, who can spend time visiting landowners, walking through their sites and 'selling' protective management, has been instrumental in maximising the opportunity to protect and restore indigenous biodiversity on private land."

Landowners with ecological sites on their properties can apply to KCDC's Heritage Fund for protective and restorative management subsidies. The subsidies cover activities such as stock-proof fencing, pest animal and plant control, and restorative planting. Grants of up to \$5000 are available. The Council also offers subsidies for permanent retirement and restoration of riparian margins through fencing and native planting.

What are we proposing to change and/or introduce?

Part 3.16 of the proposed National Policy Statement on Indigenous Biodiversity (NPSIB) promotes the restoration and enhancement of several priority areas:

- degraded SNAs
- areas that provide important connectivity or buffering functions
- wetlands and former wetlands.

Councils would promote the restoration and enhancement of these areas in their plans, with particular focus on areas that align with national priorities for restoration and enhancement and areas also identified under targets for increased vegetative cover in Part 3.17. Areas would be identified, and opportunities for their restoration, enhancement and reconstruction would be outlined in resource management plans and regional biodiversity strategies (as required by Appendix 5 of the proposed NPSIB). Councils would consider incentives to promote restoration and enhancement, particularly for Māori land.

Under the proposed NPSIB, restoration and protection can include actions such as:

- reconstructing or encouraging the natural regeneration of indigenous habitats and ecosystems
- recognising the need for effective weed and animal pest management
- removing or redesigning structures that interfere with ecological value
- changing activities that interfere with ecological value in an area.

This policy has a similar intent to that drafted by the Biodiversity Collaborative Group (BCG). We have added wetland restoration and enhancement, which the BCG recommended be part of a separate wetland policy. The BCG's recommendations for wetland identification and protection have been adopted by the Government's Action for healthy waterways proposal,⁴⁴ which include proposed policies to avoid loss of wetlands. The proposed NPSIB would cover the restoration and enhancement of wetlands, as there is a large terrestrial and/or vegetation component to wetlands that can be restored alongside other planting.

This policy would be implemented through regional and district plans and the regional biodiversity strategy.

Q38. The proposed NPSIB promotes the restoration and enhancement of three priority areas: degraded SNAs; areas that provide important connectivity or buffering functions; and wetlands. (see Part 3.16 of the proposed NPSIB) Do you agree with these priorities? Yes/no? Why/why not?

Q39. Do you see any challenges in wetland protection and management being driven through the Government's Action for healthy waterways package while wetland restoration occurs through the NPSIB? Please explain.

Scenarios – How would this work for you?

Wetland restoration

Taylor has a property that contains part of a wetland that is a remnant of a much bigger wetland which was historically drained. Taylor's council might want to promote restoration of the wetland, in which case he may be eligible for incentives such as fencing or planting.

⁴⁴ Ministry for the Environment and Ministry for Primary Industries. 2019. *Action for healthy waterways. A discussion document on national direction for our essential freshwater*. Wellington: Ministry for the Environment and Ministry for Primary Industries. Retrieved from <https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/action-for-healthy-waterways.pdf>.

D.2 – Restoring indigenous vegetation cover in depleted areas



Proposed NPSIB: Part 2.1 Objective 5, Part 2.2 Policy 11 and Part 3.17

Indigenous biodiversity is depleted where there is low indigenous vegetation cover. This is particularly the case in urban environments. Increasing indigenous vegetation cover across the landscape, such as bush in parks and gullies, is essential to maintaining indigenous biodiversity.

What is the problem with the current approach?

Many ecosystems in New Zealand are at risk of disappearing. Ecological advice provided to the BCG was that when ecosystems are reduced to 10 per cent or less of their original extent, their persistence in the landscape is threatened. This has implications for the many species that live and depend on these ecosystems.

Ecosystems are at particular risk in the coastal lowlands, and in urban and peri-urban⁴⁵ areas. The depletion of ecosystems and loss of indigenous biodiversity in these areas is so great that reconstruction of indigenous habitat is essential to maintain indigenous biodiversity and ensure the persistence of these ecosystems.

There is a need to increase indigenous vegetation cover where it has been lost and is under 10 per cent of the total land area, to support the persistence of our unique ecosystems and their species. Some councils have recognised this by implementing restoration targets to increase indigenous vegetative cover. Hamilton City, which currently has approximately 2 per cent of indigenous vegetation cover left, has implemented a restoration target of 10 per cent. This target is mobilising community groups and improving the way in which indigenous biodiversity is incorporated into decision-making.

What are we proposing to change and/or introduce?

To promote the reconstruction of indigenous habitat needed to maintain indigenous biodiversity and ensure the persistence of ecosystems, Part 3.17 of the proposed NPSIB requires regional councils to set targets for increased vegetative cover in their regional policy statements. The target must be at least 10 per cent in urban areas (defined in the NPSIB), recognising that in these areas, ecosystems are particularly depleted.

For rural or non-urban areas, if the region has less than 10 per cent vegetative cover, the regional council must also set a target for increasing vegetative cover. This target, and the timeframe for achieving it, can be set by the council.

The proposed NPSIB encourages regional councils to also consider targets for urban and non-urban areas where existing vegetative cover is already over 10 per cent of the area.

⁴⁵ An area immediately adjacent to a city or urban area.

Targets must be supported in regional plans by objectives, policies or methods that promote the restoration, enhancement and reconstruction of indigenous vegetation. Councils would prioritise:

- a. areas that a council has identified for restoration through Part 3.16 of the proposed NPSIB (described in [D.1 – Restoration and enhancement of degraded Significant Natural Areas, connections, buffers and wetlands](#))
- b. areas representative of ecosystems naturally and formerly present
- c. species richness
- d. landscape-scale restoration and enhancement across the region.

To drive this, Part 3.17 requires all councils to include objectives, policies or methods in resource management plans and in the proposed regional biodiversity strategies which are directed at achieving their targets. This is in line with the BCG's policy intent. Amendments are proposed to clarify how the policy should be reflected in council plans.

Targets would improve outcomes for indigenous biodiversity across the landscape. They also promote collaboration between councils, tangata whenua, industry, landowners, and community. Restoration in depleted areas may include non-regulatory methods and volunteer activities. Planting may also be a regulatory activity as part of consent conditions.

Increasing vegetative cover in urban and peri-urban areas can have a wide range of benefits, including:

- supporting mental health and wellbeing
- enhancing recreation opportunities
- carbon sequestration and climate amelioration
- improving water and air quality
- visitor and tourist attractions
- social, cultural, educational and health benefits
- social cohesion in working with a common purpose
- reconnecting urban dwellers to their natural environment
- developing a more liveable and aesthetically attractive urban centre.

Q40. Part 3.17 of the proposed NPSIB requires regional councils to establish a 10 per cent target for urban indigenous vegetation cover and separate indigenous vegetation targets for non-urban areas. Do you agree with this approach? Yes/no? Why/why not?

D.3 – Regional biodiversity strategies



Proposed NPSIB: Part 2.1 Objective 5 & 6, Part 2.2 Policy 14, Part 3.18 and Appendix 5

Regional biodiversity strategies are strategic documents that align a community behind a shared set of priorities. They can set milestones, assign roles, encourage collaboration, and create funding avenues. They can also provide a strong link to the Aotearoa New Zealand Biodiversity Strategy (NZBS), ensuring nationally agreed goals and targets are implemented locally. Regional biodiversity strategies are about strategic collaborative action. They are a powerful tool for reversing the decline of New Zealand's indigenous biodiversity.

What is the problem with the current approach?

While there are significant conservation efforts across Aotearoa New Zealand, biodiversity planning tends to be fragmented, with much activity happening in isolation. To address this, approximately two-thirds of all regions have some form of regional biodiversity strategy, existing or in development. Some of these strategies have been required under regional policy statements, and others are community-driven. One-third of regions don't have regional biodiversity strategies. Some existing strategies could also be expanded to align with national priorities, support nationwide biodiversity monitoring as well as objectives and policies in the proposed NPSIB.

The following example demonstrates where a region has collaborated to produce a regional biodiversity strategy that has resulted in a range of positive biodiversity outcomes.

NELSON BIODIVERSITY STRATEGY

Nelson adopted a collaboratively designed regional biodiversity strategy in 2007. The strategy aims to build a biologically rich and sustainable future for Nelson through aligned action on biodiversity.

It is implemented by the Nelson Biodiversity Forum,⁴⁶ a group of 32 organisations who work together to identify and align actions to improve biodiversity in the Nelson area. The forum is facilitated by the Council, and has quarterly meetings to discuss progress in line with the Nelson Biodiversity Strategy, with each member having particular responsibilities to progress and report on.



Nelson Green Gecko. Photo credit: Samantha King

The strategy links existing initiatives and actions under a common vision, and introduces new actions that address prioritised biodiversity management issues in the region.



Waimea Inlet community planting. Photo credit: Samantha Green

The strategy has resulted in positive outcomes. These include the creation of **Nelson Nature**⁴⁷ and Healthy Streams,⁴⁸ Nelson City Council's coordinated biodiversity and freshwater programmes. Nelson Nature is a 10-year council initiative to protect and enhance Nelson's natural environment, from the mountains to the coast including inland beech forests, remnants of lowland and coastal broadleaf and podocarp forest, and a few small freshwater wetlands.

The Nelson Nature programme includes projects to protect the unique plants and animals of the rare mineral belt ecosystem and surrounding forests; restore freshwater and coastal ecosystems and species; support landowners to protect SNAs and restore native biodiversity on their land, and support the community to control predators and enhance wildlife in a halo around Brook Waimarama Sanctuary.

The Nelson Biodiversity Strategy has been instrumental in developing the predator-free Brook Waimarama Sanctuary, and the multi-stakeholder group and strategy protecting the cross-council Waimea Inlet.

The strategy is reviewed by the forum every three years, and links to the goals of the current national biodiversity strategy. It is a good example of a collaborative strategy that unifies community groups, research agencies, government and local government agencies, iwi/hapū, non-government organisations (NGOs), industry, and landowners behind a shared vision and set of actions.

For more information see **Nelson Nature Programme** on Nelson City Council's website.

⁴⁶ www.nelson.govt.nz/environment/nelson-nature/community/partnerships/nelson-biodiversity-forum/.

⁴⁷ www.nelson.govt.nz/environment/nelson-nature/.

⁴⁸ www.nelson.govt.nz/environment/healthy-streams.

What are we proposing to change and/or introduce?

The BCG proposed the NPSIB require regional biodiversity strategies be prepared, and that their content should be driven by a set of principles outlined in Appendix 5 of the proposed NPSIB. Some councils have questioned whether regional biodiversity strategies should be required by the proposed NPSIB. An alternative is they are promoted through the New Zealand Biodiversity Strategy or associated action plan. Pros and cons of the proposed NPSIB requiring regional biodiversity strategies are set out in table 5.

While the proposed NPSIB is limited to terrestrial biodiversity and some aspects of wetlands, regional biodiversity strategies are not constrained (clause 1.5(2)). They can cover all environments and all land types and are intended to be comprehensive strategic documents to facilitate collective action. The regional biodiversity strategy should provide a single and comprehensive record of all:

- areas targeted for protection, enhancement and restoration
- actions being undertaken (including those required by other legislation, such as the Biosecurity Act 1993, or promoted through other strategies (eg, Predator Free 2050⁴⁹ and/or the Biosecurity Direction Statement 2025⁵⁰)
- tools available.

They are also a wellbeing plan, where social, cultural and economic goals are aligned with goals for restoring and enhancing indigenous biodiversity.

We have made some amendments to what was recommended by the BCG. These amendments are in response to feedback during early engagement. They include:

1. clarifying the purpose and scope of regional biodiversity strategies, and emphasising that they should be developed collaboratively
2. extending the timeframe for regions to have a regional biodiversity strategy in place. Regions are now to begin developing a strategy within three years of the proposed NPSIB being gazetted, and complete the strategy within five years of gazettal
3. requiring regional councils to have regard to their regional biodiversity strategies when developing restoration and enhancement provisions in their resource management plans.

⁴⁹ www.doc.govt.nz/nature/pests-and-threats/predator-free-2050/.

⁵⁰ www.mpi.govt.nz/protection-and-response/biosecurity/biosecurity-2025/biosecurity-2025/.

Table 5: Potential benefits and disadvantages/risks of the NPSIB including regional biodiversity strategies

Potential benefits	Potential disadvantages/risks
<ul style="list-style-type: none"> • Enforceable, so ensures all regions will have a strategy • Ensures consistency in purpose and content of strategies • Supports monitoring of biodiversity outcomes • Ensures alignment with the New Zealand Biodiversity Strategy national priorities • Provides a place for other policies in the proposed NPSIB to be actioned • Requires collaboration between councils, tangata whenua, and communities, and clarifies roles • Prioritises biodiversity and ensures it is valued in decision-making 	<ul style="list-style-type: none"> • Perceived as unnecessary – most regions already have a strategy in place or in development • Ongoing cost for councils, tangata whenua, and communities. • Perception that pursuing strategy actions will result in increased RMA regulation • Could become a tick-the-box exercise that lacks community buy-in • Perceived as limiting regional flexibility • Focus on restoration and enhancement at the expense of first maintaining and protecting • Perception this limits scope of strategies

- Q41. Do you think regional biodiversity strategies should be required under the proposed NPSIB, or promoted under the New Zealand Biodiversity Strategy? Please explain.
- Q42. Do you agree with the proposed principles for regional biodiversity strategies set out in Appendix 5 of the proposed NPSIB? Yes/no? Why/why not?
- Q43. Do you think the proposed regional biodiversity strategy has a role in promoting other outcomes (eg, predator control or preventing the spread of pests and pathogens)? Please explain.
- Q44. Do you agree with the timeframes for initiating and completing the development of a regional biodiversity strategy? (see Part 3.18 of the proposed NPSIB) Yes/no? Why/why not?
- Q45. What specific information, support or resources would help you implement the provisions in this section (section D)?

Section E: Monitoring and implementation

E.1 – Monitoring and assessment of indigenous biodiversity



Proposed NPSIB: Part 2.2 Policy 15, Parts 3.20 and 4.1

Monitoring is essential to measuring the success of policy. It also helps us to better understand and value the environment. We need nationally consistent information to assess whether indigenous biodiversity is improving, remaining the same, or degrading. This information will provide us with a better national picture of the state of our indigenous biodiversity, and help inform future management decisions.

What is the problem with the current approach?

There is no complete picture of the state of Aotearoa New Zealand's indigenous biodiversity. The Resource Management Act 1991 (RMA) requires councils to monitor the state of the environment to maintain indigenous biodiversity but the nature and extent of this is variable. This makes it difficult to understand the state of, and threats to, indigenous biodiversity as well as the success of any management interventions.

What are we proposing to change and/or introduce?

The Biodiversity Collaborative Group (BCG) did not develop policy wording for monitoring, but recommended policy be developed that would require:

- regional councils, cooperating with territorial authorities and iwi/Māori, to monitor the condition and state of indigenous biodiversity and Significant Natural Areas (SNAs) in their regions
- monitoring to be carried out to nationally agreed standards
- councils to report information at appropriate intervals.

After discussions with experts and councils, we developed two monitoring provisions (Part 3.20 and part 4.1).

Part 3.20 covers regional council-led monitoring. It requires regional councils to work together with others to develop a monitoring plan to monitor the maintenance of indigenous biodiversity managed under this NPS within their region. This provision requires councils to consider mātauranga Māori and tikanga Māori monitoring methods where local tangata whenua agree. These methods can be aligned with Western science methodologies to enable a holistic and integrated approach to monitoring.

Part 3.20 also requires regional councils to include methods and timeframes:

- for monitoring progress against the objectives of the proposed National Policy Statement on Indigenous Biodiversity (NPSIB)
- that are best practice or nationally agreed, to allow for comparability.

It deliberately does not specify methods or timeframes. This is because the New Zealand Biodiversity Strategy (NZBS) will progress a national monitoring framework, and several initiatives are already underway to develop a set of achievable national indicators; for example, between councils and central government. As these indicators are agreed over time, councils would be required to use them as part of their monitoring frameworks.

Part 3.20 encourages regional councils to focus monitoring on the ecological integrity and physical extent of SNAs, taonga outside SNAs and other indigenous biodiversity outside SNAs. Tools such as action plans must be developed if monitoring indicates that the objectives of the proposed NPSIB will not be met.

Part 4.1 is about effectiveness monitoring led by the Ministry for the Environment. It requires the Ministry to monitor and review the effectiveness of the proposed NPSIB in achieving the purpose of the RMA. A first assessment of the effectiveness of the proposed NPSIB is to be undertaken eight years after gazettal. The Ministry must also collect data for a nationally consistent monitoring and reporting programme that incorporates regional and district monitoring information. In addition, it must undertake other information gathering or monitoring to provide a national picture on the state of indigenous biodiversity. All of this information is to be published.

We recognise that biodiversity monitoring requires significant resourcing and investment. Your feedback is welcome on what would help implement these provisions.

- Q46. Do you agree with the requirement for regional councils to develop a monitoring plan for indigenous biodiversity in its region and each of its districts, including requirements for what this monitoring plan should contain? (see Part 3.20) Yes/no? Why/why not?
- Q47. Part 4.1 requires the Ministry for the Environment to undertake an effectiveness review of the proposed NPSIB. Do you agree with the requirements of this effectiveness review? Yes/no? Why/why not?

E.2 – Assessing environmental effects on indigenous biodiversity



Proposed NPSIB: Part 2.2 Policy 5 and Part 3.19

Councils need good information to make decisions about consent applications involving activities that may adversely affect indigenous biodiversity. It is important this is considered before these activities take place.

What is the problem with the current approach?

An Assessment of Environmental Effects (AEE) must accompany any application for resource consent (other than a ‘fast track application’) under the RMA. While this is obligatory, many AEEs are poorly done or incomplete with respect to:

- identifying impacts on indigenous biodiversity
- demonstrating effective implementation of the effects management hierarchy when managing adverse effects.

This means the impacts of proposed activities on indigenous biodiversity are often not appropriately considered in decision-making. This can result in a loss of indigenous biodiversity.

What are we proposing to change and/or introduce?

The BCG drafted a policy to ensure better information on indigenous biodiversity is collected and provided as part of an AEE that accompanies an application for resource consent. We have refined this to align with the rest of the proposed NPSIB and is now Part 3.19 of the proposed NPSIB.

Part 3.19 builds on specific aspects of Schedule 4 of the RMA by detailing what is required when impacts on indigenous biodiversity form part of an AEE. Part 3.19 directly links to other parts of the proposed NPSIB to ensure they are considered in the scope of an AEE. This includes the:

- location of any SNAs
- presence of highly mobile fauna
- site’s role in maintaining connectivity across the landscape.

Part 3.19 also supports appropriate implementation of the effects management hierarchy, by requiring sufficient information within AEEs to demonstrate that the hierarchy has been followed and outcomes have been secured. This will help protect and maintain indigenous biodiversity.

Q48. Do you agree with the proposed additional information requirements within Assessments of Environment Effects (AEEs) for activities that impact indigenous biodiversity? (see Part 3.19 of the proposed NPSIB). Yes/no? Why/why not?

E.3 – Timeframes and implementation approaches



Proposed NPSIB: Part 1.5, Part 3.8 and 3.18

Timely and effective implementation is essential to deliver the objectives of the proposed NPSIB and realise positive outcomes for indigenous biodiversity.

What is the problem with the current approach?

The proposed NPSIB is a new piece of national direction, and we understand that implementation has its challenges. Councils, iwi/Māori and landowners are all at different stages of their biodiversity work programmes, and we acknowledge that some parts of the proposed NPSIB could be a change for some of these groups. We have heard from councils that implementation could take time and be costly. However, on balance, the short-term costs of implementation are necessary to realise long-term, intergenerational benefits to biodiversity.

What are we proposing to change and/or introduce?

Councils would need to implement the proposed NPSIB as soon as reasonably practicable but no later than 2028 (Part 1.5). They would have six years to develop a regional biodiversity strategy (specified in Part 3.18).

For identifying and mapping SNAs, we are interested in your views on two proposals for implementation. The BCG’s draft (and the proposed NPSIB Part 3.8) gives territorial authorities five years to identify and map SNAs, and six years to schedule and notify these in a plan. We have heard this would be a big challenge in some parts of the country because of cost (due to small rating bases, cost to iwi/Māori to engage with council processes, and cost to landowners) and the potential number of SNAs. We have included an alternative staged approach for you to consider.

Table 6: Two options for implementation of the proposed NPSIB

Biodiversity Collaborative Group’s proposal for implementation	Possible alternative: Progressive implementation programme
<p>Implement the proposed NPSIB as soon as reasonably practicable, by:</p> <ul style="list-style-type: none">• completing process of identifying and mapping SNAs (five years)• scheduling and notifying SNAs in plans (six years).	<p>Implement the proposed NPSIB as soon as reasonably practicable, by:</p> <ul style="list-style-type: none">• completing process of identifying and mapping SNAs (seven years)• scheduling and notifying SNAs in plans (eight years). <p>Where a territorial authority takes this route, the council may implement it by setting a programme of defined time-limited stages, following which it must be fully implemented in eight years. Councils must adopt this programme within a year of gazettal of the proposed NPSIB and report annually on progress.</p>

Where territorial authorities (or in some cases, regional councils) have already identified SNAs using criteria comparable to the proposed NPSIB Appendix 1 SNA criteria, Part 3.8 of the proposed NPSIB would not require local authorities to repeat this work. Instead, an assessment would be done to check the existing SNAs align with the Appendix 1 criteria, and the SNAs would remain as described or identified in the plan. Adverse effects on these existing SNAs would be managed as outlined in Part 3.9 of the proposed NPSIB. Territorial authorities would only need to update these SNAs eight years after gazettal of the proposed NPSIB, or earlier if their existing SNA schedules were incomplete.

Proposal to update SNA schedules every two years

A provision for territorial authorities to update their schedule of SNAs every two years has also been incorporated to ensure SNA identification, mapping and scheduling is not a point-in-time process every 10 years as plans are revised, but are updated regularly to keep information fresh. This means using newly available or updated information gained through resource consent applications, monitoring or other means, rather than undertaking a whole-of-district SNA assessment again. Any additional SNAs would be notified through a plan change. We are seeking your views on whether this timeframe would be sufficient to update the schedule of SNAs.

Q49. Which option for implementation of the proposed NPSIB do you prefer? Please explain.

- a. Implementation as soon as reasonably practicable – SNAs identified and mapped in five years, scheduled and notified in plans in six years.
- b. Progressive implementation programme – SNAs identified and mapped within seven years, scheduled and notified in plans in eight years.

Q50. Do you agree with the implementation timeframes in the proposed NPSIB, including the proposed requirement to refresh SNA schedules in plans every two years? Yes/no? Why/why not?

E.4 – SNAs on public land

The BCG recommended public land managers (such as the Department of Conservation (DOC), Land Information New Zealand, and the Ministry of Defence) should be required to identify and map SNAs on publicly owned land to reduce the burden on ratepayers of territorial authorities.

What is public land?

Approximately 33 per cent of New Zealand's land area is public conservation land (PCL) administered by DOC, and another 6 per cent is other Crown land.

Public conservation land is managed to protect natural, historic and cultural heritage, retain areas of wilderness, and provide recreation opportunities.

Besides public conservation land, Crown land includes Crown pastoral lease land, road reserve and land for schools, prisons, and hospitals. Around 70 per cent of non-PCL Crown land is pastoral lease land concentrated in the central South Island. Crown pastoral lease land is managed for a range of purposes that can be different to private land; including to protect the Crown's interest as a landowner and the inherent values of the land.

The remainder of land in New Zealand comprises general land (50 per cent, mostly privately owned); Treaty settlement land (4 per cent), and Māori Land Court land (5 per cent).

What is the role of the NPSIB and SNA identification in relation to public land?

In general, the RMA applies to the sustainable management of natural resources, regardless of who owns the land. As a tool under the RMA, the proposed NPSIB has the potential to apply to public land in the same way it would apply to private and Māori-owned land.

Public land makes up a large part of the country and the initial identification of SNAs can be an expensive process, particularly if field assessments are required to identify SNAs on public conservation land, which is a third of the country. On the other hand, a complete view of SNAs within a district is useful to see the wider ecological context when other SNAs are identified, and to better manage biodiversity.

Options for identifying SNAs on public conservation land

Together with relevant Crown agencies, we are looking at options for identifying and mapping SNAs on public land. The options presented below are not necessarily mutually exclusive. They could be applied in a range of combinations and differently from district to district, for example, depending on the different proportions of public conservation land per district.

The options for identifying and reassessing SNAs on public land are set out below, along with factors to consider for each option.

Table 7: Options for identification and reassessment for SNAs on Crown land

Options for SNA identification and reassessment for SNAs on public conservation land	Factors to consider
Option 1: Territorial authorities keep responsibility for identifying and mapping all SNAs on public conservation land.	<p>This option may be most efficient for council RMA processes and mean SNA criteria would be applied consistently across the district.</p> <p>It could be resource intensive, especially for districts with high distributions of public conservation land, or for those districts who have not yet carried out the identification of SNAs on public conservation land.</p> <p>In some cases, it may be appropriate for the Crown to contribute to the identification and mapping.</p>
Option 2: Public conservation land could be deemed as SNAs. This could apply to all public conservation land, or to higher-value areas (such as national parks, conservation areas, scientific reserves, or nature reserves). For other public conservation land that contains fewer biodiversity values, this option could be an interim or default measure until an assessment is done using the SNA identification criteria (such as by a council, government agency, or a consent applicant).	<p>This option could create efficiencies and reduce costs to territorial authorities.</p> <p>Where conservation values are already legally protected (eg, public conservation land) the reduced benefit of SNA identification and mapping, as well as a lower risk of biodiversity loss from activities on this land, also needs to be considered.</p> <p>This option may also provide a transitional approach that would allow territorial authorities to spread costs for the identification of SNAs on public conservation land over time, by first doing field assessments in the rest of the district.</p>
Option 3: SNAs are not identified on public conservation land.	<p>This recognises that public conservation land has legal protection already and removes the cost of identifying SNAs on this land.</p>

Some districts have large amounts of public conservation land (eg, 89 per cent in Westland) but even in districts where the area of public conservation land is relatively small, it will make up a substantial proportion of the SNA land area. For example, only 6 per cent of Waikato District Council's total land area is public conservation land, but this makes up a third of its SNA land area.

Taking a national view, the costs of identifying SNAs on public conservation land could outweigh the benefits given the existing protections, as, in most cases public conservation land is already managed for conservation and protected under other legislation such as the Conservation Act, Reserves Act, and National Parks Act.

Not identifying SNAs on public conservation land has the potential to undermine the consistency of SNA assessments across a district. Public conservation land can provide the ecological context for the identification of SNAs in the whole district. Some territorial authorities that have done SNA assessments have already included public conservation land because of this ecological context. Additionally, public conservation land is primarily made up of mature indigenous vegetation (82 per cent), which is easier to assess for ecological significance than land that has been modified for activities such as housing, farming and forestry. For territorial authorities in areas with only a small proportion of public conservation land, this means the cost of identifying SNAs on this land could be small.

In areas with a large proportion of public conservation land, SNA assessment and monitoring could be costly for territorial authorities. Reducing the costs to territorial authorities of assessing SNAs on public conservation land (through options 2 or 3) could mean territorial authorities in these areas could prioritise other biodiversity actions, such as engaging with private landowners and accurately identifying SNAs on private land.

Options for identifying SNAs on public land that is not public conservation land

The proposed NPSIB would require territorial authorities to be responsible for identifying and mapping SNAs, across all land ownership types. Below, we discuss a non-regulatory option to support territorial authorities to do this for public land that is not public conservation land.

As a supporting measure, a government agency or agencies could identify and map SNAs on non-PCL public land and provide this information to territorial authorities to include in their plans. Councils would still need to be satisfied the information meets their obligations under the proposed NPSIB and take it through a plan-change process. This non-statutory measure would move some of the costs from territorial authorities to government agencies. This could include Crown pastoral lease land, where Crown agencies may already have information for that land, or road reserve where the NZTA has relevant ecological information.

However, this approach may be less efficient for council RMA processes, as territorial authorities would still have to take the information provided by public agencies through a plan-change process (including evaluating the information and notifying the plan or plan change to include the SNAs).

For most districts, public land that is not public conservation land will only be a very small proportion of their land area. Where this is the case, including this public land in the district's identification process would not significantly increase the overall costs to the council. Additionally, territorial authorities receive rates for Crown land that is used for pastoral leases,

schools, hospitals and prisons. As such, as per option 1, it might be better for territorial authorities to identify SNAs as they would on any other part of the district.

We are interested in your views on the above options, as well as other opportunities to reduce the cost of SNA identification and mapping.

- Q51. Which of the three options to identify and map SNAs on public conservation land do you prefer? Please explain.
- a. Territorial authorities identify and map all SNAs including public conservation land
 - b. Public conservation land deemed as SNAs
 - c. No SNAs identified on public conservation land
- Q52. Other option. What do you think of the approach for identifying and mapping SNAs on other public land that is not public conservation land?

E.5 – Integrated management of indigenous biodiversity



Proposed NPSIB: Part 2.1 Objective 4, Part 2.2 Policy 4 and Part 3.4

Integration is about how people and policy work with and alongside each another. To be successful, there needs to be alignment in how indigenous biodiversity is managed across natural physical boundaries, like land, rivers, lakes and the ocean, ecosystem types, and jurisdictional boundaries between local authorities and central government.

What is the problem with the current approach?

The loss of indigenous biodiversity is at a critical point in New Zealand. Decision-making is sometimes disconnected, which makes it a challenge to manage indigenous biodiversity in a coordinated way.

What are we proposing to change and/or introduce?

The proposed NPSIB emphasises councils working together and sharing information to achieve better outcomes for indigenous biodiversity. Objective 4 aims to improve both general integration across jurisdictional boundaries, and integration of information collected by councils to manage indigenous biodiversity.

The BCG provided policy intent for a provision on integrated decision-making, but no policy wording. The proposed NPSIB Part 3.4 requires local authorities to provide for coordinated management with other councils and central government agencies, and encourage joint resource consent processes between territorial authorities and regional councils to ensure decision-making is linked up. It also requires local authorities to consider the interactions between the terrestrial, freshwater and coastal environments.

Q53. Part 3.4 requires local authorities to manage indigenous biodiversity and the effects on it of subdivision, use and development, in an integrated way. Do you agree with this provision? Yes/no? Why/why not?

E.6 – Managing indigenous biodiversity within the coastal environment



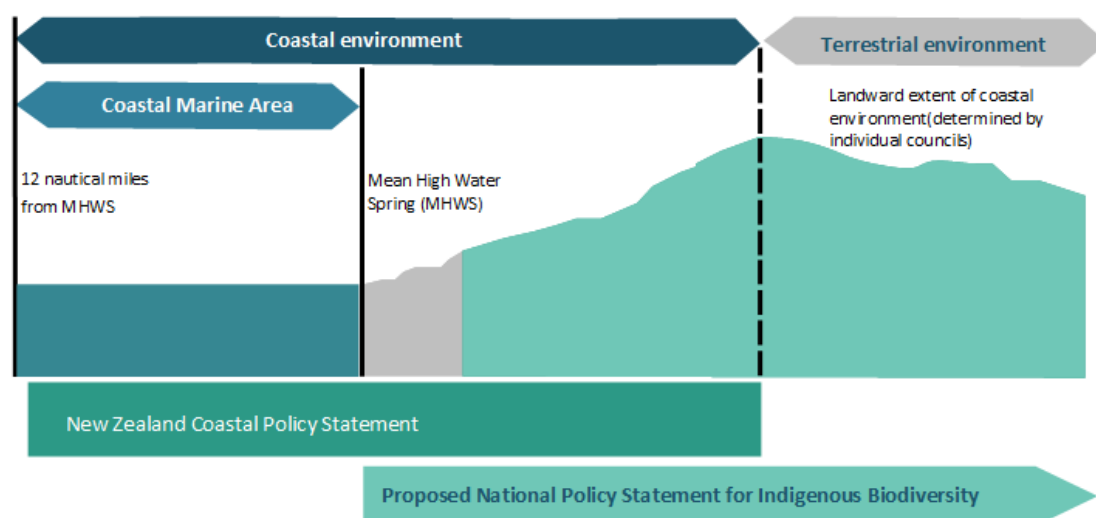
Proposed NPSIB: Part 1.5, Part 1.6, Part 2.1 Objective 4, Part 2.2 Policy 4 and 6 and Part 3.4, 3.8 and 3.9

The New Zealand Coastal Policy Statement (NZCPS) is another national policy statement under the RMA. It contains policies in relation to the coastal environment, and policy 11 of the NZCPS is about indigenous biodiversity in the coastal environment.

What issue needs to be clarified for implementation of the proposed NPSIB in the coastal environment?

The proposed NPSIB includes proposals for protecting areas of significant indigenous biodiversity on land (the terrestrial environment). Management areas could include land that is also part of the coastal environment, overlapping with where the NZCPS applies (as shown in Figure 5). The criteria in the proposed NPSIB for the identification of SNAs is not the same as the NZCPS Policy 11 criteria, which relate to managing indigenous biodiversity in the coastal environment. There needs to be clarity for councils on how to manage indigenous biodiversity while applying both pieces of national direction – the NZCPS and the proposed NPSIB (if implemented) – where there is overlap.

Figure 5: Overlap of responsibilities for managing biodiversity in the coastal environment



Jurisdictional overlap of administrative boundaries presents another issue. In the coastal environment in particular, jurisdiction shifts between regional councils and territorial authorities across mean high-water springs, which marks the boundary between the coastal marine area and the terrestrial environment. There may be instances of coastal environment SNAs that cross this artificial boundary of mean high-water springs, giving the potential for inconsistent management of indigenous biodiversity.

What are we proposing to change and/or introduce?

Managing indigenous biodiversity in the overlap between the terrestrial and the coastal environment

To manage indigenous biodiversity on land that is also part of the coastal environment, currently some councils apply NZCPS criteria in addition to their general SNA criteria. This indicates that indigenous biodiversity in the terrestrial part of the coastal environment can be identified using both the proposed NPSIB SNA criteria and the NZCPS without conflict. The approach recommended is to apply the SNA identification criteria in the proposed NPSIB (Part 3.8 and Appendix 1) alongside the requirements of Policy 11 of the NZCPS. If a situation arises where there is a conflict between these two national policy statements, Part 1.6 requires that the NZCPS takes precedence.

The proposed NPSIB does not apply to the coastal marine area, which is the area shown in Figure 5 (above) that is below mean high-water spring and out to 12 nautical miles. If the proposed NPSIB is implemented, then councils would still need to meet their existing obligations to protect indigenous biodiversity in the coastal marine area under the RMA and NZCPS Policy 11.

Responsibilities for the coastal environment for regional councils and territorial authorities

Part 3.4 of the proposed NPSIB addresses jurisdictional matters by requiring both regional councils and territorial authorities to clarify their management responsibilities regarding administrative boundaries. This provision applies more broadly than just in the coastal environment, but it is particularly important here, where there are distinct jurisdictional boundaries and management issues to be resolved, as discussed earlier.

Q54. If the proposed NPSIB is implemented, then two pieces of national direction – the NZCPS and NPSIB – would apply in the landward-coastal environment. Part 1.6 of the proposed NPSIB states if there is a conflict between these instruments the NZCPS prevails. Do you think the proposals in the NPSIB are clear enough for regional councils and territorial authorities to adequately identify and protect SNAs in the landward-coastal environment? Yes/no? Why/why not?

E.7 – Guidance and support for implementing the proposed NPSIB

Implementing the proposed NPSIB has resource and financial implications, in particular for councils, iwi/Māori, and landowners with indigenous biodiversity on their land. Examples could include costs to territorial authorities for mapping and identifying SNAs, time and resource from tangata whenua to be involved in council indigenous biodiversity management processes, and costs to landowners to manage the effects of their activities on indigenous biodiversity. The [Section 32 Report and Cost Benefit Analysis](#) provides more information about these costs.

Throughout this document suggestions are made and questions asked to find out from you what kind of supporting measures, such as guidance material or financial support, may be required to successfully implement the proposed NPSIB.

Broadly speaking, these measures could include:

- technical guidance to support implementing the provisions
- implementation support for councils (eg, funding and ecological expertise, such as for identifying SNAs or likely presence of highly mobile fauna; providing financial support to tangata whenua as they co-develop policies and objectives around Hutia te Rito; building capability among council officers in te ao Māori; and reviewing the resourcing of covenanting bodies to protect and restore biodiversity on private land and Māori land)
- support for tangata whenua and landowners to manage indigenous biodiversity on their land or in their rohe.

The BCG recommended a number of supporting and complementary measures. Many of these recommendations have been incorporated into the NZBS discussion document, which has a wider scope of system-wide actions to improve biodiversity. The BCG's recommendations included:

- improve leadership in protecting and maintaining Aotearoa New Zealand's indigenous biodiversity
- support and better coordinate biodiversity effort
- support landowners and land managers
- improve monitoring, information and knowledge
- align institutional frameworks, policies and regulatory tools
- improve compliance, monitoring and enforcement.

The BCG recommended a policy on a specific type of transferable development right for the proposed NPSIB.⁵¹ Transferable development rights are an option for incentivising restoration and enhancement of biodiversity. Under this framework, some councils currently allow a developer to 'buy' the development rights from another landowner who will then protect the biodiversity on their land instead of developing it. We do not recommend formalising this policy in the proposed NPSIB, as there are other tools available for incentivising restoration and enhancement of biodiversity in the proposed NPSIB.

⁵¹ Biodiversity Collaborative Group. 2018. *Report of the Biodiversity Collaborative Group*. Wellington: Biodiversity (Land and Freshwater) Stakeholder Trust. Retrieved from www.biodiversitynz.org/uploads/1/0/7/9/107923093/report_of_the_biodiversity_collaborative_group.pdf, pages 69–70.

We do recommend including reference to the existing RMA transferable development rights option in guidance, alongside other methods for restoring and enhancing biodiversity. This approach would be more efficient, avoid duplication, and still offer transferable development rights as an option for councils in their plans.

The following summarises some of the costs of the proposed NPSIB to local government, tangata whenua, and landowners, which you may wish to consider in your submission. For more detailed costs and benefits of the proposed NPSIB, see the [section 32 evaluation report](#).

Local government: Costs to local government to implement the proposed NPSIB would include SNA identification, changing RMA plans, developing regional strategies, undertaking monitoring and engaging with tangata whenua and other stakeholders.

Tangata whenua: Tangata whenua and other stakeholders would face both time and monetary costs in resourcing their increased involvement in resource management and decision-making.

Landowners: There could be direct and indirect costs to some landowners (public and private) following SNA identification if actions such as fencing are required, or if there are limits to some land use and development opportunities on their properties.

Q55. The indicative costs and benefits of the proposed NPSIB for landowners, tangata whenua, councils, stakeholders, and central government are set out in [Section 32 Report and Cost Benefit Analysis](#). Do you think these costs and benefits are accurate? Please explain, and please provide examples of costs/benefits if these proposals will affect you or your work.

Q56. Do you think the proposed NPSIB should include a provision on use of transferable development rights? Yes/no? Why/why not?

Q57. What specific information, support or resources would help you implement the provisions in this section (section E)?

Q58. What support in general would you require to implement the proposed NPSIB? Please detail.

- a. Guidance material
- b. Technical expertise
- c. Scientific expertise
- d. Financial support
- e. All of above.
- f. Other (please provide details).

Section F: Statutory frameworks

F.1 – The proposed NPSIB and other government priorities

The proposed NPSIB has been developed with other government policy priorities in mind. These include other RMA priorities, as well as other policy areas that sit outside of the RMA. Wider government priorities include:

- climate change (Zero Carbon targets, Emissions Trading Scheme (ETS) and Just Transitions work programme, renewable electricity targets)
- mining reforms (reform of Crown Minerals Act 1991)
- land-use support and incentives (Green Investment Fund, projects for Māori Land, Provincial Growth Fund, One Billion Trees Programme)
- Kiwibuild and the provision of land and supply of aggregate for housing
- focus on wellbeing
- New Zealand's contribution to addressing global issues, such as the Paris Accord climate change work programme.

Planning standards

The National Planning Standards are a relatively new tool in the national direction toolbox. Two main purposes of the planning standards are to require national consistency across resource management plans and support the implementation of national policy statements, national environmental standards or other regulations made under the RMA. The first set of National Planning Standards, gazetted in April 2019, focused on the core elements of plans; that is, their structure and format, along with standardising common definitions and improving their electronic accessibility. With these foundation standards in place, we expect it will be easier for future planning standards to include other national directions in plans.

We remain open to the possibility that a planning standard(s) may be required to support components of the proposed NPSIB. Your feedback is welcome on this as part of this consultation process. If a planning standard(s) was/were used to implement part of the proposed NPSIB there would be further public consultation.

Q59. Do you think a planning standard is needed to support the consistent implementation of some proposals in the proposed NPSIB? Yes/no? If yes, what specific provisions do you consider are effectively delivered through a planning standard tool?

Comprehensive review of the resource management system

The steps being taken now to improve freshwater, rural land use, urban development, biodiversity management, and climate change are informing a wider review of the resource management system. This review is examining the broader and deeper changes we believe are needed to support the transition to a more productive, sustainable and inclusive economy.

The review will recommend ways the system can deliver better outcomes for our built and natural environments. It should take into consideration current challenges, including those expected from new technology and a changing climate.

This comprehensive review is currently being undertaken by the Government.

Alignment with other national direction under the RMA

We are working closely with other government agencies to ensure the proposed NPSIB is developed with both the implementation and objectives of existing and proposed national direction tools under the RMA in mind.

Local authorities are required to give effect to all national policy statements through planning documents and must consider any relevant national policy statements when making decisions on resource consents. Local authorities should consider interactions between national policy statements when undertaking these functions. Even with consistent and well-integrated national direction, competing environmental priorities will need to be resolved by local authorities in their RMA planning processes.

Future NPSIB guidance would address how councils should manage interactions between the proposed NPSIB and other major pieces of national direction. We are interested in your views on what kinds of guidance you might find helpful.

Landowners also have a role to play in terms of meeting the objectives of different pieces of national direction. In some cases, there are clear synergies between these instruments and the actions that can be taken to realise their objectives. For example, to contribute to both freshwater and indigenous biodiversity, a landowner might decide not to clear native bush or scrub near waterways. Similarly, a landowner might choose to plant indigenous vegetation to both increase ecological values and reduce sediment and nutrients entering waterways.

Proposed national direction instruments and amendments

The Government is consulting on a range of national direction instruments in 2019. The main instruments with policy interactions with the proposed NPSIB include:

- a proposed new National Policy Statement for Highly Productive Land
- a proposed new National Policy Statement on Urban Development, this replaces the National Policy Statement on Urban Development Capacity
- amendments to the National Policy Statement for Freshwater Management and an accompanying National Environmental Standard (Action for healthy waterways proposal⁵²)

The following table sets out linkages between these proposed national direction instruments and the proposed NPSIB.

⁵² Ministry for the Environment and Ministry for Primary Industries. 2019. *Action for healthy waterways. A discussion document on national direction for our essential freshwater*. Wellington: Ministry for the Environment and Ministry for Primary Industries. Retrieved from <https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/action-for-healthy-waterways.pdf>.

Table 8: Linkages between proposed national direction instruments and the proposed NPSIB

Proposed national direction	Link with proposed NPSIB
<p>Proposed National Policy Statement on Urban Development (NPS-UD)</p> <p>Direction on when and how cities should plan for growth and quality intensification</p>	<p>The proposed NPS-UD recognises open space as one of the features of a quality urban environment that local authorities must provide for. The proposed NPSIB includes policies to restore indigenous vegetation in depleted areas, including urban areas.</p> <p>Areas of land identified as SNAs under the proposed NPSIB can be considered ‘no go areas’ for urban development, which is described in the NPS-UD.</p>
<p>Proposed National Policy Statement for Highly Productive Land (NPS-HPL)</p> <p>Requires the identification and management of land for primary production</p>	<p>The proposed NPS-HPL does not intend for the absolute protection of highly productive land or that there should be no net loss of such land. Rather, the aim is to require local authorities to consider the value of this resource in their region/district, both now and in the future.</p> <p>A piece of land may be identified as both highly productive land under the NPS-HPL and partially or completely overlap with an SNA identified under the proposed NPSIB. This is a consideration to be made at the local decision-making level.</p>
<p>Action for healthy waterways – National Policy Statement for Freshwater Management (amendments) and a new National Environmental Standard</p> <p>Proposes amendments to the existing NPS for Freshwater Management, and a new National Environmental Standard (NES). Aims to stop further degradation and loss of freshwater resources. The NES proposes rules for piping, infilling and permanent diversion of rivers.</p>	<p>The proposed Action for healthy waterways package contains policies (complementary to the NPSIB) for protecting wetlands. Under the proposals, no further loss of natural wetlands would be permitted, and there would be tighter controls on certain activities that damage inland and coastal wetlands. The proposed NPSIB would promote the restoration of all wetlands in terms of indigenous vegetation.</p> <p>The Action for healthy waterways also contains policies for maintaining or improving ecosystem health. These include protection of habitat and aquatic species. This complements the proposed NPSIB, which is focused on maintaining and improving terrestrial indigenous biodiversity.</p> <p>The core decision-making concept Te Mana o te Wai in the NPS-FM is consistent with the decision-making concept Hutia te Rito in the proposed NPSIB. Both recognise that the health of the environment is integral to our wellbeing.</p>

Existing national direction instruments

There are also existing national direction tools that support the maintenance of biodiversity in New Zealand, or have an interaction with managing biodiversity. These are set out in table 9.

Table 9: Linkages between existing national direction tools and the proposed NPSIB

Existing national direction	Link with proposed NPSIB
New Zealand Coastal Policy Statement (NZCPS)	The NZCPS concerns managing the 'coastal environment'. The coastal environment includes a terrestrial component that overlaps with the proposed NPSIB. The NZCPS requires protection of indigenous biodiversity and includes a list of types of indigenous biodiversity to be protected. Indigenous biodiversity to be protected by the NZCPS and the proposed NPSIB are largely aligned and complementary, and it is anticipated that councils will apply both policies in the terrestrial component of the coastal environment.
National Policy Statement for Renewable Electricity Generation (NPSREG)	The NPSREG requires councils to recognise and provide for the national significance of renewable electricity generation activities (both existing and new). Renewable electricity development has the potential to result in adverse effects on indigenous biodiversity and these effects would be managed under the proposed NPSIB. ⁵³ The proposed NPSIB allows for nationally significant infrastructure (including renewable electricity generation which is important for the national electricity supply), while protecting the most significant habitat and ecosystems.
National Policy Statement for Electricity Transmission (NPSET)	The NPSET requires councils to recognise and provide for electricity transmission networks. Electricity transmission activities such as new structures have the potential to result in adverse effects on biodiversity, and these effects would be managed under the proposed NPSIB. The proposed NPSIB allows for nationally significant infrastructure (including the national grid), while protecting the most significant habitat and ecosystems.
National Environmental Standards for Electricity Transmission Activities (NESETA)	The NESETA are regulations that support the NPSET and set out a framework of permissions and consent requirements for operation, maintenance and upgrading of existing electricity transmission lines. They set out which transmission activities are permitted, subject to conditions to control environmental effects. These regulations are complementary to the proposed NPSIB as the NESETA already provides for more stringent management in 'natural areas'. The NPSIB would set out the management approach in these areas. The need for guidance on matters of discretion for consents under the NESETA that fulfil the proposed NPSIB objectives will be considered. We recognise the need for future reviews of each instrument to determine whether adverse effects consented inside 'natural areas' under the NESET meet the proposed NPSIB objectives.
National Environmental Standards for Plantation Forestry (NESPf)	The NESPf are regulations under the RMA, with the objectives being to maintain or improve the environmental outcomes associated with plantation forestry activities, and to increase the efficiency and certainty of managing plantation forestry activities. The objectives are achieved through a single set of regulations under the RMA that apply to foresters throughout New Zealand. The NESPf applies to any forest of at least one hectare that has been planted specifically for commercial purposes and will be harvested. The NESPf regulations cover eight core plantation forestry activities that have potential environmental effects. Those specific to indigenous biodiversity are around indigenous bird nesting for specific species, and

⁵³ Councils would be required to provide for nationally significant renewable electricity generation (REG); the how and where would be informed by the NPSIB. Where renewable electricity generation is nationally significant infrastructure that is locationally constrained, the NPSIB has an exception to the requirement to avoid adverse effects on SNAs in the case of medium-value SNAs. This exception acknowledges the importance of renewable electricity generation, as directed by the NPSREG.

Existing national direction	Link with proposed NPSIB
	<p>clearance of indigenous vegetation. The NESPF also allows for councils to be more stringent than the NESPF in their plans when it comes to protecting SNAs.</p> <p>Because the NESPF manages effects of these specific forestry activities to specific biodiversity, we recommend the proposed NPSIB contain provisions that provide for forestry to be managed through the NESPF. See section C for more information on the interface between the proposed NPSIB and the NESPF.</p>

Q60. Do you think there are potential areas of tension or confusion between the proposed NPSIB and other national direction? Yes/no? Why/why not?

The Biosecurity Act 1993 and interactions with the proposed NPSIB

New Zealand's biosecurity system helps protect our economy, environment, and people from unwanted pests and diseases. Our biosecurity system is underpinned by the Biosecurity Act 1993. The Act provides the legal framework for the Ministry for Primary Industries and other organisations to help keep harmful organisms out of New Zealand. It also provides the framework for how we respond to and manage organisms if any make it into the country, including regional pest management plans that regional councils develop. The Biosecurity Act is currently being reviewed because of increasing pressures on the biosecurity system, such as growth and diversity in trade and tourism, and climate change.

The proposed NPSIB has interactions with the biosecurity system. Proposed key factors that would be provided for in council plans to enable indigenous biodiversity to adapt to a changing climate include managing and reducing biosecurity risks. The principles guiding the content of proposed regional biodiversity strategy ensure they provide a single and comprehensive record of all areas targeted for protection, enhancement and restoration, including actions being taken under other legislation such as the Biosecurity Act 1993.

Q61. Do you think it is useful for RMA plans to address activities that exacerbate the spread of pests and diseases threatening biodiversity, in conjunction with appropriate national or regional pest plan rules under the Biosecurity Act 1993? Yes/no? Why/why not?

Section G: Consultation process

G.1 – Timeframes

This consultation starts on 25 November 2019 and ends on 14 March 2020.

G.2 – How to make a submission

The Government welcomes your feedback on this discussion document. The questions in this document and summarised here are a guide only. You do not have to answer all the questions, and all comments are welcome.

To ensure others clearly understand your point of view, you should explain the reasons for your views and give supporting evidence if needed.

You can make a submission in two ways.

1. Use our online submission tool, available at www.mfe.govt.nz/consultations/nps-indigenous-biodiversity.
This is our preferred way to receive submissions.
2. Write your own submission.

If you are posting your submission, send it to:

Ministry for the Environment, PO Box 10362, Wellington 6143. Include:

- the title of the consultation
- your name or organisation
- your postal address
- your telephone number
- your email address.

If you are emailing your submission, send it to indigenousbiodiversity@mfe.govt.nz as a:

- PDF
- Microsoft Word document (2003 or later version).

Submissions close at 5 pm, 14 March 2020.

G.3 – For more information

Please direct any queries to:

Email: indigenousbioversity@mfe.govt.nz

Postal: Indigenous Biodiversity Team, Ministry for the Environment, PO Box 10362, Wellington 6143.

G.4 – Publishing and releasing submissions

All or part of any written submission the Ministry for the Environment receives electronically or in printed form, including your name, may be published on our website, www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, the Ministry will consider that you have consented to website posting of both your submission and your name.

Submissions may also be released to the public under the Official Information Act 1982 following requests to the Ministry for the Environment (including by email). Please advise if you object to the release of any information contained in your submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information.

Any personal information you supply to the Ministry when making a submission will only be used by the Ministry in relation to the consultation covered in this document. You have the right to request access to or to correct any personal information you supply to the Ministry. If you have any questions about the publishing and releasing of submissions, or if you would like to access or correct any personal information you have supplied, please email info@mfe.govt.nz.

G.5 – Consultation questions

- Q1. Do you agree a National Policy Statement for Indigenous Biodiversity (NPSIB) is needed to strengthen requirements for protecting our native plants, animals and ecosystems under the Resource Management Act 1991 (RMA)? Yes/no? Why/why not?
- Q2. The scope of the proposed NPSIB focuses on the terrestrial environment and the restoration and enhancement of wetlands. Do you think there is a role for the NPSIB within coastal marine and freshwater environments? Yes/no, why/why not?
- Q3. Do you agree with the objectives of the proposed NPSIB? Yes/no? Why/why not? (see Part 2.1 of the proposed NPSIB)
- Q4. Hutia te Rito recognises that the health and wellbeing of nature is vital to our own health and wellbeing. This will be the underlying concept of the proposed NPSIB. Do you agree? Yes/no? Why/why not?
- Q5. Does the proposed NPSIB provide enough information on Hutia te Rito and how it should be implemented? Yes/no. Is there anything else that should be added to reflect te ao Māori in managing Indigenous Biodiversity?
- Q6. Do you think the proposed NPSIB appropriately takes into account the principles of the Treaty of Waitangi? Yes/no? Why/why not?
- Q7. What opportunities and challenges do you see for the way in which councils would be required to work with tangata whenua when managing indigenous biodiversity? What information and resources would support the enhanced role of tangata whenua in indigenous biodiversity management? Please explain.
- Q8. Local authorities will need to consider opportunities for tangata whenua to exercise kaitiakitanga over indigenous biodiversity, including by allowing for sustainable customary use of indigenous flora. Do you think the proposed NPSIB appropriately provides for customary use? Yes/no, please explain.
- Q9. What specific information, support or resources would help you implement the provisions in this section (section A)?

- Q10. Territorial authorities will need to identify, map and schedule Significant Natural Areas (SNAs) in partnership with tangata whenua, landowners and communities. What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?
- Q11. Of the following three options, who do you think should be responsible for identifying, mapping and scheduling of SNAs? Why?
- territorial authorities
 - regional councils
 - a collaborative exercise between territorial authorities and regional councils.
- Q12. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPSIB appropriate for identifying SNAs? Yes/no? Why/why not?
- Q13. Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs? (see Part 3.8(2) of the proposed NPSIB) Yes/no? Why/why not?
- Q14. The NPSIB proposes SNAs are scheduled in a district plan. Which of the following council plans should include SNA schedules? Why?
- regional policy statement
 - regional plan
 - district plan
 - combination.
- Q15. We have proposed a timeframe of five years for the identification and mapping of SNAs and six years for scheduling SNAs in a district plan. Is this reasonable? Yes/no. What do you think is a reasonable timeframe and why?
- Q16. Do you agree with the proposed approach to the identification and management of taonga species and ecosystems? (see Part 3.14 of the proposed NPSIB) Yes/no? Why/why not?
- Q17. Part 3.15 of the proposed NPSIB requires regional councils and territorial authorities to work together to identify and manage highly mobile fauna outside of SNAs. Do you agree with this approach? Yes/no? Why/why not?
- Q18. What specific information, support or resources would help you implement the provisions in this section (section B)?
- Q19. Do you think the proposed NPSIB provides the appropriate level of protection of SNAs? Yes/no? Why/why not? (see Part 3.9 of the proposed NPSIB)
- Q20. Do you agree with the use of the effects management hierarchy as proposed to address adverse effects on indigenous biodiversity instead of the outcomes-based approach recommended by the Biodiversity Collaborative Group? Yes/no? Why/why not?
- Q21. Are there any other adverse effects that should be added to Part 1.7(4), to be considered within and outside SNAs? Please explain.
- Q22. Do you agree with the distinction between high- and medium-value SNAs as the way to ensure SNAs are protected while providing for new activities? Yes/no/Unclear? Please explain. If no, do you have an alternative suggestion?
- Q23. Do you agree with the new activities the proposed NPSIB provides for and the parameters within which they are provided for? (see Part 3.9(2)-(4) of the proposed NPSIB) Yes/no? Why/why not?
- Q24. Do you agree with the proposed definition for nationally significant infrastructure? Yes/no? Why/why not?

- Q25. Do you agree with the proposed approach to managing significant indigenous biodiversity within plantations forests, including that the specific management responses are dealt with in the NESPF? (see Part 3.10 of the proposed NPSIB) Yes/no? Why/why not?
- Q26. Do you agree with managing existing activities and land uses, including pastoral farming, proposed in Part 3.12 of the proposed NPSIB? Yes/no? Why/why not?
- Q27. Does the proposed NPSIB provide the appropriate level of protection for indigenous biodiversity outside SNAs, with enough flexibility to allow other community outcomes to be met? Yes/no? Why/why not?
- Q28. Do you think it is appropriate to consider both biodiversity offsets and biodiversity compensation (instead of considering them sequentially) for managing adverse effects on indigenous biodiversity outside of SNAs? Yes/no? Why/why not?
- Q29. Do you think the proposed NPSIB adequately provides for the development of Māori land? Yes/no? Why/why not?
- Q30. Part 3.5 of the proposed NPSIB requires territorial authorities and regional councils to promote the resilience of indigenous biodiversity to climate change. Do you agree with this provision? Yes/no? Why/why not?
- Q31. Do you think the inclusion of the precautionary approach in the proposed NPSIB is appropriate? (see Part 3.6 of the proposed NPSIB) Yes/no? Why/why not?
- Q32. What is your preferred option for managing geothermal ecosystems? Please explain.
- Option 1
 - Option 2
 - Option 3
 - Or your alternative option – please provide detail.
- Q33. We consider geothermal ecosystems to include geothermally influenced habitat, thermo-tolerant fauna (including micro-organisms), and associated indigenous biodiversity. Do you agree? Yes/no? Why/why not?
- Q34. Do you agree with the framework for biodiversity offsets set out in Appendix 3 of the NPSIB? Yes/no? Why/why not?
- Q35. Do you agree with the framework for biodiversity compensation set out in Appendix 4 of the NPSIB? Yes/no? Why/why not? Include an explanation if you consider the limits on the use of biodiversity compensation set out in Environment Court decision: *Oceana Gold (New Zealand) Limited v Otago Regional Council* as a better alternative.
- Q36. What level of residual adverse effect do you think biodiversity offsets and biodiversity compensation should apply to?
- More than minor residual adverse effects
 - All residual adverse effects
 - Other. Please explain.
- Q37. What specific information, support or resources would help you implement the provisions in this section (section C)?

- Q38. The proposed NPSIB promotes the restoration and enhancement of three priority areas: degraded SNAs; areas that provide important connectivity or buffering functions; and wetlands. (see Part 3.16 of the proposed NPSIB) Do you agree with these priorities? Yes/no? Why/why not?
- Q39. Do you see any challenges in wetland protection and management being driven through the Government's Action for healthy waterways package while wetland restoration occurs through the NPSIB? Please explain.
- Q40. Part 3.17 of the proposed NPSIB requires regional councils to establish a 10 per cent target for urban indigenous vegetation cover and separate indigenous vegetation targets for non-urban areas. Do you agree with this approach? Yes/no? Why/why not?
- Q41. Do you think regional biodiversity strategies should be required under the proposed NPSIB or promoted under the New Zealand Biodiversity Strategy? Please explain.
- Q42. Do you agree with the proposed principles for regional biodiversity strategies set out in Appendix 5 of the proposed NPSIB? Yes/no? Why/why not?
- Q43. Do you think the proposed regional biodiversity strategy has a role in promoting other outcomes (eg, predator control or preventing the spread of pests and pathogens)? Please explain.
- Q44. Do you agree with the timeframes for initiating and completing the development of a regional biodiversity strategy? (see Part 3.18 of the proposed NPSIB) Yes/no? Why/why not?
- Q45. What specific information, support or resources would help you implement the provisions in this section (section D)?
- Q46. Do you agree with the requirement for regional councils to develop a monitoring plan for indigenous biodiversity in its region and each of its districts, including requirements for what this monitoring plan should contain? (see Part 3.20) Yes/no? Why/why not?
- Q47. Part 4.1 requires the Ministry for the Environment to undertake an effectiveness review of the proposed NPSIB. Do you agree with the requirements of this effectiveness review? Yes/no? Why/why not?
- Q48. Do you agree with the proposed additional information requirements within Assessments of Environment Effects (AEEs) for activities that impact on indigenous biodiversity? (see Part 3.19 of the proposed NPSIB). Yes/no? Why/why not?
- Q49. Which option for implementation of the proposed NPSIB do you prefer? Please explain.
- Implementation as soon as reasonably practicable – SNAs identified and mapped in five years, scheduled and notified in plans in six years.
 - Progressive implementation programme – SNAs identified and mapped within seven years, scheduled and notified in plans in eight years.
- Q50. Do you agree with the implementation timeframes in the proposed NPSIB, including the proposed requirement to refresh SNA schedules in plans every two years? Yes/no? Why/why not?

- Q51. Which of the three options to identify and map SNAs on public conservation land (PCL) do you prefer? Please explain.
- Territorial authorities identify and map all SNAs including public conservation land
 - Public conservation land deemed as SNAs
 - No SNAs identified on public conservation land
 - Other option.
- Q52. What do you think of the approach for identifying and mapping SNAs on other public land that is not public conservation land?
- Q53. Part 3.4 requires local authorities to manage indigenous biodiversity and the effects on it of subdivision, use and development, in an integrated way. Do you agree with this provision? Yes/no? Why/why not?
- Q54. If the proposed NPSIB is implemented, then two pieces of national direction – the NZCPS and NPSIB – would apply in the landward-coastal environment. Part 1.6 of the proposed NPSIB states if there is a conflict between instruments the NZCPS prevails. Do you think the proposals in the NPSIB are clear enough for regional councils and territorial authorities to adequately identify and protect SNAs in the landward-coastal environment? Yes/no? Why /why not?
- Q55. The indicative costs and benefits of the proposed NPSIB for landowners, tangata whenua, councils, stakeholders, and central government are set out in [Section 32 Report and Cost Benefit Analysis](#). Do you think these costs and benefits are accurate? Please explain and provide examples of costs/benefits if these proposals will affect you or your work.
- Q56. Do you think the proposed NPSIB should include a provision on use of transferable development rights? Yes/no? Why/why not?
- Q57. What specific information, support or resources would help you implement the provisions in this section (section E)?
- Q58. What support in general would you require to implement the proposed NPSIB? Please detail.
- Guidance material
 - Technical expertise
 - Scientific expertise
 - Financial support
 - All of above
 - Other (please provide details).
- Q59. Do you think a planning standard is needed to support the consistent implementation of some proposals in the proposed NPSIB? Yes/no? If yes, what specific provisions do you consider are effectively delivered through a planning standard tool?
- Q60. Do you think there are potential areas of tension or confusion between the proposed NPSIB and other national direction? Yes/no? Why/why not?
- Q61. Do you think it is useful for RMA plans to address activities that exacerbate the spread of pests and diseases threatening biodiversity, in conjunction with appropriate national or regional pest plan rules under the Biosecurity Act 1993? Yes/no? Why/why not?
- Q62. Do you have any other comments you wish to make?

Glossary

Māori terms

hapū	A Māori sub-tribal group made up of whānau groups that share a common ancestor.
Hutia te Rito	The title of a whakataukī (Māori proverb) and a concept guiding decision-making in the proposed National Policy Statement for Indigenous Biodiversity.
iwi	A Māori tribal group who share a common ancestor.
kaitiaki	An iwi, hapū, or whānau group with responsibility for kaitiakitanga.
kaitiakitanga	The exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship.
mana whenua	Customary authority exercised by an iwi or hapū in an identified area.
Mātauranga Māori	Māori customary knowledge, traditional knowledge, or intergenerational knowledge.
mauri	An energy that binds and animates all things in the physical world. Without mauri, mana cannot flow into a person or object.
ngahere	Forest.
rohe	The geographical territory of an iwi or a hapū.
taonga	Tangible (eg, land) or intangible (eg, language) treasures and possessions, of historical cultural significance.
tangata whenua	In relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area.
te ao Māori	The Māori world; a Māori perspective/worldview.
te taiao	The environment.
tikanga Māori	Māori customary values, practices, and traditions.
whakapapa	Genealogy; ancestry. Whakapapa is the core of traditional mātauranga Māori. Whakapapa is a taxonomic framework that links all animate and inanimate, known and unknown phenomena in the terrestrial and spiritual worlds. Whakapapa therefore binds all things.
whānau	The immediate family, or an extended group of great grandparents, cousins, uncles and aunts, and children and grandchildren.
whanaungatanga	Relationship; sense of family connection.
whenua	Land.

Māori land

Reference to Māori land is defined as Māori customary land and Māori freehold land as defined in Te Ture Whenua Māori Act 1993. Section 129 (2) of Te Ture Whenua Act states:

- (a) land that is held by Māori in accordance with tikanga Māori shall have the status of Māori customary land:*
- (b) land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order, shall have the status of Māori freehold land.*

Commonly used acronyms

BCG	Biodiversity Collaborative Group
DOC	Department of Conservation
NES	National Environmental Standard
NESPF	National Environmental Standards for Plantation Forestry
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management
NPSET	National Policy Statement for Electricity Transmission
NPS-HPL	National Policy Statement for Highly Productive Land
NPSIB	National Policy Statement for Indigenous Biodiversity
NPSREG	National Policy Statement for Renewable Electricity Generation
NPS-UD	National Policy Statement on Urban Development
NZCPS	New Zealand Coastal Policy Statement 2010
RMA	Resource Management Act 1991
SNA	Significant Natural Area.

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