Introduction

Environment Southland thanks the Ministry for the opportunity to comment on the draft National Policy Statement on Indigenous Biodiversity. Environment Southland strongly supports the objectives of the proposal and the intention to maintain and protect indigenous biodiversity. Environment Southland registers its support of the Local Government New Zealand submission, which represents the views of the sector at large. Environment Southland’s submission focuses on matters of particular interest and relevance to the Southland region and should be read as being in addition to the matters raised in Local Government New Zealand submission.

This submission sets out ES’s comments in two parts. Part 1: Key messages and Part 2: Feedback on specific provisions. Specific concerns, questions and recommendations are dispersed throughout the submission.

Part 1: Key messages

The National Policy Statement on Indigenous Biodiversity significantly shifts the requirements for managing indigenous biodiversity in Southland. The proposed requirements will have significant impact on Environment Southland and the wider Southland community. The following are the key messages on Environment Southland’s feedback on the draft National Policy Statement on Indigenous Biodiversity:

1. Roles and responsibilities
   a. Reference to the term ‘local authorities’

   Several requirements in the National Policy Statement on Indigenous Biodiversity refer to the term “Local authorities”. Environment Southland believes that this reference causes confusion between the functions of district and regional councils, particularly in relation to the management of effects of land use on indigenous biodiversity. The confusion will affect the development/ changes of regional and district plans, resource consents, decision making, enforcement and monitoring processes. This would ultimately lead to ineffective implementation of the National Policy Statement on Indigenous Biodiversity. Environment Southland does not support the use of the term “local authorities”
in National Policy Statement on Indigenous Biodiversity requirements and requests separate and clear requirements for district and regional councils.

b. **Clash of responsibilities with Department of Conservation**

Environment Southland understands that regional councils have a role in managing the adverse effects on highly mobile fauna through habitat protection. However, Environment Southland does not support provisions that require regional and district councils to protect and maintain the populations of highly mobile fauna. The Department of Conservation is responsible for species management including protection and maintenance. In order to implement the requirements on highly mobile fauna, councils and Department of Conservation may need to make significant shifts in their roles. Environment Southland also does not have adequate expertise and data to undertake such responsibilities. Environment Southland requests that the requirements on highly mobile fauna confine councils’ role to habitat protection only and that protection and management of the species remains with Department of Conservation. Environment Southland also requests more direction on how councils can mandate and implement these requirements.

2. **Consistency with national direction**

Environment Southland acknowledges that the wider government policy is undergoing significant changes and notes that it is important that the National Policy Statement on Indigenous Biodiversity is consistent with other national policy instruments such as Essential Freshwater package, the New Zealand Coastal Policy Statement, National Policy Statement on Highly Productive Land and the National Environmental Standard on Plantation Forestry. Coherency between these documents will avoid any confusion and contradictory direction on their implementation. Environment Southland requests that a range of new and existing national policy instruments are implemented through an integrated approach.

3. **Inadequate expertise and funding**

Environment Southland acknowledges the importance of the National Policy Statement on Indigenous Biodiversity requirements’ and their intention to do more in the indigenous biodiversity space. Many of the requirements involve significant amount of collaboration, monitoring and enforcement work that exceeds Environment Southland’s and the local Territorial Authorities existing or potential capability. Environment Southland submits that the central government prioritises the work that needs immediate attention and directs the councils accordingly. Environment Southland believes that clear priorities will reduce the strain on council’s under pressure. Environment Southland also requests central government’s support through clear direction (e.g. best practice approaches), technical expertise and funding to effectively implement the National Policy Statement on Indigenous Biodiversity.

**Part 2: Feedback on specific provisions**

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<tr>
<th>National Policy Statement on Indigenous Biodiversity Provision</th>
<th>Environment Southland’s submission</th>
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<tr>
<td>1.5 Application</td>
<td>Sub-clause 1 of 1.5 intends to prevent the National Policy Statement on Indigenous Biodiversity</td>
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from overlapping with the New Zealand Coastal Policy Statement or the National Policy Statement for Fresh Water Management. However, clear national direction is necessary around splitting the biodiversity into terrestrial and freshwater biodiversity. The Ministry for the Environment must ensure that the direction is coherent with other relevant national policy instruments, to avoid any confusion and conflicts between those instruments.

### 1.6 Relationship with New Zealand Coastal Policy Statement

Environment Southland supports the New Zealand Coastal Policy Statement prevailing in case of conflict between the provisions of National Policy Statement on Indigenous Biodiversity and New Zealand Coastal Policy Statement. Environment Southland believes that a clear legislative hierarchy is essential for effective and efficient management of activities and their effects on indigenous biodiversity.

### 1.7 Fundamental concepts

- Environment Southland has particular concern with the definition of “Indigenous Biodiversity”, as it is too broad. As currently drafted it applies beyond indigenous or endemic biodiversity and includes any naturally occurring biodiversity within any NZ ecosystem. Environment Southland requests for clarification on “naturally occurring” and to provide specific context around the term to confine its application to indigenous species only.
- Environment Southland supports Hutia Te Rito in principle, however requests more direction on how Councils can operationalise the concept.

### 1.8 Definitions

- Environment Southland supports the concepts of biodiversity compensation and offsetting. However, as currently drafted, their application is unclear due their reference to “appropriate”. As per the proposed definitions, “appropriate” avoidance, remediation and mitigation are difficult to measure, monitor and enforce. Environment Southland requests more direction on what and how “appropriate” is determined.
- Environment Southland supports the definition of “terrestrial environment” as it provides more direction than the definition from the National Policy Statement for Fresh Water Management. The definitions should be made consistent and Environment Southland supports the use of the National Policy Statement on Indigenous Biodiversity definition.
- The National Policy Statement for Fresh Water Management does not define “freshwater ecosystems” as stated in the definition of terrestrial environment. Environment Southland requests that the term Freshwater Ecosystems be defined in the National Policy Statement for Fresh Water Management for clarity.
- Environment Southland requests the definition for “highly mobile fauna” is changed to be
| 2.2 Policies                                                                 | As per the proposed phrasing, the intention of Policy 13 is unclear as to whether Councils are required to manage or to protect highly mobile fauna. This policy must be amended to provide specific direction on required actions from Councils. |
| 3.2 Hutia Te Rito                                                            | Environment Southland supports the intention of the requirements on Hutia Te Rito. However, these requirements are too broad and require more direction on their implementation through plans and policy statements. Environment Southland requests clarification on the link and the differences of Hutia Te Rito to Kaitiakitanga. |
| 3.3 Tangata Whenua as Kaitiaki                                              | As already required by the Resource Management Act, Environment Southland engages with Ngāi Tahu during the Plan and Policy Statement development, changes, and decision making processes. Environment Southland also has a Memorandum of Understanding with Ngāi Tahu that outlines their role and involvement in the resource management decision making process. Environment Southland supports the National Policy Statement on Indigenous Biodiversity’s re-emphasis on tangata whenua’s involvement in implementing the National Policy Statement on Indigenous Biodiversity through the Regional Plans and the Regional Policy Statement. |
| 3.4 Integrated approach                                                      | Environment Southland supports the principle of integrated approach for managing the effects of subdivision, use and development across administrative boundaries. However, Councils could benefit from more national direction including recommended planning tools, best practice guidance, examples of integrated management of effects on indigenous biodiversity etc. |
| 3.6 Precautionary approach                                                  | The sub-clauses a) and b) of this requirement contradict each other. If the effects are uncertain, unknown and little understood, how can it be concluded if the effects are potentially significantly adverse? To clear the contradiction, Environment Southland supports retaining sub-clause a) and deletion of sub-clause b). |
| 3.7 Social, economic and cultural wellbeing                                 | Environment Southland supports the requirements to recognize the role of community in maintaining indigenous biodiversity and the contribution of indigenous biodiversity towards the community’s wellbeing. The Operative Southland Regional Policy Statement 2017 provides for |
community collaboration and recognises the importance of community initiatives for sustainable management of indigenous biodiversity. Environment Southland will need to amend the Southland Regional Policy Statement to extend the recognition as required by clause 3.7.

Environment Southland needs clarification on sub-clause e) in relation to Clause 3.3, which requires recognition of tangata whenua as kaitiaki. As required by 3.3 and 3.7.e), both tangata whenua and landowners are kaitiaki. Does the former or latter have precedence in an event of conflict? Environment Southland recommends that the National Policy Statement on Indigenous Biodiversity provides for precedence in a potential case of conflict.

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<th>3.9 Managing adverse effects on Significant Natural Areas</th>
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<td>The term “local authorities” in this provision includes Regional Councils, meaning Environment Southland is required to manage the effects of subdivision, use and development on Significant Natural Areas. Environment Southland can manage land use under Section 30 of the Resource Management Act but only for specific purposes, including soil conservation and water quality maintenance and enhancement. Section 30 does not require Regional Councils to manage land use to protect biodiversity.</td>
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<td>Due the reference to “local authorities” in clause 3.9, this requirement will affect the application of Regional Plans’ rules addressing the use of land for farming and for mitigation of natural hazards. For example, Rule 20(e) of the Proposed Southland Water and Land Plan manages the use of land for farming and is fully discretionary. Implementation of Clause 3.9 through Rule 20(e) will result in confusion about what should and should not be considered in consent applications.</td>
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<td>Environment Southland opposes clause 3.9 as drafted and requests for separate provisions within the clause that address land use management actions that are specifically required by the Regional Councils. Separate provisions for Regional Councils and Territorial Authorities will help clear the confusion regarding the application of the Resource Management Act and National Policy Statement on Indigenous Biodiversity.</td>
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<td>Environment Southland also notes the requirements on effects management hierarchy are unclear. Clause 3.19 does not provide a clear direction on how to determine whether a Significant Natural Area is high or medium. It is unclear whether sub-clauses (1) and (2) of 3.19 apply to both high and/or medium Significant Natural Areas. Environment Southland believes that this hierarchy and lack of direction will result in conflicting opinions regarding what can be classified as a high/medium Significant Natural Area, thereby complicating the implementation, enforcement and decision</td>
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making through the proposed hierarchy. Environment Southland requests the removal of references to the effects management hierarchy in the National Policy Statement on Indigenous Biodiversity and submits that the criteria for managing the effects should be based on whether an area is a Significant Natural Area or not a Significant Natural Area.

| 3.10 Managing adverse effects in plantation forests | Environment Southland notes that the requirements under clause 3.10 are unclear in regards to:
- Who manages the plantation forestry biodiversity areas? Whether their management is a responsibility of the Regional/District Councils or the forestry companies?
- Who monitors their long-term populations? Regional/ District Councils or the forestry companies?
- What is classified as long-term and how many rotations make a course?
- Does sub-clause (3) of 3.10 require the management of plantation forestry biodiversity areas with at-risk or threatened flora over a long term?
- How does the NES for Plantation Forestry interact with the National Policy Statement on Indigenous Biodiversity and which takes precedence? What if the NES requirements addressing indigenous biodiversity are not adequate to effectively manage the adverse effects on plantation forestry biodiversity areas?

Environment Southland requests for clarification on those questions. |

| 3.12 Existing activities in Significant Natural Areas | Environment Southland supports clause 3.12 as it provides a clear direction on actions required by the Regional Councils to manage the effects of existing activities on the Significant Natural Areas. The Southland Regional Policy Statement and the Proposed Southland Water and Land Plan have provisions on stock exclusion, discharges onto land and high country burning that currently manage the effects of pastoral farming on significant indigenous vegetation and habitat.

Environment Southland will be required to amend the Southland Regional Policy Statement and the Proposed Southland Water and Land Plan to address the regeneration of indigenous vegetation on pastoral land and collaborate with the Territorial Authorities to monitor, maintain and protect the Significant Natural Areas from pastoral farming. |

| 3.13 General rules applying outside Significant Natural Areas | Environment Southland supports this clause in principle as managing the areas around the Significant Natural Areas could potentially result in better protection and maintenance outcomes for Significant Natural Areas. However, as mentioned in Environment Southland’s submission points on |
clause 3.9, the reference to the term “local authorities” creates confusion around Regional Council’s functions in relation to land use management, thereby affecting consenting and enforcement of Regional Plan provisions. Please refer to submission points against clause 3.9 for a detailed explanation on this issue.

Environment Southland opposes clause 3.13 as currently phrased and requests for separate provisions within the clause that address land use management actions that are specifically required by the Regional Councils. Separate provisions for Regional Councils and Territorial Authorities will help clear the confusion regarding the application of the Resource Management Act, as well as National Policy Statement on Indigenous Biodiversity.

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<th>3.15 Highly Mobile Fauna</th>
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<td>- Environment Southland understands the intention to recognise and provide for the protection of “highly mobile fauna” (at-risk and threatened species only). Environment Southland notes that this requirement on “highly mobile fauna” is a sub-set of clause 3.13 and has the same issue with reference to the term “local authorities” and confusion regarding Regional Councils’ functions associated with land use management. Environment Southland recommends revising clause 3.15(4) and requests a separate provision within the clause outlining what is required of the Regional Councils to manage the effects of land use on highly mobile fauna.</td>
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<td>- From the definition of highly mobile fauna and its reference in clause 3.15, it is unclear whether the clause applies to reptiles, insects and species that are mobile between terrestrial, freshwater and marine ecosystems such as sea lions that haul out into terrestrial areas. Environment Southland requests clarification on what species the definition covers. A list of species classified as ‘highly mobile fauna’ might help the councils with confusion regarding their mobility between ecosystems and would provide management certainty.</td>
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<td>- Also worth noting is the Department of Conservation’s role in species management. Some species in Southland that would fall under the category of highly mobile fauna are intensively managed by Department of Conservation e.g. Southern Dotterel/Takahe. Environment Southland currently only protects their habitat and is not required to monitor their population on Department of Conservation estate, as it is Department of Conservation’s responsibility to protect those species. The implementation of clause 3.15 involves significant shifts in Department of Conservation’s and Councils’ roles. Environment Southland believes that it is inappropriate for the National Policy Statement on Indigenous Biodiversity to require councils to protect and manage the indigenous fauna. Environment Southland requests that clause 3.15 is amended to clearly state that councils are required to protect only the habitat of highly mobile</td>
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fauna, not the fauna species. Environment Southland also requests that clause 3.15 provides a clear direction on the roles and functions of Regional Councils, District Councils and Department of Conservation in managing the effects on highly mobile fauna.

- Environment Southland is concerned about reference to “have been” in clause 3.15 (1). The reference as drafted could include the entire historic range, which could potentially cover the whole of Southland. The reference to “are likely to be” in clause 3.15 (1) could also be problematic to implement. Environment Southland submits that the references to both “have been” and “are likely to be” be removed and replaced with “areas with suitable habitat”.

- Over all, as required by clause 3.15 (1) and (3), Environment Southland will be required to collaborate with the Territorial Authorities to identify areas outside Significant Natural Areas with highly mobile fauna and must amend the Southland Regional Policy Statement to address highly mobile fauna. Effects management approaches must be determined for each highly mobile fauna species identified in Southland, as the natural range varies for each species. Significant technical monitoring and enforcement work must be undertaken to maintain viable populations of the identified species. Environment Southland is in short of such technical expertise and would need significant staff changes, expert contracts and consultants’ support. There is limited capacity and capability within Southland to implement clause 3.15. Environment Southland requests central government support to provide councils with funding, monitoring, ecological and planning expertise and significant guidance for councils to successfully implement this clause.

### 3.16 Restoration and enhancement

Environment Southland is supportive of clause 3.16 and its requirement to restore and enhance degraded wetlands, Significant Natural Areas, and former wetlands. However the current wording in the clause is unhelpful for differentiation because all Significant Natural Areas in Southland are degraded to a certain extent and many Significant Natural Areas could also be categorized as former wetlands. Environment Southland submits that restoration and enhancement should be based on ecosystem priorities so the full suite of Southland’s ecosystems receives restoration.

Environment Southland notes that clause 3.16 provides for reconstruction of former wetlands but does not encourage creation of new wetlands. Existing use and developments in the location of former wetlands could make reconstruction of a wetland in its former location unviable financially and ecologically.

The Environment Southland Wetland Inventory Project 2016 identified that approximately 13,879
ha of Southland Region is wetland area on non-public conservation land alone and only includes wetlands greater than 0.5ha in size. This monitoring project also concluded that there was a 10% loss of wetlands over a 7 year period as a result of water takes, diversions, and farming activities. Environment Southland currently provides for the protection and maintenance of regionally significant wetlands through the Southland Regional Policy Statement and the Proposed Southland Water and Land Plan. Along with the protection of existing degraded wetlands, Environment Southland believes that construction of new wetlands could significantly contribute towards counteracting the overall wetland reduction rate.

While the creation of new wetlands could help reduce the wetland reduction; protection, restoration and maintenance of existing wetlands should be given a higher priority than creating new wetlands.

Environment Southland submits that clause 3.16 should provide for the creation of new wetlands where viable and for Regional Councils and Territorial Authorities to manage the reverse sensitivity issues of wetlands on developments, Significant Natural Areas, surrounding indigenous biodiversity and vice versa. Clause 3.16 also should provide clear direction on prioritizing the protection, maintenance and restoration of existing wetlands over creating new wetlands.

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<th>3.17 Increasing indigenous vegetation cover</th>
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<td>Environment Southland supports clause 3.17 as it provides a clear set of requirements for Regional Councils and Regional Policy Statements, however some aspects require further clarification. The use of the term “area” in clause 3.17 needs clarification before the 10% vegetation cover targets can be meaningful. Some “areas” simply cannot accommodate 10% vegetation e.g. existing suburban blocks and pasture.</td>
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<td>Clarification is also needed around the practical application and distribution of the 10% increase within urban and rural areas. Does the 10% increase focus on certain parts of an urban area or does it need to be equally distributed throughout an urban area?</td>
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<td>Environment Southland notes the clause 3.17 (7) is unclear as to which planning document the objectives, policies and methods are required to be set under the clause. As per the proposed phrasing of (7), it could apply to both regional plans and regional policy statement. Environment Southland requests for clarification on this matter to avoid unnecessary overlap during regional plan and policy statement changes or development.</td>
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Environment Southland believes that increase in indigenous vegetation cover is of the least priority because councils have many issues with managing and protecting existing indigenous biodiversity that need immediate attention. Environment Southland also believes that Councils and Central government should prioritise active management of existing indigenous biodiversity.

### 3.18 Regional biodiversity strategies

Environment Southland supports the concept of Regional Biodiversity Strategies. In 2017, Environment Southland initiated a collaborative approach with the Territorial Authorities and identified stakeholders, including community groups, to develop a Regional Biodiversity Strategy. This strategy has not been developed with an intention to be used as a statutory tool under the Resource Management Act. Clause 3.18 requires that the regional policy statements and regional plans must have regard to the regional biodiversity strategies. Under clause 3.18, Appendix 5 3(a) also indicates that the strategies must include information that is better placed in the Southland Regional Policy Statement or district plan e.g. special mapping of Significant Natural Areas and taonga (appendix 5 section 3). Inclusion of these risks is likely to cause double up and confusion between the documents.

The strong link the National Policy Statement on Indigenous Biodiversity places on the strategies to the Significant Natural Areas and other requirements associated with Regional Council’s Resource Management Act functions and responsibilities also hinders true collaboration and the development of non-regulatory methods, partnerships and meaningful change. Environment Southland is concerned that this correlation hinders advancement of the existing work on developing a regional biodiversity strategy, thereby resulting in a waste of Environment Southland’s and our partners’ resources and efforts, as well as degrading the existing collaborative partnership and our relationships with the community.

Environment Southland submits that clause 3.18 is revised to clearly state that Regional Biodiversity Strategies are non-“Resource Management Act” tools with an intention to protect and maintain indigenous biodiversity. Environment Southland also submits that Appendix 5 3(a) is revised to remove the correlation to the Resource Management Act functions including the regional policy statements and district plans.

### 3.19 Assessment of environmental effects

Environment Southland supports the intention of clause 3.19, which is to provide for the assessment of environmental effects on Significant Natural Areas, indigenous biodiversity, highly mobile fauna, buffer areas and taonga through consent applications. Reference to the term “local authorities” in this clause means that it applies to both Regional Councils and Territorial Authorities.
This will affect the implementation of some regional plan rules under Section 9 of the Resource Management Act. For example, confusion around what to consider in consent applications under Rule 20 on Farming in the Proposed Water and Land Plan. To avoid this confusion, Environment Southland submits that the reference to local authorities in clause 3.19 be removed and separate provisions that apply to regional councils, regional policy statements and regional plans are proposed within clause 3.19.

Environment Southland also notes that sub-clause (3) of 3.19 is unclear about whether a site assessment under Appendix 1 would be a part of policy statement process or plan process or consent process. Environment Southland submits that sub-clause (3) is revised to provide clear direction on this matter.

3.20 Monitoring

- Environment Southland supports the requirement of a collaborative monitoring plan in principle. The scale of work required by sub-clause (2) limits Environment Southland’s unconditional support. Southland currently has 132,897 ha of indigenous vegetation cover, which is not legally-protected. This excludes 1,873,546 ha of protected land (e.g. National Parks, reserves etc.). Including significant land outside of Significant Natural Areas (as required by clause 3.13) as required by this National Policy Statement on Indigenous Biodiversity far exceeds current capabilities of all local authorities in Southland.

- The current mapped area is based on desktop analysis only and these need ground truthing before confidently proposing their protection through policies in plans and policy statements. The extent of work and technical expertise necessary for ground truthing currently exceeds local capabilities, even accounting for the use of and availability of consultants.

- Sub-clause (2)(a):
  - Environment Southland requests clarification on the extent of monitoring required to be undertaken on areas outside Significant Natural Areas. Section 3.13.2 alludes to the fact that areas outside Significant Natural Areas could be treated as the same as the identified Significant Natural Areas, which adds confusion around the purpose of the Significant Natural Area definition. The meaning of the term “taonga” should be further clarified, as its meaning might vary with individuals and the identification process in clause 3.14 may not be viable.

- There are currently no nationally agreed standards or methods for measuring biodiversity as sub-clause (2)(c) mentions. This requirement creates another significant work load to establish such methods – see for example the significant body of work required to establish and maintain
| Environment Southland submits that the Ministry for the Environment provides support to the development of nationally standardised monitoring methods currently being prepared by the regional sector in partnership with Department of Conservation. Centralising expertise and funding would help councils to both develop nationally agreed standards and undertake the required monitoring.
| Environment Southland notes that the requirements on monitoring plans under clause 3.20 (2) do not have any links to how data will be used following the monitoring (with the exception of 3.20 (2)(f)). There is a potential risk with all monitoring projects that data is collected in too much detail to a point that it is excessive to the needs of decision makers. This lack of direction is likely to lead to an inefficient use of resources and time.

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1 Legally-protected in this context means protected by Conservation Act 1987, Land Act 1948, National Parks Act 1980, Reserves Act 1977 and covenants such as QEII and Department of Conservation.