

SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

6 March 2019

SUBMITTER DETAILS

Porirua City Council
PO Box 50218
Porirua 5240

INTRODUCTION AND BACKGROUND

1. Porirua City Council (Council) thanks the Ministry for the Environment and the Department of Conservation for the opportunity to make this submission on the Proposed National Policy Statement for Indigenous Biodiversity (Proposed NPS-IB).
2. Improving the health of Te Awarua-o-Porirua Harbour and its catchment is of utmost importance for our City. Council has partnered with Te Rūnanga o Toa Rangatira, Wellington City Council and Greater Wellington Regional Council to protect and restore the harbour. Our Harbour Strategy and Action Plan is key to achieving this, where we work alongside a variety of community groups and landowners to protect and restore the natural environment, including our significant natural areas. Recent actions taken under this partnership include:
 - we have restored spawning zones for freshwater fish on Porirua Stream and Kenepuru stream
 - we have a programme of work underway to restore saltmarsh and coastal forest around both Onepoto arm and Pauatahanui Inlet
 - we have undertaken surveys of all Porirua streams looking at fish passage, work is underway to identify what we can now do to enhance passage
 - we have been planting up to 25,000 trees a year – both to revegetate parks/reserves and protect reserve boundaries.
3. Council officers from Hutt City, Upper Hutt, Kāpiti Coast, Porirua, Wellington City, and the Greater Wellington Regional Council, met to discuss the implications of the Proposed NPS-IB, as we are all at various stages of identifying and protecting significant natural areas under Wellington Regional Policy Statement 2013 criteria. The attendance of officials from both government departments at this discussion was very useful to assist in formulating our respective submissions.
4. This submission was been approved by Te Puna Korero Council Committee at its meeting of 5 March 2019.

SUBMISSION

High-level comments

5. Council supports the general intent of the Proposed NPS-IB, namely identification and protection of significant natural areas (SNA) and greater protection for biodiversity in general. The Proposed NPS-IB provides national direction on implementation of section 6(c) of the Resource Management Act that has long been sought after by local government.
6. National policy statements are a critical tool to guide the preparation of regional and district plans to achieve the purpose of the RMA. However, in light of the national discussion currently underway regarding the length and complexity of the RMA itself, Council has concerns about the length and complexity of recently issued national policy statements.
7. Rather than fulfilling their original purpose of guiding the content of planning documents, each new national policy statement is getting progressively longer, and much broader in scope.
8. The Proposed NPS-IB for example is 45 pages long, and in addition to directing the content of district and regional plans, requires councils to: draft biodiversity strategies, draft monitoring plans, and monitor revegetation targets. It also lists landowner engagement principles that must be considered. Many of these matters would be better suited to being issued as non-statutory guidance.
9. Council supports the requirement for regional biodiversity strategies, but questions if the Proposed NPS-IB is correct vehicle for this.
10. Council considers that as a general principle, national policy statements should be drafted to focus on achieving core outcomes (i.e. in this instance identification and protection of significant natural areas through district plans). More focussed national policy statements would be less open to interpretation and therefore more legally robust.
11. Therefore, Council is concerned the layers of complexity and ambiguity that this NPS-IB will create as presently drafted, with resulting financial, legal, and timing implications for Council.

Detailed comments

Tangata whenua engagement

12. Council is broadly supportive of these requirements. Council works in partnership with our mana whenua Ngāti Toa Rangatira. Incorporation of mātauranga Māori is an important part of the successful management of indigenous biodiversity.
13. However, there needs to be clear guidance for how to implement the Hutia Te Rito concept, with tangible examples. Resourcing and guidance is also needed for councils, as well as for iwi to fully participate.

Identification of significant natural areas

14. Council supports terrestrial significant natural areas being scheduled in district plans, as this falls within territorial authority functions under the s31(1)(b)(iii) of the RMA.
15. Council also supports applying the mitigation hierarchy principles, which are internationally established best practice. Council supports the use of appendices which provide guidance on the intended outcomes for offsetting, compensation and the mitigation hierarchy.
16. However, Council considers that the identification of multiple types of SNAs within district plans will be challenging to implement.
17. The Proposed NPS-IB directs councils to identify five types of indigenous habitat: 'high' and 'medium' SNAs (part 3.8 and Appendix 2), 'plantation forest biodiversity areas' (3.10), areas of 'indigenous biodiversity outside SNAs' (3.13), and 'highly mobile fauna areas' (3.15).

18. Most councils in New Zealand have identified one level of significance for significant natural areas (i.e. either significant or not). This includes all councils operating under the Wellington Regional Policy Statement 2013. In our case, the process to identify 222 significant natural areas has taken 18 months and involved extensive landowner engagement including: a mail out to 1500 landowners, media with associated communications material, and public drop-in sessions. This resulted in over 100 requests from landowners for site visits to talk through the implications of the proposed policy with council staff, and for an ecologist to accurately map these areas on-site.
19. We have been advised by our ecologists that these already identified SNAs cannot be easily updated to the Proposed NPS-IB criteria, as the split between medium and high is not possible to determine from a desktop review and would require significant additional field work. Furthermore, all landowners would need the opportunity to request a site visit by an ecologist as it would only be fair to give them the chance to refine the assessment as it relates to their property (especially with the regulatory implications of the high category). This extra field work would take significant time and resources, and would adversely impact our district plan review timeline and budget.
20. Identification and protection of 'highly mobile fauna' (part 3.15) would be particularly problematic for Council. The direction appears unworkable, and likely well beyond council resourcing and expertise.
21. Furthermore, as most activities will require resource consent anyway, the categorisation of high versus medium is unnecessary given ecological assessments will be undertaken as part of the resource consent process and the mitigation hierarchy will be applied to decision making.
22. The proposed classification requirements make the policy statement unduly complex. A refined approach of simply requiring identification of SNAs and requiring assessment of environmental effects through the mitigation hierarchy would be sufficient and achieve the same biodiversity benefits.
23. Council opposes the principle of disregarding 'artificial margins such as property boundaries' when identifying SNA (part 3.8(2)(f)). Our experience suggests a need for some pragmatism towards aligning with property boundaries where there are only minor and ecologically insignificant slivers of indigenous vegetation.

Protection of SNAs in district plans

24. As noted above, Council supports the intent of the Proposed NPS-IB to protect SNAs through district plan provisions.
25. However, Council has significant concerns with how restrictive this direction is as drafted. The Proposed NPS-IB has an "avoid" policy in the first instance means that the starting point for most activities within SNAs would be non-complying. Given how many areas are likely to meet the threshold for significance under part 3.8, Council considers that this is overly restrictive.
26. Most development within SNAs would be restricted to 'medium' rated areas. But even here the inclusion of 'ands' at the end of each clause (part 3.9(2)) would mean that it is very difficult to undertake any activity without the need for resource consent.
27. Council considers that it is critical to be able to permit certain activities within SNAs. SNAs often contain essential infrastructure such as power lines, driveways, and tracks that need to be maintained to operate safely. Likewise, buildings and structures need to have an area immediately around them clear for maintenance, including allowing light to enter dwellings. It is not clear within the Proposed NPS-IB if these types of activities can be permitted in district plans as drafted. We consider that they should be to ensure the regulations are practical and allow for reasonable property maintenance.
28. Council considers that the direction on managing effects within plantation forests (part 3.10) may overcomplicate the management of these areas. Council considers that the National Environmental Standards for Plantation Forestry are sufficient to manage the effects of this activity.

29. Part 3.16 requires policies and rules in district plans for restoration of “former wetlands” being those that “no longer retain their indigenous vegetation or habitat but with regeneration could be regained”. Council considers that this is vague and uncertain, and it is unclear how this sits with rest of the Proposed NPS-IB i.e. is it deemed offsetting or compensation? This also competes and possibly conflicts with 3.12 which seeks to recognise existing pastoral farming areas and provides farmers with the ability to regularly clear regenerating vegetation.
30. Under Part 3.19, it appears that anytime there is native vegetation or fauna on a site, councils would be obliged to request a full ecological assessment of the area to confirm if it was/was not an SNA. If this is the case, it would mean that every resource consent application in the country would require an assessment by an ecologist, as the vast majority of sites in New Zealand have some form of native vegetation. There would be significant financial implications for landowners and developers.

Monitoring

31. Council supports the general concept of national targets for increasing indigenous vegetation cover (part 3.14) being monitored by regional councils.
32. However, Council considers more guidance is required around the general implementation of this policy (and the scientific basis for the 10% figure). For example, it is unclear how the urban/rural boundaries should be determined.

Implementation support

33. Council considers that substantial Government resourcing will be required to effectively implement the Proposed NPS-IB. From the regulatory impact statement, it appears that total guidance and support costs will only amount to around \$1.77-2.65m, which is likely well short of what will be required for successful implantation.
34. Council has grave concerns around the integration of the recently released national policy statements, including how they relate to each other, and their relationship with Part 2 of the RMA. This is compounded through potential RMA reform.
35. Council requests clear guidance in this respect to assist with implementing national direction, and to provide certainty for development in urban areas in particular.