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Submitted to: indigenousbiodiversity@mfe.govt.nz

Nelson City Council (NCC) Submission on:

- ***He Kura Koiora i hokia – A discussion document on a proposed National Policy Statement for Indigenous Biodiversity***
- **Draft National Policy Statement for Indigenous Biodiversity**

A. GENERAL COMMENTS

1. Thank you for providing Nelson City Council (NCC) the opportunity to provide feedback on *He Kura Koiora i hokia – A discussion document on a proposed National Policy Statement for Indigenous Biodiversity* and the Draft National Policy Statement for Indigenous Biodiversity (NPSIB). Council would like the opportunity to be heard in relation to this submission.
2. The general intent of the Local Government New Zealand submission is supported. NCC's submission has a direct focus on the implications for Nelson City and the relevant Council work programmes.
3. In general terms NCC supports the broad direction of the indigenous biodiversity proposals to:
 - Address the decline in New Zealand's indigenous flora and fauna
 - Recognise te ao Māori and the principles of the Treaty of Waitangi
 - Identify important biodiversity and taonga
 - Manage the adverse effects of certain activities on biodiversity
 - Restore and enhance biodiversity
 - Provide methods for monitoring and the implementation of a national biodiversity policy
4. NCC is in a good position to implement the proposed National Policy Statement for Indigenous Biodiversity due to:
 - Community and council support for protecting and enhancing biodiversity
 - Good existing relationships between council, iwi, community groups, neighbouring councils, landowners, the Department of Conservation and other stakeholders.

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- A proven track record and ability to deliver biodiversity projects in Nelson through the Nelson Biodiversity Forum, including; a Nelson Biodiversity Strategy, Project Maitai and Nelson Nature programmes and a dedicated Forestry Management Adviser for the Top of the South.
 - Significant Natural Area survey and mapping in Nelson since the late 1990s.
5. Over recent years NCC has undertaken substantial work with the local community, iwi and the Department of Conservation to understand and protect Nelson’s indigenous biodiversity. This work will need to be adapted and supported by new measures to meet the proposed NPSIB requirements, such as the monitoring and assessment requirements for indigenous biodiversity. In addition, NCC will be required to implement biodiversity off-setting and compensation methods and improve data storage and management for biodiversity information at Council. This submission highlights some of the specific issues with what is proposed.
6. Broadly NCC seeks:
- Government funding and technical guidance to assist with the implementation of the proposed NPSIB
 - A broader package of regulatory and non-regulatory tools to effectively manage biodiversity in New Zealand
 - Clarification of the roles and responsibilities of central and local government in delivering biodiversity outcomes
 - Tools and resources to support nationally consistent biodiversity monitoring methods, mapping and reporting
 - Amendments to NPSIB policies, definitions and appendices to provide greater clarity and certainty

Specific Comments

7. The remainder of this submission identifies key issues and, where necessary, detailed relief in relation to the Draft National Policy Statement for Indigenous Biodiversity. The submission follows the format of the discussion document and Draft National Policy Statement for Indigenous Biodiversity for ease of interpretation.

B. HE KURA KOIORA I HOKIA – A DISCUSSION DOCUMENT ON A PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

SECTION: Associate Minister’s Message

1. NCC is a member of the Nelson Biodiversity Forum. The Forum is made up of 32 partner organisations, including Te Tau Ihu iwi, who work together to implement the Nelson Biodiversity Strategy. The Forum meets quarterly to identify and align actions to improve biodiversity in the Nelson area. Some key achievements include; development of the Waimea Inlet Strategy and Action Plan, formation of the Waimea Inlet Forum and the creation of a Living Heritage Guide.

2. NCC is a signatory to the Nelson Biodiversity Strategy which was developed by a group of 32 partner organisations, including Te Tau Ihu iwi. The Strategy was adopted by NCC in 2007 and since this time has provided strategic direction and alignment of outcomes for numerous biodiversity restoration and protection projects in the Nelson area. Some key achievements to date include; the establishment of a local assistance programme to connect communities with biodiversity advice and resources, restoration of the natural communities of the Nelson Boulder Bank, on-going ecological restoration of the Maitai River, support for the Stoke Streams project and support for the Brook Waimarama Sanctuary restoration project.
3. NCC is currently developing a new combined and integrated unitary plan called the Nelson Plan. The Nelson Plan will replace existing RMA Plans, some of which were prepared many years ago. This includes; the Nelson Regional Policy Statement, the Nelson Air Quality Plan and the Nelson Resource Management Plan. The new Draft Nelson Plan is being released for public feedback in the first half of 2020.
4. NCC have already identified a total of 165 Significant Natural Areas (SNAs) in the Nelson area, most of which occur on private land. These areas have been surveyed and mapped by NCC, and draft provisions for the protection and management of SNAs have been included in the Draft Nelson Plan. These will need to be updated following adoption of the NPSIB. The NCC Nelson Nature programme provides support and funding to private landowners of SNAs to help manage the threat of plant and animal pests on their properties.
5. NCC requires funding and additional guidance to successfully implement all aspects of the NPSIB. These details are provided in the submission.

SECTION: Biodiversity Collaborative Group Forward

1. NCC supports the direction of the NPSIB and the goal of improving New Zealand's indigenous biodiversity policy framework. NCC will implement the proposed NPS for Indigenous Biodiversity through the Draft Nelson Plan, its non-regulatory science and environment programmes and in collaboration with the Nelson Biodiversity Forum.

SECTION: Introduction

- 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?

The proposed NPSIB provides additional direction for NCC's existing biodiversity work. However, additional funding and guidance is needed to support implementation and clarify local government and central government roles.

- 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?

Further clarification is needed to achieve integration between the existing national policy statements and standards (NZCPS, NESPF and Action for Healthy Waterways package), and the

proposed NPSIB. It would be logical to manage New Zealand's indigenous biodiversity (terrestrial, coastal and freshwater) through one NPS. This would need to consider input from councils and align with the National Planning Standards. One example of the need for further clarification is coastal wetlands. Coastal wetlands have a level of protection through the NZCPS, but are not included in the NPSIB so are not required to have the same level of identification, monitoring and mapping as terrestrial wetlands. Further national direction on other coastal and marine biodiversity values would also be welcome.

- Q3. Do you agree with the objectives of the proposed NPSIB? Yes/no? Why/why not? (see Part 2.1 of the proposed NPSIB)

The proposed NPSIB objectives are broadly fit-for-purpose and recognise the need to protect, maintain and restore indigenous biodiversity. NCC recommends that biodiversity is protected as a priority over restoration. This could be achieved by elevating this objective in the proposed NPSIB. Te ao Māori is explicitly incorporated into Objectives 2, 3 and 6, and the objectives recognise the role of communities, landowners and iwi in the protection of indigenous biodiversity.

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

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

- 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?

NCC supports the concept of Hutia te Rito which recognises that the health and wellbeing of nature is vital to our own health and wellbeing.

- 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?

Guidance material with case studies would be helpful in providing tangible examples of how the concept of Hutia te Rito is being implemented around the country.

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

- Q6. Do you think the proposed NPSIB appropriately takes into account the principles of the Treaty of Waitangi? Yes/no? Why/why not?

The proposed NPSIB takes into account the principles of the Treaty of Waitangi. We note that Part 2 of the RMA is currently being reviewed by Government and NCC has provided a submission on the RMA Reform Issues and Options paper.

- 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?

The key challenge for implementing the NPSIB will be capacity, capability and funding for councils and tangata whenua involvement. This issue is fundamental to the implementation of all national policy and standards and requires Government attention. The capability and

capacity of iwi to participate in resource management matters remains an issue even for those iwi and hapū who have reached treaty settlements. National funding and training that is available at a local scale could assist with this issue.

- 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?

The proposed NPSIB objectives, policies and implementation requirements provide for tangata whenua to exercise kaitiakitanga over indigenous biodiversity. The provision for customary use is articulated in the Resource Management Act but could be made more explicit in the proposed NPSIB.

- Q9. What specific information, support or resources would help you implement the provisions in this section (section A)?

Guidance and examples on how to achieve the protection and restoration of indigenous biodiversity alongside allowing for customary use would be helpful.

SECTION B: Identifying important biodiversity and taonga

B.1 – Identifying and mapping Significant Natural Areas

- 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?

NCC has been mapping SNAs on both private and Council land since the late 1990s. This was initially on a voluntary basis with landowners. An additional desktop study and further site surveys have informed the development of SNA maps and associated rules in its new draft Resource Management Plan, the Draft Nelson Plan, which will be released for public feedback in 2020. Not all SNAs have been site surveyed yet, and some of the SNAs were surveyed a long time ago. Additional and/or updated condition assessments may be needed which will require significant resourcing.

One challenge we face is a lack of experienced ecologists with the regional expertise to conduct significance surveys. General ecologists usually do not have specific expertise in less common fauna/flora (e.g. fungi, herpetofauna) and tend to have a vegetation focus. This may lead to the omission of SNAs that contain these values. Contracting ecologists from outside the Nelson area to conduct surveys adds significant costs to SNA mapping and can be logistically difficult to arrange as surveys often need to be planned around the availability of the landowner.

When NCC began mapping SNAs, around 240 sites were identified as potentially meeting significance criteria. It has taken 20 years to survey 126 of these sites and there are 165 sites that have been confirmed as significant either through survey or through desktop analysis.

- 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.

NCC prefers option C as this provides flexibility for the allocation of tasks. Territorial authorities do not usually have the resourcing and expertise to complete SNA surveys. Further collaboration with other agencies such as the Department of Conservation would be beneficial for the survey of SNAs on public land.

- Q12. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPSIB appropriate for identifying SNAs? Yes/no? Why/why not?

The proposed criteria is consistent with the criteria NCC has used to map SNAs to date, however the 'Key Assessment Principles' and the 'Attributes' for each criteria are worded in a way that would require some analysis to determine how the changes would affect the SNA mapping we currently have. This would require resources to employ consultant ecologists to cross reference the new criteria. It seems the criteria are more inclusive than the criteria NCC has used in the past.

- 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?

Clarification is required to establish whether desktop analysis is sufficient to determine biodiversity significance in a resource management plan where landowner permission is not given to survey. Desktop mapping and the offer to have SNAs surveyed by an appropriately qualified ecologist would be the best way of applying the NPSIB requirements to SNAs on private land. This would give landowners the opportunity to verify the initial desktop mapping and refine the extent of significance on their property, while ensuring that SNAs (where permission is not granted to survey) are still protected through resource management plans. This is consistent with the approach NCC has taken and ensures that good relationships with landowners are maintained.

- 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
- a combination.

Option D. Territorial authorities' function in respect of biodiversity is limited only to the control of land use. Regional councils' biodiversity function is not limited to any of its "control" functions but is a stand-alone function that can be given effect to through any methods (regulatory or non-regulatory).

- 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?

This timeframe is reasonable as NCC have already identified and mapped SNAs for the Nelson area. For other large councils who have not yet started the process this may not be reasonable. The NCC process has taken 20 years and this is a small region with roughly 165 SNAs.

B.2 – Recognising and protecting taonga species and ecosystems

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?

Yes, however depending on the species, it may be very difficult to map (e.g. kereru which are widely distributed). It may be better to describe these in some situations. Is there a process whereby indigenous species and/or ecosystems can be identified as taonga (or equivalent) for cultural reasons (rather than the SNA significance criteria) by groups other than tangata whenua? What does the obligation in 3.14 (5) mean in practice? Guidance would be helpful for implementation of this requirement.

B.3 – Surveying for and managing 'highly mobile fauna'

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?

The requirement to survey is supported. However, councils do not usually have the expertise to identify or manage highly mobile species, so this process would need to be managed alongside DOC. Clarification is required as to whether identified habitat of threatened or at risk highly mobile fauna would become an SNA. Also clarification is required over whether this clause includes non-threatened mobile fauna. Guidance is needed on how to describe and map these habitats. We query whether there is an opportunity for highly cryptic species (e.g. lizards) to be managed in a similar way as mobile fauna.

Q18. What specific information, support or resources would help you implement the provisions in this section (section B)?

A national database of best practice guidance for each species that can be used and adapted by councils would be helpful. This would aid consistency and could be updated as knowledge improves. Council will need specialist ecologist expertise and knowledge from DOC (or elsewhere) to assist with the implementation of this requirement. As many of these species are widely distributed and national expertise rare, there could be value and efficiency in a nationally led approach to survey and identify habitats. This would ideally be led by a national agency (e.g. DOC), with councils contributing local knowledge to the process.

SECTION C: Managing adverse effects on biodiversity from activities

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

- 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)

Yes, 3.9 is worded in a way that allows an appropriate level of protection provided that resource consent officers/planners are given appropriate guidance on how these should be applied. The use of the word 'avoid' in Part 3.9 (1) a) is strong guidance for the appropriate level of protection for SNAs with a High classification. This is supported by NCC. Part 3.9 (2) provisions place (private) mineral and aggregate extraction on the same level of priority as nationally significant infrastructure within Medium classified SNAs, where there is a functional need for the extraction and no practicable alternative locations for the extraction. NCC questions the rationale for this priority for mineral and aggregate extraction. Private mineral or aggregate extraction does not have the same level of public benefit as nationally significant infrastructure, and is not recognised in Part 2 of the RMA as being of national importance. Furthermore, private mineral or aggregate extraction is likely to have significant adverse effects on a SNA due to common extraction methods. Why does 3.9 (1) a) iv. not include at risk species? A reduction in population size or occupancy of at risk species using the SNA for any part of their life cycle should also be avoided.

- 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?

NCC supports the approach in principle as it provides more certainty for applicants, however the current wording is too loose in regard to biodiversity offsetting and compensation, which are not required, but only need to be considered. This is not consistent with a 'no net loss' approach. There is the potential for cumulative effects to be significant should multiple developments over time choose not to offset or compensate for residual adverse effects.

- 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.

No additional adverse effects need to be included.

C.2 – Providing for specific new activities within SNAs

- 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?

The distinction between medium and high significance is unclear. Sites should be prioritised for the management and allocation of resources for protection and restoration only. Sites are either significant or not significant and there should be no sliding scale of protection for Significant Sites. Once a site has been managed with development in it, its natural values may have been undermined to a point where it is no longer significant (death by 1000 cuts). It is unclear whether the effects on high significance SNAs is to be avoided.

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?

NCC does not support (2) and (3) as we believe adverse effects of 1(a) on all SNAs should be avoided, not just high value SNAs. However, accepting that a balance does need to be accommodated between allowing developments in some scenarios, and the total protection of all SNAs, if there is a distinction made between medium and high significance SNAs the following feedback is provided on the proposed provisions (2) and (3).

- NCC agrees that providing for nationally significant infrastructure, single dwellings and activities on Māori land are appropriate, provided the effects management hierarchy is used to manage effects on medium value SNAs.
- NCC agrees with the exceptions provided by 3.9 (4), – these seem like logical exclusions. However we would like more guidance about what scenarios 3.9 (4) d) is providing for.
- NCC does not agree that mineral and aggregate extraction should be given the same priority as nationally significant infrastructure, especially with regard to aggregate extraction. While 3.9 (2) b) requires there to be a functional or operational need for the use to be in that particular development, NCC notes that small landowners looking to undertake mineral and/or aggregate extraction in an SNA are likely to have a functional or operational need to locate their operation in an SNA if it is the only site which they have access to that is suitable for mineral and/or aggregate extraction.
- NCC questions the choice of the words ‘where practicable’ in 3.9 (2) c) as the discussion document acknowledges that ‘where practicable’ is a weaker word choice than ‘where possible’ and results in less avoidance of effects. NCC recommends replacing ‘where practicable’ with ‘where possible’ in 3.9 (2) c) to be consistent with the effects management hierarchy wording.
- NCC notes that very few circumstances in Nelson would be assessed under 3.9 (2) because of the “and” clauses between 3.9 (2) subparts a), b), c) and d).

Q24. Do you agree with the proposed definition for nationally significant infrastructure? Yes/no? Why/why not?

Yes, consistency between higher level document definitions is encouraged. It is important that this definition aligns with other definitions of nationally significant infrastructure provided for in New Zealand legislation.

C.3 – Managing significant biodiversity in plantation forests

Q25. Do you agree with the proposed approach to managing significant indigenous biodiversity within plantation 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?

NCC does not agree that significant indigenous biodiversity within plantation forests should be excluded from 3.9, and considers that plantation forestry should be considered in the same way as any development or use in a SNA. If significant indigenous biodiversity within plantation forests is excluded from the NPSIB then the NESPF should be reviewed to ensure there is consistency and forestry land meets the same levels of protection as non-forestry land.

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

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?

Yes, it is agreed that existing activities should be reviewed to assess adverse effects on biodiversity within SNAs. Pastoral grazing should be reviewed as part of this. Grazing the understorey of SNAs removes the chance for succession at these sites and can lead to their demise in the long-term. NCC considers sub-clause 3.12 (4) will be difficult to establish and enforce, especially in large regions with significant pastoral farming activities.

NCC queries how periodic clearance of regenerating indigenous vegetation will be managed and whether the precautionary approach will apply to sub clause 3.12 (4) b), requiring an assessment to prove that the regenerating indigenous vegetation has not in itself become a SNA in the time since the last clearance event? We note that the habitat of the highly cryptic Nelson green gecko is often located in regenerating indigenous vegetation. This threatened species could be easily overlooked in regenerating indigenous vegetation if it was cleared without an assessment from a suitably qualified ecologist.

National consistency regarding when resource consent will be required under sub clause 3.12 (4) c), may be challenging. Guidance is requested around each of the circumstances in which resource consent will be required, particularly:

- i. When looking at clearance that has previously been undertaken as part of a regular cycle, how regular is regular? Do the areas, site and methods of clearance all have to be the same for each clearance for it to be part of a regular cycle? Who bears the burden of proof to show that clearance is part of a regular cycle and that effects are no greater in character, scale and intensity, and does the precautionary approach apply?
- ii. What is considered adequate information to demonstrate a regular cycle of clearances to maintain improved pasture, and is this something that the majority of farms/Councils have available to them?
- iii. Is a survey or ecological assessment required to prove that an area supports any threatened or at risk species? Does the precautionary approach apply?
- iv. Why are alluvial landforms specifically mentioned in 3.12 (4) c) iv), and why not other landforms that may support pastoral farming, such as volcanic plains, marine or glacial terraces?

C.5 – Managing adverse effects on biodiversity outside SNAs

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?

Yes, NCC supports the proposed general rules applying outside of SNAs and thinks the provisions provide for local flexibility and protection. NCC notes this provision does rely on councils having the knowledge and initiative to ensure there are appropriate rules in Resource Management Plans to protect a wide range of potential habitats and species, this also relies on good species and habitat mapping and data.

- 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?

No, NCC believes this undermines the effects management hierarchy and could lead to offsetting almost never being considered. This could result in a net loss of biodiversity which is inconsistent with the aims of the NPSIB.

C.6 – The 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?

Yes, the NPSIB adequately provides for the development of Māori land, acknowledging the context of barriers to Māori land development while giving effect to the RMA matters of national importance. NCC agrees that it is appropriate that the development of Māori land is given the same provisions as nationally significant infrastructure.

C.7 – Consideration of climate change in biodiversity management

- 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?

Yes, NCC will need to work with our community to give adequate consideration to managing habitat retreat, extent and resilience proactively in response to climate change impacts. This will present a significant challenge in our region and nationwide as we have highly built up areas that will need to be managed to reduce the potential inundation impacts of climate change. Changes to existing development, and the need for new development, will likely constrain areas available for habitat retreat, adjustment and/or connectivity (corridors). NCC suggests clarification of what part 3.5 c) “promoting the enhancement of connectivity” means, for national consistency of approach.

NCC agrees that there is a lack of data on climate change impacts (existing and forecast) on biodiversity in different regions, and suggests that further work needs to be done to identify those species (flora and fauna) likely to be particularly at risk from greater temperature and rainfall extremes or biosecurity challenges.

NCC would like to see increased alignment between the NPSIB and the Biosecurity Act 1993 to recognise that biosecurity risks to indigenous biodiversity are likely to increase as a result of the changing climate. Existing biosecurity risks may be magnified (e.g. more beech mast years), and there may be an increased likelihood of novel incursions as a result of warmer sea and air temperatures. There is currently a strong national focus on biosecurity risks related to economic activity, however NCC would like to see an equal focus on identifying potential climate change driven biosecurity risks to indigenous biodiversity.

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

- 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?

Yes, NCC supports consistency across higher level documents and in particular with the NZCPS. Having the precautionary approach specifically listed in the NPSIB provides certainty of approach for applicants and consistency across jurisdictions. Consideration should be given to how the precautionary approach interacts with requirements throughout the NPSIB as highlighted in other parts of this submission.

C.9 – Managing effects on geothermal ecosystems

- 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.

The Nelson area does not contain any geothermal systems.

- 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?

The Nelson area does not contain any geothermal systems.

C.10 – Biodiversity offsetting and biodiversity compensation

- Q34. Do you agree with the framework for biodiversity offsets set out in Appendix 3? Yes/no? Why/why not?

Yes, NCC supports the inclusion of a framework for offsets within the NPSIB. Having the framework specifically listed in the NPSIB provides certainty of approach for applicants and consistency across jurisdictions.

NCC does not agree that Principle 13 should be optional for an action to qualify as biodiversity compensation. Principle 13 is loosely worded and only requires that the opportunity for effective participation of stakeholders 'should' be demonstrated. Providing for the opportunity for effective participation of stakeholders is not the same as ensuring effective participation of stakeholders, and is quite a low bar to set. To then have this low bar be optional effectively renders stakeholder participation as best practice only, and enables less ethical applicants to choose to exclude stakeholders in biodiversity offset planning. NCC suggests that Principle 13 be included as a 'must be complied with' principle, and suggests that the wording should be strengthened to 'opportunity for effective participation of stakeholders must be demonstrated.'

- 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.

Yes, NCC supports the inclusion of a framework for compensation within the NPSIB. Having the framework specifically listed in the NPSIB provides certainty of approach for applicants and consistency across jurisdictions.

NCC does not agree that Principle 12 should be optional for an action to qualify as biodiversity compensation. Principle 12 is loosely worded and only requires the opportunity for effective participation of stakeholders 'should' be demonstrated. Providing for the opportunity for effective participation of stakeholders is not the same as ensuring effective participation of stakeholders, and is quite a low bar to set. To then have this low bar be optional effectively renders stakeholder participation as best practice only, and enables less ethical applicants to choose to exclude stakeholders in biodiversity compensation planning. NCC suggests that Principle 12 be included as a 'must be complied with' principle, and suggests that the wording should be strengthened to 'opportunity for effective participation of stakeholders must be demonstrated.'

- 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.

Option B, all residual adverse effects. At the very least minor adverse effects should be offset or compensated, to avoid cumulative adverse effects across regions and the death by 1000 cuts effect.

- Q37. What specific information, support or resources would help you implement the provisions in this section (section C)?

National guidance documents as identified in the comments provided will help with consistency of implementation.

SECTION D: Restoration and enhancement of biodiversity

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

- 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?

NCC recognises that these areas are particularly vulnerable and worthy of attention, although there needs to be national guidance clearly defining criteria for degraded wetlands and clear direction on how these are to be managed if they are currently pasture/forestry. Guidance is also needed around how to record the location of degraded SNAs as most SNAs are degraded in some way, and how these sites should be prioritised for restoration. Some of the biggest

threats to the biodiversity values of SNAs in Nelson are landscape-scale pest incursions such as old man's beard, rats and stoats which require significant resources to control and have a high re-invasion rate. Site-led control of these threats within SNAs is required to protect the significant values but ensures an on-going, expensive commitment due to reinvasion. These sites would benefit greatly from landscape-scale control of widespread pests, like old man's beard. Clarity is required on how national priorities are to be identified (3.16 4(e)) and what the relative order of priority of each of those described under (4).

- 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.

The separation could be problematic as the various policies affecting biodiversity don't currently talk to each other. There needs to be clear and consistent guidance on how to identify degraded and former wetlands, which definition of wetland councils should use (Singers, Landcare Research or RMA). Wetlands within forestry are managed under the NESPF and this is inconsistent with NPSFW. It would seem more efficient to have the main wetland policies in one NPS and have the others refer to it.

D.2 – Restoring indigenous vegetation cover in depleted areas

- 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?

Clarification is needed on the scale of the area for the target – is this 10% of a catchment? The 10% target may be low for some areas, such as Nelson, so may set the bar too low (e.g. developers considering that since the area is already at 10% no need to do any more). Does an area need to be 100% indigenous cover to qualify as 'indigenous vegetation'? The 10% target is arbitrary and may not translate to positive biodiversity outcomes. No timeframe is given for the target to be achieved which will impact implementation.

D.3 – Regional biodiversity 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.

Yes, if biodiversity strategies are not required by an NPS, they are unlikely to be completed by councils nationally. Technical guidance is needed to ensure strategies are nationally consistent and developed as collaboratively as possible.

- 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?

Yes, the list of proposed principles for regional biodiversity strategies looks to be comprehensive and will bring the delivery of the policies and intent of the NPSIB together at a regional level.

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.

Yes, biosecurity has a direct impact on biodiversity values and the two should be managed together.

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?

NCC supports the timeframes for completing biodiversity strategies. The Nelson area already has a successful regional biodiversity strategy that was developed together with stakeholders and iwi over 10 years ago and has been reviewed recently. Some regions may require a longer lead-in time, especially if SNAs have not yet been identified or stakeholder relationships are needed to be developed. 10 years may be more appropriate for these councils. The current Nelson Biodiversity Strategy partly meets the requirements outlined in Appendix 5 for regional biodiversity strategies. Significant gaps are: the identification of recognition and provision of Hutia Te Rito and taonga species; spatially identifying all areas for restoration and enhancement and national protection; development of specific milestones for implementation of the Strategy; consideration of incentive opportunities for Maori land. Apart from the development of specific milestones for the Strategy, these gaps will be required to be filled in the implementation of other parts of the NPS-IB.

Q45. What specific information, support or resources would help you implement the provisions in this section (section D)?

Consultant support from an independent facilitator in the development of a regional biodiversity strategy would be beneficial and was a valuable component of the Nelson Biodiversity Strategy development. Other information, support and resources required for this section are consistent with needs to implement the NPS-IB overall.

SECTION E: Monitoring and implementation

E.1 – Monitoring and assessment of indigenous biodiversity

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?

Yes. NCC supports this requirement, however NCC require guidance on how to implement this and support for the resources to implement the monitoring. NCC suggests this guidance should be integrated with national DOC monitoring (e.g. Tier 1 monitoring), and regional monitoring needs to fit within a framework of national monitoring and reporting led by MfE.

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?

Yes, NCC notes that MfE will have a challenge to determine what indicators to monitor, and these indicators should be developed in consultation with councils and key stakeholders.

E.2 – Assessing environmental effects on 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?

Yes, NCC supports the inclusion of minimum information requirements for AEEs within the NPSIB. Having the minimum information requirements specifically listed in the NPSIB provides certainty of approach for applicants and consistency across jurisdictions. NCC notes that the minimum information requirements set high standards for information, with significant expert input requirements that less well-resourced applicants may struggle to meet, especially where an activity is not within a SNA, but may affect an SNA or other area. NCC would like clarification of the inclusion of 'an area of indigenous vegetation' in section 3.19 (1) b). Is this intended to include all indigenous vegetation or only indigenous vegetation that is identified in the regional or district plan as requiring an assessment under clause 3.13 (1) c)? National guidance about what constitutes 'best practice for ecosystem types' under part 3.19 (2) c) is also requested.

E.3 – Timeframes and implementation approaches

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.

NCC supports the option to have SNAs identified and mapped in five years and scheduled and notified in plans in six years. NCC has surveyed and mapped 165 SNAs in the Nelson area and is in a good position to implement the proposed NPSIB requirements within five years. NCC would require additional resourcing to fund the on-going monitoring of SNAs. NCC is working with Whakatū Nelson iwi to develop cultural monitoring for freshwater and estuarine environments but would require additional resourcing to work with iwi to develop cultural monitoring methods for terrestrial biodiversity. NCC is currently reviewing its resource management plans and intends to notify the Proposed Nelson Plan in 2021. The proposed NPSIB will require NCC to collaborate with tangata whenua to identify taonga and develop additional plan objectives, policies and methods that recognise and provide for Hutia te Rito. NCC established an Iwi Working Group (IWG) in 2015, with representatives from all eight iwi in Whakatū Nelson, to assist with the development of the Nelson Plan. The NPSIB requirement will require additional hui with our IWG to identify biodiversity taonga and develop plan provisions that recognise and provide for Hutia te Rito.

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?

NCC supports the need to update SNA schedules in resource management plans regularly. However, there will be significant resourcing costs associated with plan changes to update these schedules, particularly for councils currently reviewing their plan(s). It would be most appropriate to allow councils to decide how and when they update the SNA schedules, for

example by combining this with other plan changes to maximise efficiency and effectiveness of council resources.

E.4 – SNAs on public land

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

Option B is preferred. It is important to recognise the value of these large intact indigenous forests within the same system for consistency and context. The level of protection they already receive makes their future more 'stable' than other types of land so field assessments can be done separately (possibly by DOC) and then integrated later.

When the mapping and description of large public conservation land (PCL) SNAs is carried out, a suitable level of resolution will be required to identify high value sites within the larger unit. This will be important to understand the importance of these sites within the ecological district, improve species information, and give context to private SNAs. There may be opportunities to identify public conservation land that doesn't have appropriate levels of protection through SNA assessments.

Q52. What do you think of the approach for identifying and mapping SNAs on other public land that is not public conservation land?

We support SNA mapping for non PCL public land. This is only a small proportion of the Nelson region and many (if not all) of these sites have already been included in SNA survey and mapping. High biodiversity value sites on non PCL public land are likely to be most at risk from loss of biodiversity values from development as they are unlikely to have similar levels of protection as PCL. On-going monitoring of these areas would require additional council resourcing.

E.5 – Integrated management of indigenous biodiversity

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?

NCC supports the requirement to manage the effects of subdivision, use and development on indigenous biodiversity. However, clarification is needed at the national level through the RMA and other legislative instruments to articulate how councils can achieve the integrated management of natural environment values and growth and development values.

E.6 – Managing indigenous biodiversity within the coastal environment

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?

No, the SNA network does not currently capture modified landward coastal sites that are used by all coastal endemic/nationally threatened species, e.g. shorebird roosting/rest sites for banded dotterel and modified wetlands that host migrant wetland birds, e.g. bittern. The NPSIB proposals go some way to recognise mobile species and protect their habitat requirements. The proposal needs to clarify habitat range and be consistent with IUCN criteria, i.e. consider area of occupancy (i.e. potential habitat within the species range where rare or cryptic species are occasionally seen) and connectivity across different habitats that reflect the life history of the species. There are still potential risks that cumulative effects from land development in the coastal area will not be fully addressed through the NZCPS, NPSIB and NPSFM if the significance of the coastal margin is not recognised.

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

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.

As stated in the Section 32 Report and Cost Benefit Analysis, the majority of the costs of implementing the NPSIB will fall on councils. While NCC has already identified and mapped SNAs in the Nelson area, there will be significant costs associated with the additional NPSIB requirements including; on-going SNA monitoring, identification of habitats of highly mobile fauna and taonga species, degraded environments, undertaking restoration, updating plan provisions and plan change costs (including hearings and submissions). Councils will not be able to fund the entirety of this work through rate payer funding alone due to competing and urgent local needs, for example freshwater management, coastal hazards and climate change adaptation and supporting growth and development. National funding will be required to contribute to the high cost of protecting New Zealand's biodiversity.

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

No, as transferable development rights are allowed for in the RMA. The NPSIB should focus on biodiversity offsetting and compensation after the effects management hierarchy has been applied.

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

As stated in our response to Q 55. NCC would require national funding to complement existing local funding in order to implement the NPSIB.

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).

Option E, as specifically noted in the comments provided in this submission.

SECTION F: Statutory frameworks

F.1 – The proposed NPSIB and other government priorities

- 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?

A planning standard is not needed to support the consistent implementation of the proposed NPSIB. The NPSIB provisions will be included in the 'Ecosystems and Indigenous Biodiversity' chapter under 'Natural Environment Values' domain in the National Planning Standards.

- 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?

Yes, as described in this submission, clarification is needed between the NPSIB, Action for Healthy Waterways package, NESPF and NZCPS. Clarification of RMA principles in Part 2 is also need to improve integration of environmental and growth/development values. A review of overlap between relevant existing and proposed national direction as well as a gap analysis to identify missing elements (e.g. marine biodiversity) could help inform any decisions about what is needed to further clarify.

- 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?

Yes, the RMA could seek to manage activities that threaten biodiversity in a way that is complementary to regional pest management plans under the Biosecurity Act. Further consideration would be required to assess this option with opportunity provided for council input.

C. DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Objective 5

1. Elevate Objective 5 to the position of Objective 1 to articulate the protection of indigenous biodiversity as a priority.

Policy 3

1. Policy 3 reads like an objective. Clarify the wording of Policy 3 to define what support is needed to ensure resiliency of indigenous biodiversity against the effects of climate change.

Policy 4

1. Policy 4 reads like an objective. Clarify the wording of Policy 4 by stating how integrated management of biodiversity across administrative boundaries could be achieved e.g. by requiring combined regional biodiversity strategies?

Policy 5

1. Clarify the wording of Policy 5 by stating what specific information on the effects of existing subdivision, use and development will be needed.

Policy 11

1. Clarify Policy 11 to more clearly reference the three priority focus areas; degraded SNAs, areas that provide important connectivity or buffering functions and wetlands.

Definitions

1. Clarify if 'identified taonga' are also considered to be SNAs.
2. Ensure that the definition of 'nationally significant infrastructure' aligns with other definitions of nationally significant infrastructure provided for in New Zealand legislation.
3. Add a definition for 'wetland.' Consideration should be given to the source of wetland definition used (e.g. Singers, Landcare Research or RMA).

Appendix 3

1. Strengthen the wording for Principle 13 to 'must be demonstrated':

*13. Stakeholder participation: Opportunity for the effective participation of stakeholders ~~should~~ **must** be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the offset consideration process.*

Appendix 4

1. Strengthen the wording for Principle 12 to 'must be demonstrated':

12. Stakeholder participation: Opportunity for the effective participation of stakeholders ~~should~~ **must** be demonstrated when planning for biodiversity compensation, including evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the process.

Section 3.9

1. Strengthen the wording of 3.9 (2) c) to 'where possible':
(2) c) there are no ~~practicable~~ **possible** alternative locations for the subdivision, use or development; and



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