

**Submission to the
Ministry for the Environment on the Proposed
National Policy Statement on Indigenous Biodiversity**

From Selwyn District Council
13 March 2020

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National Policy Statement	Indigenous Biodiversity
Support or Oppose the Standard	Selwyn District Council supports in part the proposed National Policy Statement on Indigenous Biodiversity for the reasons set out in this submission.

INTRODUCTION

1. Selwyn District Council ("the Council") thanks the Ministry for the Environment for the opportunity to make this submission in relation to the Proposed National Policy Statement on Indigenous Biodiversity.
2. Selwyn District Council would be pleased to meet with the Ministry for the Environment for further discussion on any points raised in this submission.

SUBMISSION

3. The Council supports the government's focus on biodiversity management and protection and we share its ambition to protect and manage indigenous biodiversity more effectively. Furthermore, the Council commends the Ministry for the Environment for developing a proposed National Policy Statement (NPS) on Indigenous Biodiversity to arrest the threat of declining indigenous biodiversity in New Zealand.
4. New Zealand's indigenous biodiversity is in decline and the response by the wider New Zealand community has been seen to be inadequate. The challenge of biodiversity management and protection is in need of a coordinated and strategic response.
5. There is no single organisation or agency with sole responsibility for managing indigenous biodiversity. Rather, this responsibility is split across many players who are given a mandatory role by one of many pieces of overlapping and poorly aligned legislation. Collectively, more must be done to arrest the current decline of

indigenous biodiversity. We need systematic change to the way our ecosystems and habitats are valued, protected and managed. This is a significant problem that can't be addressed or remedied by a singular intervention but requires a coordinated systematic effort across all sectors of the community.

6. The NPS places a lot of emphasis on people and partnerships. The Council agrees that this is at the heart of successful indigenous biodiversity management. In our experience, effective biodiversity protection is underpinned by working with others, building relationships and supporting landowners to get the job done.
7. In order to address the challenge of improving the state of indigenous biodiversity in New Zealand, we are going to need strong, aligned and effective partnerships between all the parties involved. The Council's experience has shown us that the support and involvement of land owners and managers will be critical; they are the people on the ground looking after indigenous biodiversity. It is not realistic to simply rely on regulatory obligations to obtain the involvement of landowners. It is important that they are part of the process, to foster a sense of ownership to achieve a common goal.
8. The Council has long been an advocate of multiple responses to this issue: actions in the right place at the right time by the right player. We would prefer to see a package of interventions, both regulatory and non-regulatory, to respond to the biodiversity challenge.
9. One of the key obstacles for the Council in biodiversity management is the lack of a strong value proposition for landowners to look after the indigenous biodiversity on their land. Coupled with few economic drivers, many landowners perceive that the presence of biodiversity protection on their land will lead to penalisation and opportunity loss. Landowners are stewards for New Zealand's biodiversity and there is a need for stronger economic drivers and incentives to support them to protect and maintain it.
10. The NPS is only a single tool affecting one part of the system and cannot address the threats and the continuing decline of New Zealand's indigenous biodiversity alone. Non-regulatory support for landowners and communities, such as partnership, proactive projects, funding, positive acknowledgement, community support and facilitation, are proven to be effective when used in active management. Central Government could play a much greater role in this space, taking a step into active management and away from policy and planning.
11. The protection and maintenance of indigenous biodiversity on private land is a public good and our actions should enable and support landowners to look after it on our behalf. In the Council's opinion, a package of supporting measures and incentives is required to enable and support landowners to do this. Financial support is likely to be important in some circumstances to enable the best outcomes for biodiversity, although not always essential. Other important actions to support landowners includes pro-active projects, facilitation, expert information and advice, as well as positive acknowledgement of good work.

One size fits all/cost

12. The NPS proposes a 'one size fits all' approach, everywhere at once. The core of this is identification and mapping of Significant Natural Areas (SNAs). While we do not disagree with the use of SNAs as a mechanism to identify indigenous biodiversity values, we are concerned about the urgency to respond in this way across the whole of the District.
13. The Council prefers a more nuanced approach so that priority should be given to areas where ecosystems and habitat are most depleted and/or threatened. Better prioritisation is likely to yield better results and a more sensible, manageable and effective approach to implementation.
14. A prioritised approach to implementation would allow the Council to focus resources on areas that are most in need of protection. The identification and mapping of SNAs on Public Conservation land is not a priority (on the basis that public conservation land already largely has measures in place to manage threats and protect biodiversity values), and Council's view is that this is the Government's role in any case. Excluding the need to identify SNAs on Public Conservation land would significantly reduce the cost of implementation for the Council.

Cost and support

15. Implementation of the NPS will be challenging and costly for the Council, especially in the wider context of other national directions that will need to be implemented over the next five years. We are concerned about implementation costs associated with the draft NPS, including the social and economic costs to our communities and the costs to the Council in implementing the NPS. Following gazettal of the NPS the Council will need to establish new roles and possible re-assign existing roles to assist in implementing the NPS and rebuild our entire biodiversity programmes to be compliant with the NPS.
16. The financial impact on the Council and ratepayers is likely to be significant. Implementing policies such as identification and mapping of SNAs and monitoring will be particularly costly and time-consuming.
17. By way of example; the Council initiated a voluntary SNA assessment process for potential SNAs on private land. This process occurred over a 10 -12 year period and has identified 73 SNAs at a cost of \$120,000 (GST exclusive). The cost is only for the ecological aspect of the process (including a final SNA report for each confirmed SNA) and excludes any Council time and resources, such as project planning, coordination and other internal Council costs which are estimated to be double the ecological assessment component. This equates to approximately \$5,000 per SNA identified.
18. Council estimates there are well in excess of 600 potential SNAs in the Selwyn District requiring assessment. At an indicative rate of \$5,000 to assess each site, the estimated costs for the Council to implement a comprehensive District Wide SNA assessment programme would likely be in excess of \$3,000,000, assuming the Council could secure ecological expertise at favourable rates (as has been the case in the past).

19. When looking at the bigger picture, across all the national direction that needs to be implemented in the near future, the task looks near impossible given the proposed timeframes encapsulated in the NPS. The combined operational impact on the Council in terms of additional costs and other resources is likely to be immense and we request the Government build a clear understanding and response to this.
20. The Council will need Government to provide comprehensive implementation support and guidance for the NPS to work. Supporting measures, such as clear guidance, funding, monitoring and reporting, and ecological and planning expertise will be required for councils. Iwi/hapū and landowners will also need considerable support in order to respond to the increasing requirements placed on them to engage with councils. Central government need to ensure that sufficient budget is made available to provide this support to local government, iwi/hapū and land owners and managers.

Timeframes

21. With respect to timeframes to implement the NPS, these need to be realistic and be set with effective implementation in mind otherwise it is unlikely to happen. An example of an unrealistic timeframe is the 5 years to undertake a district wide assessment to determine areas of significant fauna and flora and to classify them. The Council supports a staged and priority-based implementation approach. Timing of implementation should reflect these priorities and consider capacity and capability of councils to implement. The proposed timeframes may be more suitable if the NPS refocuses on protection rather than restoration. We request that Government develops a comprehensive implementation plan to map out how the draft NPSIB will be implemented by councils and how implementation support will be provided and applied. Central government also needs to consider all the other instruments (other national directions) that councils are currently, or will be, dealing with and implementing over the next decade. Cumulative implementation impacts on budgets and resources will be significant.
22. Government needs to take a stronger leadership role across the wider biodiversity system in order to drive significant change. The response to the biodiversity crisis is a national challenge, not a local one. We are hoping that a revised New Zealand Biodiversity Strategy will provide much needed and bold strategic direction and lay out a plan to address the fundamental challenges noted above, including getting the biodiversity protection and management system right.
23. Further to this biodiversity crisis being identified as national challenge the Council strongly supports drafting and implementation of national legislation to control cats. This would also go along way to achieving predator-free 2050 outcomes. Council is currently considering how to address the impact of cats, whether domestic or feral, on indigenous fauna and requires direction and legislation from central government to support this.
24. Council has a number of other specific concerns with various aspects of the NPS as set out below.

Specific Points of Submission on the NPS

25. **Section 1.7 Fundamental Concepts:** Council supports the concept of Hutia Te Rito as there is a clear benefit of providing for the incorporation of broader Maori values for biodiversity in decision making on resource use and development. However, resourcing and clear guidance with tangible examples will be needed for this concept to be effectively implemented by local authorities, along with support and resourcing to iwi to allow them to have capacity to fully and effectively participate in the implementation of the NPS.
26. Section 1.7(4) should include 'at risk species' as well as threatened. Halting decline of at risk species is required before they become threatened. By including at risk makes it more consistent with other parts of the NPS.
27. Section 1.87 Definitions. Council appreciates that setting a definition for improved pasture is complex and challenging, but the proposed definition lacks rigour and is vague and uncertain, and is in the Council's view likely to result in litigation and continued loss of indigenous vegetation in areas while determinations about whether an area is or is not an area of improved pasture. Alternative definitions should be considered through this submission process, perhaps to include a historical time based limit on when the improved pasture was established (perhaps in the last 10 or 15 years?), or where associated definitions of what indigenous vegetation is, that includes when it comprises a % of cover by indigenous vegetation when structural dominance is/is not achieved.
28. **Part 2: Objectives and Policies** – Objective 4 is “to improve the integrated management of indigenous biodiversity”, however the implementation requirements in Part 3 have no requirements for the Department of Conservation, the custodian of some 30% of New Zealand's land mass. The structure of the NPS does not integrate the management of indigenous biodiversity across all tenures. This point also applies to Policy 4 “to improve the integrated management of indigenous biodiversity within and between administrative boundaries”.
29. Policy 2 is to “ensure that local authorities adopt a precautionary approach”. The precautionary principle is an internationally accepted tenet of Ecological Sustainable Development and is supported. However the policy should apply to all tenures and all jurisdictions in New Zealand, not just local authorities.
30. **Part 3: Implementation Requirements** – sections 3.2 - 3.9, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, and 3.20 set out what local government must do. There is no requirements about what the custodians of public land outside of local government jurisdiction must do. So the stated purpose of the NPS-IB, to “apply across all land in New Zealand (including public and private land)” on page 17 of the Discussion Document, does not seem to apply to Part 3 of the proposed NPS-IB.
31. **Section 3.8 Identification of Significant Natural Areas:** Council generally supports the direction to identify Significant Natural Areas (SNAs) in accordance with the criteria set out in Appendix 1 and following many of the principles and approaches described in section 3.8(2) of the NPS. However, the direction for a comprehensive district wide survey to identify and map all these areas within tightly specified timeframes is not supported. In addition, the Council does not support the compulsory listing of SNAs in District Plans. In our view compulsory listing will make the (often challenging) development of working relationships with

land owners and managers even more difficult, with no obvious advantage to the management and protection of SNA's.

32. As noted previously, the Council estimates there are well in excess of 600 potential SNAs in the Selwyn District, often in isolated and inaccessible areas, that would be subject to the provisions of Section 3.8 of the NPS. It is not feasible from a cost or time perspective for the Council to carry out an assessment of so many potential SNA's in the anticipated timeframe.
33. The Council believes that directions to compulsory list SNAs in their District Plan has the potential to undermine the emphasis the NPS places on people and partnerships, and has significant risks in terms of creating tensions between landowners, local authorities and other stakeholders working to manage and protect indigenous biodiversity, and in alienating landowners who are already doing good work in the area of indigenous biodiversity management and protection.
34. The Council is also uncertain about what the NPS means for SNAs that Council has previously identified using assessment criteria included in the Canterbury Regional Policy Statement, which were carried out under a voluntarily SNA assessment process with landowners. It is not clear whether these SNAs will need to be reassessed using the NPS criteria. If this is the case this will add significant time and cost to implementation of the NPS, with associated affected landowner frustration and angst.
35. In addition, the Council does not support the ranking of SNAs into 'high' and 'medium' ratings (part 3.8(1)(b) and Appendix 2). SNAs assessed by the Council are based on a single level of significance (i.e. either significant or not) and it is not possible to simply update SNAs using new high and medium rankings as the split between medium/high is not possible to determine from a desktop review and would require significant field work. The 'high' and 'medium' criteria have the considerable risk of adding further complexity to an already highly complex process.
36. Furthermore, all landowners should be provided the opportunity to request a site visit by an ecologist as it would be in the best interests of natural justice, and consistent with the NPS emphasis on a collaborative approach between Council and landowner 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.
37. With respect to the compulsory listing of SNAs in the District Plan, the Council is unconvinced that such an approach provides any more protection to SNAs than other approaches, such as a collaborative approach between central and local government and landowners. As noted previously, the Council strongly believes that effective biodiversity protection is best achieved with a belts and braces approach using regulatory and non-regulatory mechanisms, underpinned by aligning agency processes, working with others, building relationships and supporting landowners to get the job done.
38. The 'principles' articulated in section 3.8(2) might sit better in guidance rather than an NPS. The purpose of national policy statements is to direct the content of regional and district plans – however these documents seem to be getting

progressively longer and more complex when much of the content could fit in supporting strategies and guidance

39. With respect to the principle of 'partnership', requiring territorial authorities to work with landowners to share information etc. Council's view is that 'engagement' might better describe the nature of the relationship anticipated for this particular aspect of the NPS. It is difficult for councils to 'partner' with landowners when they are also ultimately the regulators and it is important to maintain an element of separation.
40. **Section 3.9 – Managing adverse effects on SNAs:** Council supports the direction to manage effects on SNAs but has concerns with how restrictive the direction is. The direction to avoid in the first instance means that the starting point for most activities within SNAs would be non-complying. This may be overly restrictive given how many areas are likely to meet the threshold for significance under section 3.8. In some cases some activities may well be desirable within an SNA to ensure the ecological values are managed appropriately (for example low impact pastoral grazing). Furthermore, Section 3.9(2) reduces the permitted thresholds for common exceptions related to trimming, or minor clearance around infrastructure and may well prevent customary activities or mahinga kai for Maori if within a 'High' category SNA.
41. As currently drafted, most development within SNAs would be restricted to 'medium' rating areas. But even here the inclusion of 'ANDs' at the end of each clause mean that it is very difficult to undertake activities and likely to trigger the need for resource consent under most circumstances. This could make even seemingly innocuous activities such as traditional harvest difficult to obtain consent for.
42. **Section 3.10 – Managing Adverse Effects in Plantation Forests.** Council considers that the proposal for the NPS to manage adverse effects of indigenous biodiversity in plantation forests is overcomplicating the management of these areas and that this is better left to the National Environmental Standard for Plantation Forestry s93, s102, and s103).
43. **Section 3.15 – Highly Mobile Fauna;** In principle the Council supports the direction to identify and protect areas where highly mobile fauna have been, or are likely to be, sometimes present. However, implementation of this direction is likely to be expensive and extremely technically demanding and is well beyond Council's resourcing and expertise to undertake this role. If more effort is needed to protect highly mobile fauna, it is the Council's view that this will be more effectively implemented by central government in concert with regional councils, particularly with respect to those directions set out in section 3.15(1) of the NPS.
44. **Section 3.16 – Restoration & Enhancement, and Section 3.17 – Increasing Indigenous Vegetation Cover:** Council generally supports the idea of restoration, enhancement and increasing indigenous vegetation cover. However, while restoration is an important part of indigenous biodiversity management, we believe that Council's priority, and the priority of the NPS, should be protection and maintenance of remaining indigenous habitats. Efforts should not be watered down by trying to achieve everything all at once. Council's preference is that restoration

policies be removed from the draft NPS so that we can focus on protection. Those Councils that are able to do more can choose to do more.

45. With respect to Part 3.16, specifically the requirement for policies and rules in District Plans to promote restoration of 'former wetlands' inter alia being those that "no longer retain their indigenous vegetation or habitat but with regeneration could be regained". This is vague and uncertain. It is also unclear how this sits with the rest of the NPS, including whether it is also deemed a kind of offsetting or compensation action
46. With respect to Part 3.17; the Council queries the rationale for that part which relates to urban areas which do not retain any naturally occurring indigenous vegetation or habitats of indigenous fauna. While incorporation of indigenous biodiversity into urban areas is a worthy objective, the Council queries whether the NPS is the most suitable mechanism for achieving this. In the Selwyn District context, implementing this policy would result in projects that increase indigenous biodiversity in urban areas primarily for amenity purposes and is unlikely to achieve significant or meaningful ecological benefits. It is Council's view that local authorities who wish to do more to increase indigenous biodiversity in urban areas can choose to do more.
47. Council also has questions relating to:
 - how the urban/rural boundaries will be determined, especially given that the responsibility for this is delegated to regional councils.
 - the general implementation of this policy, including the basis for the 10% figure.
48. In the event that these policies are retained further guidance on how they are intended to be implemented will be required to avoid bespoke approaches being developed in each local authority's area.

CONCLUSION

49. The Selwyn District Council commends the Ministry for the Environment for developing a proposed National Policy Statement (NPS) on Indigenous Biodiversity to arrest the threat of declining indigenous biodiversity in New Zealand.
50. The Selwyn District Council shares the ambition to protect and manage indigenous biodiversity more effectively.
51. However, the Council feels the NPS needs to be amended to better achieve the stated outcomes, for the reasons set out in this submission. The Council considers that if the NPS is to be further developed then certain elements of it need to be significantly amended.
52. The Council thanks the Ministry for the Environment for the opportunity to comment on the Proposed National Policy Statement on Indigenous Biodiversity.

