SUBMISSION ON THE DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Summary

1. Waste Management NZ Ltd ("WMNZ") welcomes the opportunity to submit on the Discussion Document released by the Ministry for the Environment regarding the proposed National Policy Statement on Indigenous Biodiversity ("Draft NPS-IB").

2. Waste infrastructure is operated as a network of collections, resource recovery, recycling, transfer and disposal facilities, with landfill disposal sites sitting at the top of the hierarchy. These networks are nationally and regionally significant infrastructure that are critical to the efficient functioning of cities and regions across New Zealand. They are also critical to enabling New Zealand's expected future growth.

3. WMNZ acknowledges that ensuring New Zealand maintains and enhances its indigenous biodiversity is crucially important. However, with increasing population growth and urban development, there are a number of other pressures facing New Zealand. This increases the need to more efficiently and effectively manage all natural and physical resources under the Resource Management Act 1991 ("RMA") framework. Indigenous biodiversity and other elements of the natural environment must be maintained, but waste and other essential infrastructure that enables liveable, comfortable, socially and economically productive urban areas must also be provided for at the same time.

4. The Draft NPS-IB proposes significant protections for indigenous biodiversity. However, as currently drafted, the Draft NPS-IB does not adequately balance these protections with the need to provide for waste infrastructure, and unduly constrains the development of existing and future waste infrastructure. Waste infrastructure is already severely limited by the RMA framework in terms of where it can locate. The controls proposed under the Draft NPS-IB – which extend to prioritising the maintenance of low-value indigenous biodiversity – will make this situation worse.

5. WMNZ seeks that the Draft NPS-IB is amended so as to not unreasonably or unnecessarily constrain waste infrastructure, whilst appropriately safeguarding significant areas of indigenous biodiversity for future generations. In particular, the Draft NPS-IB should be amended to enable the development of new waste infrastructure and the re-development of existing waste infrastructure within Medium value Significant Natural Areas ("SNAs"). Amendments are also required to ensure that protections for biodiversity in areas outside SNAs where biodiversity values are low, are more appropriately balanced with the needs for waste and other essential infrastructure to locate in these areas.

6. WMNZ's specific submissions are set out below.

Who we are

7. WMNZ is New Zealand's largest waste and environmental services company, with recycling, resource recovery, transfer and landfill disposal facilities and other waste management operations located across New Zealand. These operations include:
(a) Waste and recycling collection services – these include regular household (kerbside) and commercial collection services, and on demand services where collections are ordered by customers on an "as needed" basis.

(b) Recycling facilities – these facilities receive source-separated recyclables for further processing and subsequent shipment to a downstream processing facility.

(c) Downstream processing facilities – these facilities receive and process particular kinds of recyclables such as greenwaste, end-of-life tyres etc.

(d) Resource recovery facilities – these facilities receive construction and demolition materials from the construction industry. Various materials such as ferrous and non-ferrous metals, soil, brick, concrete and timber etc are recovered and recycled and residual waste is disposed of at a suitable cleanfill, managed fill or landfill facility.

(e) Refuse transfer stations – these facilities are multi-purpose and serve a wide range of different customers and waste management functions. They are used for the receipt, recovery, recycling and then subsequent transfer to an appropriate downstream facility of a range of organic, recyclable and non-recyclable materials.

(f) Landfill, cleanfill and managed fill disposal sites – these facilities provide for the secure disposal of residual waste materials received through the waste management system, which cannot otherwise be recycled or re-used.

Draft NPS-IB – narrow policy focus

8. The Draft NPS-IB has 6 objectives and 15 policies. Five objectives are focussed on maintaining and restoring indigenous biodiversity, improving its integrated management, and recognising and providing for Hutia Te Rito and taking into account the principles of the Treaty of Waitangi in the management of indigenous biodiversity. The policies are similarly focussed.

9. There is only one objective – 6(a) – that seeks to enable economic well-being of people and communities. This same objective also refers to the two other well-beings – social and cultural. There is only one policy (8) that appears to give direct effect to the economic well-being aspect of objective 6(a). However, policy 8 itself is narrowly focussed on recognising the locational constraints that apply to specific subdivision, uses and developments, rather than on enabling economic well-being per se.

10. WMNZ’s concern is that the Draft NPS-IB policy framework does not provide enough direction to territorial authorities to enable essential infrastructure in their plans.

11. The Draft NPS-IB’s 6 objectives and 15 policies are overwhelmingly focused on protecting, maintaining and restoring New Zealand’s indigenous biodiversity. As set out above, WMNZ supports this as an aspirational goal. However, having only one part of one objective and one policy (which itself is very narrowly focussed) that relates to the economic well-being element of sustainable management risks directing territorial authorities too far towards achieving environmental bottom-lines, at any cost.

12. There are no policies that require territorial authorities to provide for the requirements of infrastructure in implementing the Draft NPS-IB. Sustainable management of resources
cannot be achieved without enabling the necessary infrastructure to service communities and provide for their economic and social well-being.

13. In particular, high-quality waste infrastructure (along with roads, State Highways, electricity, water and wastewater, and other utilities) is an essential part of modern, liveable and economically productive urban areas. The failure to recognise and provide for the needs of infrastructure within the Draft NPS-IB risks directing territorial authorities towards prioritising only the achievement of protection, maintenance and restoration of indigenous biodiversity outcomes, without having regard to the critical infrastructure that is also necessary to enable our social and economic well-being.

14. This issue can be remedied by providing additional direction in the Draft NPS-IB for territorial authorities to actively provide for infrastructure when undertaking planning within their regions and cities / districts. This will ensure the protection, maintenance and restoration of indigenous biodiversity outcomes are achieved, whilst enabling infrastructure development that is critical to meeting the broader economic and social needs of our communities. Specifically, WMNZ seeks inclusion of the following policy, which is based on policy E26.2.2(2) in the Infrastructure Chapter of the Auckland Unitary Plan:

Provide for the development, operation, maintenance, repair, upgrade and removal of infrastructure within areas of indigenous biodiversity by recognising:

(a) functional and operational needs of infrastructure;
(b) location, route and design needs and constraints;
(c) the complexity and interconnectedness of infrastructure services;
(d) the benefits of infrastructure to communities;
(e) the need to quickly restore disrupted services; and
(f) infrastructure's role in providing essential services for existing, consented and planned development.

Effects management hierarchy

15. The Draft NPS-IB includes a proposed definition of "effects management hierarchy". The effects of certain activities, such as nationally significant infrastructure within Medium value SNAs (discussed further below), are required to be managed in accordance with this hierarchy.

16. WMNZ supports the concept of an effects management hierarchy, and the use of biodiversity offsetting and compensation. These are important tools for the appropriate management of potential adverse effects arising from waste and other essential infrastructure development.

17. However, WMNZ is concerned that as currently proposed, the definition of "effects management hierarchy" is too restrictive, such that biodiversity offsetting and compensation may not actually be available for managing the effects of essential waste and other infrastructure consistent with the Draft NPS-IB's intention. Under the effects management hierarchy currently proposed, adverse effects must firstly be avoided "where possible". The second step in the hierarchy, which is for adverse effects that cannot demonstrably be avoided, is for these effects to be remedied "where possible". Only if it is not possible to avoid,
remedy or mitigate adverse effects can biodiversity offsetting, and after that biodiversity compensation, become available.

18. It will often be physically "possible" to avoid or remedy an adverse effect on indigenous biodiversity. However, often it will not be feasible or practicable to do so, particularly given the scale of essential waste and other infrastructure and the level of financial investment required for such developments. There will be situations where, for example, it is physically "possible" to avoid an adverse effect, but the costs and implications of doing so are such that an infrastructure development becomes uneconomic or impracticable. The outcome will be that many infrastructure developments are ultimately not pursued.

19. The effects management hierarchy definition should be amended to be less restrictive as to when biodiversity offsetting and compensation will become available, while still clearly prioritising the need to, firstly, avoid and thereafter remedy and mitigate adverse effects. This can be achieved by replacing "where possible" with "where reasonably practicable". The phrase reasonably practicable has been helpfully explained by the Environment Court, in the context of indigenous biodiversity protection, in *Royal Forest & Bird Protection Society Inc v Whakatane District Council*:

"Practicable" has been held to mean "possible to be accomplished with known means or resources" and synonymous with "feasible," being more than merely a possibility and including consideration of the context of the proceeding, the costs involved and other matters of practical convenience. Conversely, "not reasonably practicable" should not be equated with "virtually impossible" as the obligation to do something which is "reasonably practicable" is not absolute, but is an objective test which must be considered in relation to the purpose of the requirement and the problems involved in complying with it, such that a weighing exercise is involved with the weight of the considerations varying according to the circumstances; where human safety is involved, factors impinging on that must be given appropriate weight.

20. WMNZ therefore seeks that effects management hierarchy definition is amended as below:

Effects management hierarchy means an approach to managing the adverse effects of subdivision, use and development that required that

a) adverse effects are avoided where possible reasonably practicable

b) adverse effects that cannot be demonstrably avoided are remedied where possible reasonably practicable

[...]

Biodiversity offsetting and compensation

21. WMNZ supports the proposal in the Draft NPS-IB to provide more direction to territorial authorities to enable biodiversity offsetting and compensation.
22. The proposed definitions for both these terms provide that they are conservation outcomes that compensate for "[more than minor] residual adverse biodiversity effects". WMNZ understands that feedback is therefore sought as to whether the Draft NPS-IB should direct that all residual adverse effects of a proposal that cannot be avoided, remedied or mitigated must be offset or compensated, or whether only "more than minor" residual adverse effects should be subject to this obligation.

23. WMNZ strongly endorses an approach whereby only more than minor residual adverse effects on indigenous biodiversity must be offset or compensated. This reflects the fact that the RMA is not a "no effects" statute. A requirement for all residual adverse effects, even those which are negligible, to be offset or compensated risks imposing unworkable obligations on consent authorities and essential infrastructure providers. The reality of waste and other essential infrastructure development is that there will often be some minor, or less than minor, adverse effects that cannot be completely offset or compensated. In addition, requiring all adverse effects to be offset or compensated, would elevate the values associated with indigenous biodiversity over other matters of importance (for example outstanding natural features and cultural values). It is likely this is not an intended outcome of the Draft NPS-IB, however it is inappropriate in any event.

24. Given the above, WMNZ requests that the definitions of biodiversity offset and biodiversity compensation are amended to make it clear that only "more than minor" residual adverse effects are subject to these obligations. Minor consequential amendments to Appendix 3 (biodiversity offsetting) and Appendix 4 (biodiversity compensation) are also required to give effect to this.

25. Further, while WMNZ supports the use of biodiversity offsetting, sub-part (b) of the definition requires a biodiversity offset to "achieve a no net loss". The scale of works that may be required for new waste infrastructure development such as a landfill may mean that full offsetting to achieve a "no net loss" is simply not practicable. As WMNZ has explained in its recent submission on the Draft National Policy Statement for Freshwater Management, the issue arises because of how the phrase "no net loss" is understood and applied by ecologists, and in particular the use of multipliers in the formulas used to calculate net loss. These do not provide for sufficient flexibility for larger developments, as they effectively require full offsetting to be immediately achieved rather than over the life of the consented activity.

26. This issue can be resolved by amending sub-part (b) of the biodiversity offset definition to require no net less to be achieved "over the term of resource consent". This will provide the flexibility required for waste and other essential infrastructure developments, which are often constructed in stages over the terms of their resource consent, whilst also ensuring full offsetting is ultimately achieved.

Managing effects within SNAs – unduly restrictive approach

27. Clause 3.9 of the Draft NPS-IB proposes a new regime for the management of activities within SNAs to maintain indigenous biodiversity. In short, the effect of the Draft NPS-IB is to prevent any infrastructure in High value SNAs, and apply very strict controls on the development of infrastructure within Medium value SNAs. As currently proposed, in terms of infrastructure, only "nationally significant infrastructure" that has a functional or operational need to locate in the relevant SNA is provided for.
Definition of SNAs

28. The definition of SNAs includes areas identified in a district plan (or proposed district plan) as "significant natural areas", in accordance with the NPS-IB. It also includes areas identified as significant indigenous vegetation or a significant habitats of indigenous fauna in planning documents before the commencement of the NPS-IB. However, there is a third way to identify SNAs, which WMNZ is concerned with:

[...]

c) An area identified as an area of significant indigenous vegetation or significant habitat of indigenous fauna as part of an assessment of environmental effects.

29. This must be deleted. From a natural justice perspective, it is not appropriate for an SNA to be identified via an assessment of environmental effects ("AEE") submitted in support of a resource consent or notice of requirement. Many resource consent applications are not publicly notified, meaning persons potentially affected by an SNA classification imposed through a consenting process will not have any chance to participate in the decision-making process. An AEE could also potentially purport to identify an area as containing significant indigenous biodiversity, but this may be refined or rejected entirely by the decision-maker on the relevant application. In extreme cases, this could also potentially encourage persons to lodge consent applications supported by AEEs that identify areas of significant indigenous biodiversity for land for which those persons do not own and do not intend to develop. This could be in order for those persons to frustrate future development to which they may be opposed.

30. In short, it goes against long-established good resource management practice to seek to establish consent requirements applying to land via the resource consent process, rather than the regional and district planning processes. In WMNZ's view, part (c) must therefore be deleted from the SNA definition.

High value SNAs – only for highest value and exceptional areas

31. Given the very restrictive proposed approach, WMNZ considers that if the "High" value SNA classification is to be retained in the final NPS-IB, this classification must only be applied to the truly exceptional and highest value indigenous biodiversity areas.

32. As currently proposed, the identification of SNAs under Appendix 1 and their subsequent classification as High or Medium value under Appendix 2 provides significant discretion to territorial authorities regarding SNA classification. This is likely to result in different approaches being adopted between different regions and cities / districts.

33. One of the key benefits of providing national direction through National Policy Statements is achieving a level of consistency across the country. As such, WMNZ considers specific direction must be provided in the NPS-IB to territorial authorities setting clear expectations regarding the use of the High value SNA classification. This direction should make it clear that this classification is only to be used in limited circumstances for the highest value and exceptional areas.
Medium value SNAs – more recognition of locational requirements for infrastructure

34. As set out above, as currently proposed only "nationally significant infrastructure" can seek to locate in Medium value SNAs.

35. The Draft NPS-IB defines "nationally significant infrastructure" as including (among other infrastructure) state highways, the national grid, major gas or oil pipeline services, airports and ports. Waste infrastructure is not included in this definition. This means as currently proposed, waste infrastructure is effectively prohibited under the Draft NPS-IB from seeking to locate in both High and Medium value SNAs.

36. Waste infrastructure such as major landfills has a functional and operational need to locate in valleys in rural areas. This is because new landfills cannot be located in urban areas. They need to be located in valleys in rural areas, where the potential adverse effects can be appropriately managed through buffer zones separating landfills from sensitive receivers.

37. The result is that the development of new landfills is locationally constrained to valleys in rural areas. These locations are much more likely to have existing significant indigenous biodiversity than in brownfields urban areas, as well as topographically flatter rural areas that have already been cleared for farming activities.

38. Constraints on where essential landfill infrastructure can locate are only going to increase as a result of other Government reform initiatives. For example, the Government's discussion document on the National Policy Statement on Urban Development looks to "make room for growth in RMA plans." This contrasts with the Government's discussion document on freshwater management, which seeks to prevent any further in-filling of streams. As explained in WMNZ's submissions on those discussion documents, the combined impact of these conflicting approaches – one seeking to expand urban areas into surrounding greenfields locations and the other seeking to constrain it – will only further limit the locations that are suitable for new landfills and other waste infrastructure.

39. WMNZ considers the "nationally significant infrastructure" definition that applies to infrastructure development within Medium value SNAs should therefore be amended to include other infrastructure that has a critical function in serving large urban centres in New Zealand and which is locationally constrained. This includes major landfills. Landfills serving large urban (and rural) catchments are similar to the other "nationally significant" infrastructure listed in the proposed definition, due to their role at the top of regional waste networks, their critical role in the safe and efficient functioning of our cities, the significant limitations where they can locate (due largely to the need to avoid reverse sensitivity effects), and the unavoidable nature of the effects of those activities.

40. To ensure landfills serving large urban catchments are enabled within Medium value SNAs where they may have a functional and operational need to locate, WMNZ therefore seeks that the definition of "nationally significant infrastructure" in the Draft NPS-IB is amended to include reference to "disposal facility" as defined in the Waste Minimisation Act 2008. In doing so, WMNZ recognises that this definition needs to be limited only to facilities of truly national significance.

---

2 Draft NPS-IB at 1.8(1). The other "nationally significant infrastructure" includes national renewable electricity generation facilities that connect with the national grid, other than the facilities of existing hydro schemes; any railway (as defined in the Railways Act 2005); and rapid transit.


4 Draft National Policy Statement on Freshwater Management at clause 3.16.
significance. A qualifier is therefore proposed such that a "disposal facility" will only be considered nationally significant for the purposes of the Draft NPS-IB where it serves a population of more than 150,000 people. The wording of the amendment sought by WMNZ is set out below.

i) disposal facility (as defined in the Waste Minimisation Act 2008), provided that the disposal facility serves, or will service at any time during the term of any resource consent that authorises the facility, a population of more than 150,000 people.

41. WMNZ considers that the addition of disposal facility to the definition of nationally significant infrastructure is appropriate and is entirely consistent with the other infrastructure currently specified in that definition in the Draft NPS-IB:

(a) Like airports, ports, State highways and railways, large waste disposal facilities are long term assets (> 50 years) which are particularly vulnerable to reverse sensitivity effects and "urban creep". This means that they need to be located within a rural area and protected in the long-term through appropriate planning controls on surrounding land.

(b) Like the national grid, an appropriate, proximate and affordable waste disposal facility is an essential element to the proper functioning of New Zealand's major urban centres.

(c) Like all of the nationally significant infrastructure currently listed in the definition, large solid waste disposal facilities inevitably have adverse environmental effects that can be mitigated, offset and compensated, but which cannot be avoided altogether.

42. WMNZ also notes that "mineral and aggregate extraction" is enabled within Medium value SNAs, in addition to nationally significant infrastructure. Waste infrastructure and mineral / aggregate extraction are similar in terms of being locationally constrained, as well as being critical activities for well-functioning communities.

43. In addition, it is sometimes the most efficient and productive use of a mineral / aggregate extraction facility at the end of its life to convert it into a landfill disposal facility and then be capped and returned to vegetation. It would be a poor outcome from an indigenous biodiversity perspective if the appropriate re-use of former mineral / aggregate extraction facilities for landfill activities is effectively prohibited under the final NPS-IB.

Restrictions on existing activities in SNAs

44. Clause 3.12 of the Draft NPS-IB proposes a new regime for the management of "existing activities" within locations that are identified by territorial authorities as SNAs. In short, it is proposed that existing activities that are located within SNAs will be effectively "capped", in that they must not increase in character, intensity or scale from the date the NPS-IB comes into force.
45. The definition of "existing activity" requires clarification. As currently proposed, an existing activity for the purposes of the Draft NPS-IB includes "lawfully established" activities as at the date the final NPS-IB commences, but excludes land uses covered by existing use rights under s10 RMA. Fully consented activities that have not yet commenced or have only been partially implemented appear to be excluded. WMNZ assumes this is an unintended oversight within the proposed definition. This is because to exclude fully consented but unimplemented or partially implemented activities from the definition of "existing activity" would represent a fundamental change to the RMA’s consenting framework, whereby consented but unimplemented or partially implemented activities are protected from subsequent changes to planning frameworks (until the consents for those activities may lapse).

46. WMNZ considers the definition of "existing activity" should be amended to clarify that it also applies to consented activities, as set out below:

**Existing activity** in this National Policy Statement, means a subdivision, use or development that is:

a) lawfully established or consented at the commencement date;

47. In relation to clause 3.12 of the Draft NPS-IB, WMNZ does not support an approach that will effectively prohibit existing (including consented) waste infrastructure facilities located in SNAs from future development. The significant locational constraints on waste infrastructure such as landfills have been explained above, as is the fact these are long-term (50 years plus) assets. This means the ability to further develop and expand waste infrastructure facilities over the productive life of a facility has been a critical consideration in WMNZ’s site selection and capital investment decisions. Modern landfills in particular are developed using a staged-approach, whereby they are progressively constructed and then filled in a carefully managed and long-term development process.

48. The proposed restrictions on existing waste and other infrastructure activities within SNAs also have the potential to result in poorer overall outcomes for indigenous biodiversity. There is a need for the waste network to continue to develop and expand to meet population and economic growth, as well as changing technologies and community expectations – the NPS-IB cannot prevent that and indeed must provide for it. However, by placing an effective cap on providing for that growth and development through existing waste facilities located within SNAs, there will be a corresponding increased need to develop new facilities elsewhere at a potentially much faster rate than if existing facilities were able to expand their operations and services. The development of any new facility will have effects on indigenous biodiversity, and in some cases the level of effects will be greater for a new facility than if an existing facility within an SNA were able to expand.

49. WMNZ considers the Draft NPS-IB must be amended to strike a more appropriate balance between maintaining indigenous biodiversity within SNAs, while recognising and providing for the future development of existing waste and other infrastructure that is already established within an SNA. In particular, the effective "cap" on the level of effects an existing activity can generate on indigenous biodiversity within SNA must be removed, so as to avoid the perverse potential consequences of encouraging development of new facilities outside SNAs even in circumstances where new development may have greater effects than expanding existing facilities.
Maintenance of indigenous biodiversity outside SNAs

50. Maintenance of indigenous biodiversity is very broadly defined in the Draft NPS-IB as requiring at least no reduction in (among other matters): the size of populations of indigenous species; the properties and function of ecosystems and habitats; and the full range and extent of ecosystems and habitats. Depending on the circumstances, "maintenance" of indigenous biodiversity may also require the restoration or enhancement of ecosystems and habitats.

6

51. Objective 1 of the Draft NPS-IB is to "maintain" indigenous biodiversity. Draft Policy 7 relates to subdivision, use and development in areas outside SNAs and directs territorial authorities to:

Manage subdivision, use and development outside Significant Natural Areas as necessary to ensure indigenous biodiversity is maintained.

52. The result is that indigenous biodiversity must be maintained, in the manner defined in the Draft NPS-IB, in all areas including those that are not recognised as having indigenous biodiversity of any significant value (ie areas outside SNAs). WMNZ is concerned at how this direction may be given effect to in local and regional planning documents. In particular, it could result in inappropriately restrictive or onerous consent requirements for waste and other essential infrastructure in areas of low value indigenous biodiversity. This is in addition to the effective moratorium that is currently proposed on waste infrastructure development in all SNAs (High and Medium) as described above.

53. WMNZ understands the intention of the Draft NPS-IB is not to effectively seek to protect all indigenous biodiversity from potential adverse effects of development, regardless of its value. But that is the potential consequence of very broadly defining "maintenance" of indigenous biodiversity, combined with a policy framework that focusses almost solely (as set out in paragraphs 8 to 14 above) on directing territorial authorities to maintain indigenous biodiversity.

54. The Draft NPS-IB must be amended to provide a more nuanced definition of "maintenance" of indigenous biodiversity which reflects both the importance of indigenous biodiversity, and essential infrastructure. This is in addition to amending the policy framework as set out above to direct territorial authorities to provide for and enable the development of essential infrastructure, including waste infrastructure, outside SNAs. These amendments will assist in ensuring aims of the Draft NPS-IB are achieved, without unnecessarily constraining the development of waste and other infrastructure required to support social and economic well-being in areas where biodiversity values are low.

Plantation forestry provisions

55. The Draft NPS-IB provides for the identification of plantation forest biodiversity areas ("PFBAs"). These are plantation forests that are deliberately established for forestry activities but which also contain significant indigenous vegetation or habitat of indigenous fauna.

---

6 Draft NPS-IB at 1.7(3). The other elements of the definition of "maintenance of indigenous biodiversity include: indigenous species occupancy across their natural range; connectivity between and buffering around ecosystems; the resilience and adaptability of ecosystems.

7 Draft NPS-IB at 3.13 and 3.16.
Clause 3.10 of the Draft NPS-IB provides that clause 3.9, which applies to managing adverse effects within SNAs, does not apply to managing effects of activities within PFBAs. WMNZ understands the intention of the Draft NPS-IB is that only the PFBA provisions apply to indigenous biodiversity within a PFBA, but that the SNA provisions do not apply. In other words, there cannot be an SNA within an identified PFBA. This should be clarified to avoid uncertainty, as follows:

**SNA or significant natural area** means –

a) an area identified as an SNA in a district plan or proposed district plan in accordance with clause 3.8;

[...]

but excludes any area identified as a plantation biodiversity forestry area in accordance with Appendix 1.

Clause 3.10 of the Draft NPS-IB further sets out that:

(a) For PFBAs that contain significant habitats of threatened or at risk fauna – forestry activities must be managed over the course of the consecutive rotations to maintain long term populations of indigenous fauna species present.

(b) For PFBAs that contain threatened or at-risk flora – the adverse effects of plantation forestry activities on these flora must be managed.

The locational constraints for new waste infrastructure such as landfills are described above. In addition, existing plantation forests can often provide suitable locations for new landfill facilities, given they often contain less indigenous biodiversity than native bush areas. WMNZ owns land that is currently used for plantation forestry purposes but which has been purchased for future development for waste facilities.

WMNZ is concerned that as currently proposed, the combined effect of the NPS-IB's plantation forestry provisions and other directives requiring the maintenance of indigenous biodiversity outside SNAs, will be interpreted by territorial authorities as preventing the conversion of plantation forestry for other activities including essential waste infrastructure. WMNZ does not understand this to be the intent of providing for plantation forestry within the Draft NPS-IB, and accordingly recommends this is clarified in the final NPS-IB to provide clear direction in this regard to territorial authorities.

**Precautionary approach**

The Draft NPS-IB provides that local authorities must adopt the precautionary approach if the effects on indigenous biodiversity are uncertain, unknown or little understood, but those effects are potentially significantly adverse. Some degree
of uncertainty is also inevitable when assessing future potential effects of activities on the environment under the RMA framework. However, in WMNZ’s experience, territorial authorities are already often overly conservative when it comes to the assessment of potential future effects of waste infrastructure development. They often seek a level of certainty at the consenting stage that is not either possible to provide or will not substantively assist their statutory assessments, which leads to delays and increased costs for all parties as well as heightened investment risks and uncertainty for WMNZ as the consent applicant.

62. As such, WMNZ considers the proposal to codify the requirement to apply the precautionary principle in the Draft NPS-IB will further instil an overly conservative approach by territorial authorities regarding future potential effects of waste and other infrastructure development. In other words, the costs of codifying the precautionary approach will outweigh any benefits for the maintenance of biodiversity. As such, WMNZ considers this element of the Draft NPS-IB should be withdrawn before the Draft NPS-IB is finalised.

Timeline for implementation and alignment with other national direction and RMA reform

63. The Ministry is in the process of consulting on a wide range of proposals to reform New Zealand’s resource management system. This includes sub-ordinate RMA documents relating to freshwater, urban development and air quality, as well as amendments to the RMA itself.

64. WMNZ has a significant interest in all these reforms, which will each impact on its existing and future operations. From WMNZ’s perspective, it is crucial that these reforms are not developed in isolation from each other. Although the focus of these processes is necessarily different in each case, it is crucial that they are ultimately aligned in terms of how they provide for critical matters such as waste infrastructure.

WASTE MANAGEMENT NZ LTD:

Ian Kennedy
General Manager – Operational and Technical Services

Date: 13 March 2020
Address for Service: Simon Pilkinton
Russell McVeagh
48 Shortland Street
PO Box 8
AUCKLAND 1140
Telephone: (09) 367 8374
Email: simon.pilkinton@russellmcveagh.com