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**Forest & Bird**  
GIVING NATURE A VOICE

## SUBMISSION ON NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY (NPS IB)

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### INTRODUCTION

1. This submission is from the Eastern Bay of Plenty Branch of the Royal Forest and Bird Protection Society NZ Inc (the Branch). The Branch covers the area from Otamarakau in the west to Lottin Point in the east and Waikaremoana in the south.
2. The Branch welcomes the draft NPS IB in the expectation that it will
  - Achieve a consistent approach under the Resource Management Act to indigenous biodiversity across the region and nationally
  - Reduce the necessity for individuals and voluntary organisations to advocate for the protection of indigenous biodiversity, including in the Environment Court
  - Achieve the “step change” sought to protect our indigenous biodiversity and halt its decline.
3. Over the last two or three decades the Branch has invested considerable resources, both human and financial, trying to protect indigenous biodiversity in our branch area and regionally. The process of each district council developing their district plans with varying approaches to identifying Significant Natural Areas (SNAs) and introducing a regulatory framework has been excruciating and frustrating as most councils have tried very hard to either not identify sites, or identifying only a few sites where landowners agreed to that. In Whakatane District initial proposed regulation was withdrawn after landowners invaded the council chamber.
4. The Branch has submitted on numerous rural subdivisions that have fragmented habitat, and resulted in an increase of domestic pets into biodiversity areas. Other subdivisions were appealed because conditions allowed the removal of threatened plants.
5. The amendment to the Act to specifically include indigenous biodiversity was of assistance, but not enough. We have been waiting too long for a national policy statement like this. We expect this NPS to de-politicise the issue, and urge the Government to gazette it as soon as possible.

6. Our branch members have been involved for decades doing voluntary pest control to protect shorebirds along the coast from Ohiwa to Otamarakau, and a range of species in Te Urewera and Ohope and Kohi Point Scenic Reserves. The branch runs a native plant nursery, sales from which fund several biodiversity projects across our branch area. These projects have mostly been on public land and we are aware of the need to have better controls on what happens on private land. We are horrified by the recent reports of large scale clearances in the Central North Island, Canterbury, West Coast and Southland. Action is necessary as soon as possible to stop continual clearances. It is clear that a voluntary approach has not worked.
7. The Explanatory Note says that *“The nationally coordinated response in this National Policy Statement ensures the decline is halted and indigenous species, habitats and ecosystems are supported to thrive.”* This is the overall goal but it will not be achieved unless councils’ monitoring and enforcement is effective.

Relationship to other National Instruments

8. The National Environmental Standard for Plantation Forestry (NES PF) should be amended to give effect to this NPS e.g.
  - Clause 11(5) only requires removal of wildings from SNAs on property under the same ownership. This is not fair to landowners whose habitats are being adversely affected.
  - Clause 95 (3) (c) can allow cumulative damage to an SNA as edge effects can occur on an ongoing basis.

National Policy Statement for Freshwater Management (NPS FM), National Environmental Standard for Freshwater Management (NES FM) and New Zealand Coastal Policy Statement (NZCPS) Part 1 1.5 Application 1 (a) and (b)

9. The Branch strongly supports wetlands, including coastal wetlands, being included in this NPS to ensure that there is integrated management. Identification of SNAs is essential and criteria in the NPS IB need to be included in the NPS FM/NES FM.
10. Wetlands occur on a gradient of wetness, and both terrestrial based and aquatic species are dependent upon them. Various fauna depend on parts of wetlands at different times e.g. for nesting sites or food. Wetland vegetation also varies and it is not clear that this will be protected under the NPS FM.
11. Shorebird nesting sites should be identified, as they are outside the coastal marine area, on beaches. Some seabirds such as grey faced petrels nest in cliffs on the mainland, as well as offshore islands.
12. The definition of terrestrial may need to be amended as it specifically excludes land covered by water.
13. Another gap is the inclusion of river beds. In the Eastern Bay of Plenty, banded dotterel nest in these areas.

14. The Branch considers the patchy management of wetlands and other water related habitats proposed in the draft NPS IB as its greatest weakness which needs amending.

#### Significant Geothermal Vegetation

15. Geothermal ecosystems should be included in this NPS.
16. We support the definition proposed: *geothermal ecosystems to include geothermally influenced habitat, thermo-tolerant fauna (including microorganisms) and associated indigenous biodiversity* but would add “including remnant geothermal features”.<sup>1</sup>
17. The Explanatory Note says “*Through the Significant Natural Area criteria, this National Policy Statement recognises the importance of species and ecosystems that are locally rare but nationally abundant, as well as those that are locally abundant but nationally rare. Similarly, the objective ‘to maintain indigenous biodiversity’ will require management and protection of species across their natural range.*” However when it comes to geothermal SNAs, the proposal to use the approach in the Waikato and Bay of Plenty Regional Policy Statements does NOT achieve this as it assesses significance only relative to the context of the Taupo Volcanic Zone, and habitats common here are not all currently SNAs<sup>2</sup>. Geothermally-adapted fauna are unlikely to have been assessed. In any case all SNAs will have to be assessed as to High or Medium ecological value.
18. There are statements in the Bay of Plenty RPS that are not consistent with current thinking and good practice e.g. in Appendix 7, Set F is subject to Method 22 Assessment of significant geothermal features in the RPS para 4 states: “*The methodology shall provide an **overall judgement** to be made as to the significance.....The **overall judgement** shall be made initially by experts..... and by the final decision-maker*” (para 5) [our emphasis]. The overall judgement has been discredited by the Supreme Court<sup>3</sup>, and its application specifically to geothermal habitats is an anomaly. Under Method 22, experts and decision-makers are predetermining which classification an SNA fits into i.e. protection or development. This is outside the framework for consideration of SNAs in the draft NPSIB, and is not acceptable to the Branch. The Branch did not agree with this at the time but lacked the resources to legally contest it against the position of vested interests (power companies).

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1 The Bay of Plenty RPS Appendix F Annex A Tables 15 & 16 has a useful guide to geothermal types and definitions.

2 There are other Geothermal Features in the region that have not been included as significant. These include but are not limited to: • fumaroles producing steam of less than 100°C;

- heated or steaming ground;
- geothermally altered ground;
- collapse pits;
- geothermal springs or seeps; and
- ancient sinter.

<https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/9/9B/> retrieved 13 March 2020

19. Some geothermal areas will likely be deemed to be of Medium value, where potential renewable energy development does not have to be avoided, [see Implementation 3.9 and 3.12] and we note:

- existing uses will still continue
- NPSes are read together and we reject the suggestion that the NPS RG will not be able to be implemented if geothermal sites are included as SNAs, especially as the language of Policy E4 in NPS RG is very directive
- some already are SNAs
- extensive geothermal areas have been destroyed for power generation and industrial development at Wairakei, Orakei Korako and Kawerau – the Waikato RPS states “*Already most of the region’s geothermal features have been lost or degraded*”.<sup>4</sup>
- this very argument is an example of how indigenous biodiversity has, and is, always put behind other human uses, and why our indigenous biodiversity is in such dire straits.

20. We think there is a distinction between extraction of geothermal fluid for energy production, or use by heat exchangers, and use of land for other developments such as industrial or subdivision. Currently there is nothing to prevent areas of geothermally induced manuka and kanuka being used as rubbish dumps, race tracks or industrial development. These areas have value for education, recreation, tourism as well as their intrinsic values. It is our experience that sometimes close inspection of these areas finds rare or threatened species such as the mistletoe *Korthalsella salicornioides*, or ferns such as *Christella*, that require warmer temperatures and are usually only found in the Far North.

21. Geothermal habitats are nationally and internationally rare and are therefore significant, and their intrinsic values should be recognised and provided for. All geothermal vegetation should be objectively assessed in the national context.

22. We do not agree that bringing all geothermal sites into this NPS will undermine existing approaches and case law – as far as we are aware the “case law” was to allow adverse effects to be limited to “**significant** adverse effects” in the Waikato, not consistent with maintaining indigenous biodiversity. When our branch became involved in the geothermal issue in the Bay of Plenty, this case had already been heard, and we were not party to the Waikato RPS.

23. The Bay of Plenty RPS will need to be reviewed in 2024, and plan changes resulting from this NPS are not required till 2028 so there is plenty of time for Bay of Plenty (and Waikato) regional councils to amend their documents for consistency, and for territorial authorities to review their SNAs.

24. To conclude, we reject the status quo, as well as Option 3 as it is proposed: “*There is no requirement to avoid adverse effects on geothermal ecosystems within ‘development’ systems.*” This would

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<sup>4</sup> <https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/9/2/Implementation-methods/Explanation/> retrieved 13 March 2020

be a retrograde step because the current regime in Bay of Plenty provides for significant adverse effects to be remedied or mitigated.

25. We support a fourth option - to manage all geothermal ecosystems under this NPS.

## 1.7 Hutia Te Rito

26. The Branch accepts this concept of the reciprocity of humans and nature, but has concerns that policies about social and economic benefit will result in business as usual and the continued incremental loss of indigenous biodiversity. Specific comments in this regard are included later in this submission.

### (c) Definition of "maintain"

27. The Branch welcomes and supports this definition. It is necessary for clarity so that legal argument over meanings is avoided, wasting time and resources. The definition is appropriately based on ecological principles.

### (4) Definition of adverse effects on indigenous biodiversity

28. We also support this definition especially (g) and (h) disruption by pets and pests, adverse effects we commonly observe.

## 1.8. Definitions

### Biodiversity compensation

29. The branch agrees to the inclusion of the words "more than minor" as this is the current approach but has reservations about its application (see below).

### Improved pasture

30. In 3.12 (4) The phrase "has not itself become an SNA" is a little loose. We suggest rephrasing to "does not meet the criteria in Appendix 1". See also paragraph 65.

## Part 2 Objectives and Policies

31. We are surprised that s 6(c) of the RMA, which has been at the root of considerable litigation since 1991, is not referenced in this NPS. Whilst councils have a general function to maintain indigenous biodiversity, they also have to recognise and provide for significant indigenous vegetation and significant habitats of indigenous fauna, as a matter of national importance, yet this is not mentioned in a national policy statement.

32. We request another objective as follows:

To recognise and provide for significant indigenous vegetation and significant habitats of indigenous fauna, as a matter of national importance.

33. Objective 4 is short-sighted. In our experience integrated management is not being achieved, with councils taking different approaches, and departments within councils not working together. We propose amending to: *to ~~improve~~ achieve the integrated management of indigenous biodiversity.*

34.Objective 6 is problematical as there is no bottom line (as in s5 (2) of the Act) or recognition that providing for social, economic and cultural wellbeing must be within limits.

We propose amending to be consistent with s 5:

*to recognise the role of landowners, communities and tangata whenua as stewards and kaitiaki of indigenous biodiversity by*

- a. allowing people and communities to provide for their social, economic and cultural wellbeing now and in the future; and*
- b. supporting people and communities in their understanding of and connection to, nature;*

while achieving Objectives 1-5.

## 2.2 Policies

35.Policy 2: To achieve integrated management, and to achieve maintenance of indigenous biodiversity, councils should be using a lens of effects on biodiversity whenever they are making decisions – not just what are the financial implications etc.

36.We support the precautionary approach, and a very important aspect of that not mentioned is whether the effects are irreversible or not.

We propose amending as follows:

Policy 2: (a) to ensure that ~~local authorities~~ the maintenance of indigenous biodiversity is considered as part of all local authorities decisions; and (b) adopt a precautionary approach towards proposed activities with effects on indigenous biodiversity that are uncertain, unknown, or little understood but potentially significant or irreversible.

37.Policy 10 is also problematical without guidance on what

“appropriate” existing activities are, or what is NOT appropriate. We suggest rewording:

“to provide for ~~appropriate~~ existing activities that have already modified indigenous vegetation and habitats of indigenous fauna where the activity is consistent with s 10 of the Act” or words to similar effect.

## Part 3 Implementation

38.We support the inclusion of detailed expectations of what councils must do.

### 3.2 Hutia Te Rito

39.We support recognition of tangata whenua as kaitiaki and their involvement implementing Hutia Te Rito. However we consider that more guidance is required as to the nature of what is expected in

terms of 3.3 (1) (b) ii. *develop objectives, policies and methods that recognise and provide for Hutia Te Rito.*

40. Pages 23-4 of the Discussion Document sets out what Hutia Te Rito is “at a minimum”. At the most basic level this is saying “you must accept these concepts and put them into action” but we suspect councils may have trouble knowing how to do this. Early consultation “*to ensure that Māori perspectives are considered when pen is first put to paper to draft plans and policies, ....to ensure that local authorities have the information and relationships to work with tangata whenua to incorporate mātauranga and tikanga Māori.*”<sup>5</sup>
41. The Wai 262 Report does provide insights for councils but given the reported discomfort some councils have with the draft NPSIB, it may be clearer to formulate such objectives, policies and methods and include them in this NPS. We realise that this may be contrary to the desire to tailor provisions to particular rohe, rather than nationally, but we think some councils will struggle with this. Our views are based on our experience with the Bay of Plenty Plan Change 9 to the Natural Resources Plan, where differing views on whether, and how, Te Mana o Te Wai was to be implemented, resulted in a breakdown amongst the parties. It will be especially challenging where there are multiple iwi within a council’s boundaries.
42. One way of addressing this is for the NPS to require direct insertion of some objectives, policies and methods, which can have sunset clauses when plan changes become operative. This would provide interim guidance while councils and tangata whenua worked through permanent solutions. If this approach is taken, it should be clearly signalled that it is only interim but to ensure the Māori world view is accommodated.
43. 3.3.3(c) For transparency we suggest that cultural takes should be subject to other legislative requirements i.e. word as *allowing for sustainable customary use of indigenous vegetation subject to other legislation such as the Wildlife Act and Treaty settlements.*

### 3.4 Integrated approach

44. As mentioned above, unless councils consider indigenous biodiversity as part of their business as usual, integrated management won’t occur.

We propose more directive wording:

*considering the requirements relevant to indigenous biodiversity of strategies and other planning tools required or provided for in legislation.*

### 3.5 Resilience to Climate Change

45. We strongly support the use of the directive word ‘must’ in both of these provisions. A discretionary approach will not result in outcomes

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5 footnote 15 in the Discussion Document

to achieve the objectives of this NPS. However there is a major weakness in this provision in that it only applies to making plans and policies, not to consideration of resource consents. Whilst we know that indigenous biodiversity is likely to be adversely affected in a range of ways by climate change, protection of indigenous vegetation can contribute significantly to mitigating the effects of climate change through carbon sequestration.

We request the following amendment:

*When making or changing policy statements or plans or regional biodiversity strategies, and making decisions on resource consents, local authorities must promote the resilience of indigenous biodiversity to climate change...*

### 3.6 Precautionary approach

46. We strongly support a precautionary approach to management of indigenous biodiversity. However the word 'but' should be deleted and replaced with 'and/or' as otherwise it does not make sense in terms of what is understood to be a precautionary approach.

We request the following amendment:

*the effects on indigenous biodiversity are uncertain, unknown or little understood; ~~but~~ and/or those effects are potentially significantly adverse.*

### 3.8 Identifying SNAs

47. We strongly support the mandatory identification, noting that some smaller councils may need assistance in resourcing this. Currently the Bay of Plenty Regional Council is assisting Opotiki District Council in this activity.

48. 3.8 (1) (b) We don't really support classifying sites into High and Medium, as decision makers then tend to downgrade the significance of Medium (or in some current plans, Low) sites, yet they are still significant. We also have experience of decision makers discounting conservation values of public conservation land that is currently classified as Stewardship land as not being of conservation importance. However, as this distinction was agreed to by the Collaborative Group, we accept its inclusion.

49. The provision intended to cover where councils have recently identified or reviewed SNAs should be clarified to read:

*(4) Subclauses (1), (2) and (3) do not apply where territorial authorities have demonstrated that areas identified as significant indigenous vegetation and significant habitat of indigenous fauna in policy statements or plans, substantially conform with Appendix 1*



*through an assessment by a suitably qualified ecologist, within 5 years of the commencement date.*

50. As these processes take considerable time, we think it is reasonable to only require a new assessment if it has been more than 5 years. Three years would mean most scheduled sites would have to be resurveyed, a waste of time and resources.
- 51.3.8 (8) We strongly support the provision to provide for additions to SNAs as further information arises.
52. Overall we consider the timeframes generous and reasonable but there needs to be an implementation requirement to directly insert in all policies and plans that areas meeting the criteria in Appendix 1 must require consent and be managed under the effects hierarchy as the identification process is time-consuming and may overlook some sites. (The Branch has experience of a situation where the person assessing an area assumed that because the coverage was primarily kānuka, it wasn't significant but a ground examination found kiwi and some threatened native orchids present.)

#### Public Conservation Land

53. We support all public conservation land being deemed SNAs. It would be a gross waste of public money to require re-assessment of already known high ecological values. In the event of an application for consent on public conservation land, a detailed assessment of the values of the area under application will be required in any case. In a consenting process, the application should be considered under the same framework i.e. if the area is High Value, adverse effects must be avoided. Given that the land has already been set aside for conservation purposes, to take any other approach would be obviously illogical and wrong. We are disturbed by an increasing trend to consider conservation land the same as any other land, notwithstanding this is wrong in law.
54. It should be clarified that council owned and managed land should be assessed under the criteria in Appendix 1, and all Scenic Reserves under the Reserves Act deemed SNAs. Other types of reserves (recreation and local purpose) may or may not have significant biodiversity values.

### **3.9 Managing adverse effects on SNAs**

55. We strongly support including the words “or affects” an SNA in “any new subdivision, use or development that takes place in or affects, an SNA”, as we have experience of being unable to secure certain conditions on resource consents, or consent is not even required, because the activity is not in the SNA.
56. We support the requirement to avoid the effects in (a) and to apply the effects hierarchy.

57.3.9 (2) (d) (ii) mineral & aggregate extraction

We have concerns about the blanket nature of including (ii), regardless of the context. For example, if we are serious about mitigating effects on climate change (which will adversely affect indigenous biodiversity) continuing to use concrete without consideration of alternatives, is not consistent with that.

58. This is an example of integrated management NOT occurring. In some regions, aggregate with the necessary qualities for roading repairs is not abundant, and its use may be the best practicable option. This should not mean any application for its quarrying should get an automatic pass. Some mining methods e.g. alluvial and open cast mining, are totally destructive and incompatible with protecting indigenous biodiversity. Some mines and quarries will have greater adverse effects than others, and climate change effects are also important considerations.

59. We consider each application should be considered on its merits and that (d) (ii) should be deleted.

60. (d) iv. the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of tangata whenua.

The notion of a different standard of assessment based on the ownership of the land is contrary to the Act's neutrality on land holdings. However we respect the Treaty and acknowledge that in practice this has possibly been occurring anyway. We therefore accept this provision but would not support extending this approach based on general social and economic benefit – that approach is business as usual and one of the reasons our indigenous biodiversity is in trouble – people's needs being put ahead of nature. Hutia te Rito, should be implemented to uphold the integrity of nature.

61. It should be clear that there are bottom lines to be recognised for sites classified as Medium and the effects hierarchy is not equal to consent being given.

62. An NES should be considered to give direction on activity status (as in the NES PF), as well as other matters mentioned elsewhere such as Permitted activities, in order to achieve national consistency.

### 3.10 Managing adverse effects in plantation forests

63. We support the management of mobile fauna in plantation forests and understand that forest managers in the Bay of Plenty are generally committed to this. However it is not clear that in some cases there are SNAs in their own right within plantation forests. For example in most Bay of Plenty forests there are extensive riparian areas, some having special botanical values, and other significant areas such as the pohutukawa forest in the Tarawera Forest.

64. We note that the NES PF essentially contributes to incidental degradation of indigenous vegetation as each rotation damages a bit more of the edge of the indigenous flora area.

### 3.11 Geothermal habitats - see pp 2-4.

### 3.12 Existing activities in SNAs

65. In 12 (4) (b) the phrase “*regenerating indigenous vegetation has not itself become an SNA*” is unclear. It should be worded as follows: the “vegetation does not meet the criteria in Appendix 3....”

66. The inclusion of mob stocking in the definition of clearance is strongly supported as the Branch has experience of this method being used to clear indigenous vegetation.

### 3.13 General rules applying outside SNAs

67. The only practical manner of providing for this is the application of permitted activities outside SNAs such as included in many district plans now, except currently this applies only to SNAs in many plans. It would be more efficient for the permitted activities to be decided centrally, as with the proposed NES FM for grazing setbacks.

68. The exception in 1(b) is not supported as each situation needs to be assessed on its merits. Biodiversity compensation in practice becomes “buying” consent. In our area there are examples of this being done by setting up a community fund for biodiversity or cultural projects. However it has become almost impossible to access the funds, because of narrow criteria and the fact that only community groups can access it, when complex projects really require the design and management by either councils themselves or Department of Conservation, so the most optimal outcomes are not achieved and on the contrary, sub-optimal outcomes. In one particular case, the council could not take financial contributions because it was excluded from the rule in the plan.

69. Clause (3) *In preparing policy statements and plans giving effect to subclause (1), local authorities must have particular regard to the potential of Māori land to provide for the social, cultural and economic wellbeing of Māori* gives the impression that there is no need to manage indigenous vegetation outside SNAs on Māori land if prioritisation of social and economic developments is being made. This blanket provision is not supported, especially as there is a high likelihood of mobile threatened species occurring on Māori land in the Eastern Bay of Plenty (and probably in Northland and East Coast), which should be managed on a case by case basis.

### 3.15 Highly mobile fauna

70. The Branch strongly supports the inclusion of these provisions. In our Branch area we have kiwi, weka, bittern and falcons, all threatened species and highly mobile. Consideration of effects on them when managing land is logical.

### 3.16 Restoration and enhancement

71. This is not opposed but it is important that the ability to impose such conditions is not denied councils, if an opportunity hasn't already been identified. The exercise of identification of these areas is not straight forward and some opportunities may be overlooked. There may also be landowner issues about this. It needs to be clear that landowners are not required to enhance or restore unless that is a condition of a resource consent. It may be more appropriate for the restoration and enhancement opportunities to be part of the Regional Biodiversity Strategy.

Re word:

*(6) Local authorities may impose or review restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration and enhancement or at any other site where relevant.*

### 3.17 Increasing indigenous vegetation cover

72. For the avoidance of doubt, there should be an Advice Note that it is not intended that urban and rural areas that have more than 10% indigenous cover, should be able to reduce it to 10% as has been suggested by some, or that individual landowners are not required to establish 10% of their land in indigenous planting.

### 3.18 Regional biodiversity strategies

73. There is a conflict between (2) *Local authorities must have regard to the relevant regional biodiversity strategy when developing restoration and enhancement objectives, policies and methods for inclusion in regional policy statements and plans*, and the requirement to complete regional biodiversity strategies within 6 years.

74. Councils will have to have their proposed policies and plans in place well within 6 years to meet the NPS timeframes so having 6 years to develop the strategies means that it would not be practical to include them in policies and plans without a variation. This seems a bit messy and inefficient and requires more thought.

### 3.19 Assessment of environmental effects

75. It would be much more efficient if the NPS simply states that the provisions shall be inserted into all policy statement and plans under s 55 of the Act.

### 3.20 Monitoring by regional councils

76. The Branch considers that monitoring is absolutely essential to ensure the NPS is being implemented and to ensure it is achieving its objectives. MfE should specify the monitoring regime so that it is nationally consistent.

77. The Branch seeks that every consent granted in an SNA is monitored every 2 years. Previous research<sup>6</sup> has shown that consent conditions for biodiversity are very poorly implemented.

#### Appendix 1: Criteria for identifying significant indigenous vegetation and significant habitat of indigenous fauna

78. We support the use of these standard, well-tested criteria. In particular C3:

*Rarity at a regional or ecological district scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally-listed threatened and at-risk species should not be downgraded just because they are common within a region or ecological district.*

79. This is precisely what is currently occurring in the Taupo Volcanic Zone, which is why geothermal vegetation should be assessed under this NPS.

#### Appendix 2: Tool for managing effects on significant natural areas

80. As above we reluctantly accept this ranking of SNAs but it is hard to understand the rationale behind the following being assessed as of Medium significance:

The presence of a distinctive assemblage or community of indigenous species	<b>81. Medium</b>
A special ecological or scientific feature	<b>82. Medium</b>

83. In our experience, a distinctive assemblage is unusual, or in some cases, not seen elsewhere in the ecological district or region. And if an ecological or scientific feature is special, surely that makes it of High significance?

84. We ask that these items be re-assessed – is this a case of having to choose some items to put into the Medium basket? i.e. an artificial classification.

### Appendix 3: Principles for biodiversity offsetting

85. We support the mandatory principles. The absolute bottom line is that there must be some limits to offsetting. Item 2 should be amended to make it clear when offsetting is not acceptable:

2. **Limits to offsetting:** *Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include Offsetting should not be accepted where:*

- i. *residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected*
- ii. *there are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes*
- iii. *effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.*

*In these situations, an offset would be inappropriate. This principle reflects a standard of acceptability for offsetting and a proposed offset must provide an assessment of these limits that supports its success.*

### Appendix 4: Principles for biodiversity compensation

86. The Branch has issues with biodiversity compensation based on its experience. However if it is to be included, we support the mandatory principles, but iterate our position that there must still be bottom lines of values that cannot be traded off.

2. **Limits to biodiversity compensation:** *In deciding whether biodiversity compensation is not appropriate where, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be compensated for because:*

- i. *the indigenous biodiversity affected is irreplaceable or vulnerable*
- ii. *there are no technically feasible or socially acceptable options by which to secure proposed gains within acceptable timeframes*
- iii. *effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.*

## Appendix 5: Regional biodiversity strategies

87. It may be a small point but a **vision** does not:

*2 a) provide a comprehensive record of all areas identified for protection, restoration and enhancement; and*

*b) provide a comprehensive record of all actions being undertaken and all methods available, to achieve protection restoration and enhancement, as provided for by this National Policy Statement and undertaken or required by other legislation, strategies or by voluntary action;*

88. These items should be part of the strategy, but not part of the vision. However we support the broad approach to regional strategies, which offer a good opportunity to integrate all relevant elements including climate change resilience and biosecurity.

### Other Matters

#### More stringent controls

89. It is not clear within the draft NPS, but alluded to in the Discussion Document, whether councils can impose more stringent controls than set out in the NPS. This should be clarified.

#### Biodiversity Collaborative Group Complementary Measures

90. The Biodiversity Collaborative Group issued a very comprehensive report advising numerous complementary measures (too numerous to list) that should be taken outside of this NPS which would, collectively, make a massive difference to the protection of indigenous biodiversity. Some of those measures that would make a particular difference in our branch area are:

- (i) amending the Local Government Act to
  - give councils powers to issue infringement fines for all bylaws as District Court prosecutions are time-consuming and too expensive,
  - specifically allowing councils to use bylaws to control vehicles on beaches where threatened species are at risk to mirror the Land Transport Act<sup>7</sup>,
  - providing for rates relief for all areas protected by covenant and Nga Whenua Rahui, requiring councils to consider biodiversity and climate change as well as financial implications when making all decisions;
- (ii) amending the RMA to remove the restriction on considering the effects on of any development exacerbating climate change; and
- (iii) funding Department of Conservation sufficiently to both advocate and intervene to protect native species and habitats off public conservation land.

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<sup>7</sup> Councils have to rely on the police to enforce bylaws under the LTA and this is a low priority for police so rarely useful. LGA does not overtly give councils these powers.