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Attention: Biodiversity Team

**Draft National Policy Statement for Indigenous Biodiversity
Proposals for Consultation November 2019**

1. Thank you for the invitation to consult on the Draft National Policy Statement for Indigenous Biodiversity.

Who We Are

2. Fisheries Inshore New Zealand (FINZ) represents the interests of quota-owners, fishers and other parties associated with the inshore finfish fishing sector. Our members' focus is finfish stocks primarily found within the territorial sea and we represent approximately 80% of the quota for inshore finfish species. Our role is to represent the policy and operational interests of the industry, working with Crown agencies such as Fisheries New Zealand, the Department for Conservation, the Ministry for the Environment and the Ministry for Foreign Affairs and Trade, liaising with environmental and other organisations and participating in collaborations to inform and assist in the management of fisheries resources and the wider aquatic environment.
3. The New Zealand seafood industry is committed to sustainable utilisation of our fisheries and any wider fishing activity. We support wholeheartedly the FAO Fish Stocks Agreement, the Fisheries Act 1996 and other legislative or international agreements which apply to our fishing activity. Included in our commitment is a commitment to the conservation and sustainability of wider marine biodiversity. We recognise the need for, the value of and support for sustainable utilisation and conservation of all resources, be they marine or terrestrial, at both the genetic and species scale.

Our Interest in the National Policy Statement

4. While the draft National Policy Statement for Indigenous Biodiversity (NPS-IB) does not apply to indigenous biodiversity in the coastal marine area or in waterbodies and freshwater ecosystems, we note the Cabinet paper for consultation¹ contained a recommendation "to explore how the NPSIB could include the coastal marine area in future".
5. As a consequence of that intent, we consider a number of principles and process issues in the draft statement require our commenting on the draft. In addition, section 3.18 of the NPS-IB requires the

¹ <https://www.mfe.govt.nz/sites/default/files/media/Biodiversity/npsib-cabinet-paper-consultation.pdf>

development of a regional biodiversity strategy for the coastal marine area, waterbodies and freshwater ecosystems.

6. We are aware that the Ministry for Primary Industries and the Department of Conservation are developing advice in respect of marine biodiversity protection. That line of endeavour will give rise to consideration of the draft NPS-IB and the principles within it. In that respect, it is important to recognise that the fundamental differences between the state of terrestrial and marine biodiversity make the draft statement inappropriate for allocation to the marine environment.
7. We have contributed to a joint submission with New Zealand Rock Lobster and the Paua Industry Council but consider some additional points are appropriate on the draft NPS-IB.

Terrestrial vs Marine Biodiversity

8. Terrestrial indigenous biodiversity in lowland areas exists primarily in remnant pockets, having been replaced by primary production and urban landscapes. Terrestrial indigenous biodiversity in highland areas exists more extensively where primary production has not valued and modified the land. Significant impacts were made on terrestrial biodiversity before any protection measures were in place. The regulatory framework for protection of terrestrial and freshwater biodiversity has been at best weakly applied since being introduced. Terrestrial and freshwater biodiversity is not in a healthy state, with little prospect of restoration or mitigation in the foreseeable future.
9. In contrast, the marine space has been significantly less altered and less modified. Access to the marine biodiversity has been limited, fishers look to extract a proportion of the fish and the tools available to operators are limited in their capability to make extensive changes to the marine environment. Regulatory measures have been in place since 1894 to protect the sustainability of fish-stocks and since at least 1894 to protect other aquatic wildlife. The Fisheries Act 1983 introduced a quota based fishstock sustainability process where the impacts on aquatic life were formally recognised as a relevant factor in setting catch limits. The Fisheries Act 1996 further strengthened the obligation to take wider aquatic biodiversity considerations into account through Section 9 Environmental Principles which requires the long term viability of all aquatic biodiversity, whether fish or other species, be maintained.
10. Quantitative risk assessments of the impact of commercial fishing on the sustainability are in place for all seabirds and marine mammals and a subjective assessment for chondrichthyans (sharks and rays) has been undertaken. MPI is preparing an impact assessment of commercial fishing effects on the benthic environment. In those assessments, only one species, black petrel, was assessed as having an unsustainable risk with another 8 species having high levels of fishing -related sustainability risk.
11. Contrary to commonly held beliefs that New Zealand's marine environment has been extensively modified by bottom-impacting fishing methods:
 - a. bottom trawling occurs in only 1.17% of the New Zealand's EEZ & TS areas combined;
 - b. bottom trawling occurs in 1.22% of the EEZ;
 - c. bottom trawling occurs in only 25% of the territorial sea;
 - d. the area being bottom trawled in both the EEZ and TS is declining;
 - e. more than 30% of New Zealand's EEZ is closed to bottom trawling, and
 - f. around 30% of New Zealand's territorial sea is closed to bottom trawling.
12. The trawling that takes place is principally on soft sediment types such as gravels and sand rather than mud or hard rock. These benthic habitats are areas of natural churn and constant change from currents. There has been some modification of the benthos in some of these areas but by no means are the remaining areas remnants or the benthic ecosystem irrevocably lost.
13. If there are areas of the marine environment that have been adversely impacted and are under high sustainability risk, they are the areas immediately adjacent to the shore and in estuaries and harbours where terrestrial pollution levels such as sediment and chemicals have had extensive and possibly irrevocable impacts even if new pollution is prevented. Controls need to be put in place to limit

further future damage to the marine biodiversity in these areas and some restoration , for example, the removal of sediment from harbours and estuaries and the restoration of seagrass and shellfish beds in those areas, should be undertaken.

14. The state of and nature of marine biodiversity is no way comparable to the damage inflicted on terrestrial indigenous biodiversity and any initiative to apply the NPS-IB and the principles that underlie it to the marine environment is entirely inappropriate. That is not to say that a NPS-IB for marine biodiversity is not necessary or inappropriate. It is needed but it needs to be fit for purpose and take into account the existing protections and the state of the marine indigenous biodiversity.

Fundamental Concepts

Holistic View

15. We support the need for the NPS-IB to take a holistic view of the wider environmental impacts when undertaking activities. The marine sector has long suffered from the sediment, pollution and reclamation impacts of terrestrial activity. While the existing regulatory framework relating to activities that might affect the coastal marine space should have protected that space, the sad reality is that it has not.
16. We are concerned that this NPS-IB has come too late to redress the level of historic impact in the coastal marine space but are at least hopeful that future impacts will be minimised.

Focus on Indigenous Biodiversity

17. While we do not disagree that the thrust of the initiative should be sustainable indigenous biodiversity, we note non-indigenous biodiversity is the basis of our economy and, as such, is highly valued and warrants protection. We would be unwilling to see a less than balanced acceptance of the need to preserve all valued biodiversity, indigenous or exotic.
18. It is likely that New Zealand will, despite its best endeavours, import more examples of non-indigenous biodiversity in the future, some of which may become valued and warrant future protection. New Zealand law allows for the importation of and utilisation of exotic biodiversity under regulated conditions.

Maintenance of Indigenous Biodiversity

19. It is not appropriate to have an objective to restore indigenous biodiversity and enhance the ecological integrity of ecosystems (Objective 5) without providing some guidance as to the extent and purpose of such restoration. Restoration of viable sites to provide an example of historical indigenous biodiversity may be a feasible realistic option in some instances but it is not realistic to implement restoration on a wide scale.

Lack of Selectivity

20. The NPS requires all regional councils to identify all areas that have significant indigenous vegetation or significant habitat of indigenous fauna. The areas are then to be classified according to four factors – representativeness; diversity and pattern; rarity and distinctiveness; and ecological content. Should an area be classified as having a high or medium rank on any of the factors (a Significant Natural area (SNA)), the area is to be managed to protect the features of the SNA. There is no provision for a Council to select a subset of the SNAs for greater attention despite the possibility that the coverage of such sites might provide opportunity for further utilisation and possible marginal degradation of some areas.
21. We note also that the subjectivity of the classification is such that almost every site could be given a SNA designation. We do not see that as a reasonable approach. In particular if the approach was applied in the marine space with the same classification, then effectively every inch of space would be designated as a SNA.

22. We can support a concept that SNAs with high rarity value should have higher levels of priority and protection accorded to them as a matter of principle but have problems with applying that same approach where SNAs have been identified through representativeness aspects and there are a multitude of sites that meet the criteria. We do not see it is necessary that every such site should be accorded the highest level of protection possible.
23. We have witnessed developments in the marine space where councils are designating areas to be of significant ecological value – the equivalent of an SNA. While some councils have taken a selective approach, focusing their attention on best examples of biodiversity, others appear to be wishing to adopt the non-selective approach of the NPS-IB. Adopting protection measures in the latter approach could have the impact of closing vast tracts of the marine environment to bottom-impacting fishing methods to provide a level of protection that is unwarranted and unnecessary to meet the need to ensure indigenous biodiversity is maintained – the environmental safeguard in the Fisheries Act 1996.
24. Councils need to be given the power to select a limited number of sites to be SNAs and provide a justification for those selections.

Protection of Existing Biodiversity

25. We note the draft standard seeks to prevent any loss of existing biodiversity through the need for new activities not to result in adverse effects and for the adverse effects of existing activities not to increase.
26. While we understand the desire for that strategic approach, we note the absence of any discussion as to what might constitute an adverse effect and at what scale is biodiversity protection to be managed. As drafted, the NPS-IB presumes each piece of land is to be managed as an independent piece of indigenous biodiversity. Regional councils have an obligation to preserve indigenous biodiversity – we view that obligation as to be within the region, not to each individual component of the biodiversity. We have faced similar issues with scale in the marine environment and there is an acceptance that maintaining long term viability is a population scale obligation, not an individual animal obligation and utilisation that might involve incidental captures, however regrettable, is permitted within sustainable biodiversity limits.
27. We are uncomfortable with the absence of guidelines and the apparent need to manage biodiversity at the site vs the regional scale.

Restoration and Enhancement

28. While we recognise the need for some restoration, we do not necessarily agree with the identification of restoration projects set out in para 3.16(4). We would prefer to see priority attached to areas where rarity and distinctiveness featured in the scoring. The reduced opportunities for biodiversity protection for those areas demand urgent protection. Areas that featured representativeness are more likely to be more numerous and the timing of protection is less urgent.

Assessment of Environmental Effects

29. While we commend the NPS for requiring local authorities to take environmental effects into account in consideration of new applications, we cannot agree with the focus only on the items set out in 3.19 (1).
30. The proposed areas in bullet points (a) to (f) appear to focus on the site in question and, by inference that the NPS-IB refers to only terrestrial biodiversity, only to terrestrial impacts. The marine coastal space and the freshwater domain fit none of the 3.19 itemised bullet points.
31. We cannot accept the lack of reference to both the coastal marine space and the freshwater domain in the list of areas for which an applicant must have regard when seeking new approvals. It is a limitation of the NPS that biodiversity in other domains can be overlooked. The coastal marine space has suffered and continues to suffer from the exogenous effects of activities and even with this NPS in place will continue to suffer in the future. The objective of the biodiversity strategy is to protect and

enhance all biodiversity, be it terrestrial or marine. The list needs to be expanded to ensure that all environmental effects are taken into consideration in planning and approval processes.

Further Contact

32. If you wish to have further contact on this submission, please contact Tom Clark, Policy Manager, Fisheries Inshore New Zealand, Mob 027 213 7567.
33. We would be available and willing to work with the Ministry when they consider any extension of the draft statement to marine indigenous biodiversity.

Yours

A handwritten signature in black ink, appearing to read 'J. Helson', with a long horizontal flourish extending to the right.

Jeremy Helson
Chief Executive
Fisheries Inshore New Zealand