

Submission of Hamish Rennie on the Draft National Policy Statement on Indigenous Biodiversity (14 March 2020)

Thank you for the opportunity to comment on the Draft NPS on Indigenous Biological Diversity.

Basis for making submission

I have a lengthy background in implementing the convention on biological diversity in New Zealand and as a planner/commissioner. I have experience with the RMA and its implementation from Central government to landowner, and teacher and researcher.

I am therefore drawing on experience from international to domestic policy and planning, eNGO and being an urban and rural landowner with particular expertise in implementation of the RMA. I have My submissions id brief n focussed on aspects that I suspect will not be covered by others for various reasons I have not sought to provide detailed explanation or references and am happy to respond to any questions you might have.

I look forward to presenting to a Board of Inquiry.

My interests in making the submission are those of someone who recognises the need to preserve, maintain and in places significantly restore indigenous biodiversity and who has a particular interest and expertise in the Resource Management Act and the means of making it an effective planning and regulatory system.

Submission points

Overall scope.

1. It is disappointing that in preparing this statement the Department charged with lead agency responsibility for the Convention on Biological Diversity has chosen to limit its scope to indigenous biodiversity. The convention has much wider responsibilities and I note that data in the FAOs domesticated animal diversity list is inaccurate and previous governments, and presumably the Department fo Conservation have neglected to file annual reports or even maintain up to date the name and contact details of the person required to provide information on domesticated animal diversity to the FAO. The person listed as the contact has not worked for the relevant ministry since 2014 and people inside the Ministry of Primary Industries have been unable to respond with the name of any person to whom the role has been given. It may be because of this that the Department of Conservation has chosen to focus only on Indigenous Species, but where there is a complex relationship between indigenous species and species that have arrived here with human assistance (deliberate or otherwise) I am concerned that the Government departments that should have responsibility for such matters are ignoring them. I expect this will undermine the legitimacy of the policy and consequently its effectiveness in the eyes of many, especially farming landowners. It also leaves matters like the role NZ plays in the ex-situ conservation on endangered or rare species unaddressed. This Policy statement therefore neglects any potential to address the important role breeding centres like the

Rare Breed society ro Zoos play in the maintenance of global biodiversity resources and may in fact lead to council policies and plans that adversely affect NZs role as a responsible global citizen and Party to the Convention.

Regarding 1.7

2. To the extent to which those seeking to interpret the provisions of the NPS take recourse in the 'fundamental concepts' of 1.7(1):
 - 2.1. The whakatauki chosen is very clearly one that focuses on an anthropocentric view of the world : "What is the greatest thing in the world? My reply is It is people, it is people, it is people." The emphasis throughout the rest of 1.7 is very much one of placing indigenous biodiversity as a service provider for people. The intrinsic value dimensions inherent in the convention and the RMA are lost. The reciprocal utilitarian approach that underpins Maori views of the relationship of Maori with the indigenous biodiversity fo NZ is not necessarily sufficient for the more ecocentric views that many in the non-Maori environmental movement hold. It does not, for instance, support the 'locking up' of areas that perhaps in the interest of the ecosystems themselves deserve a more preservationist ecocentrism, representing intrinsic as opposed to utilitarian value concepts. Too often Maori repre3sentatives have opposed the locking up of ecosystems to have faith in adopting such an anthropocentric perspective in this polcy document.
 - 2.2. This is added to by the statement "...we have a responsibility to provide not only for te hauora o te tangata (the health of the people) but also for..." Here you are rewording the words of the purpose of the RMA and creating fertile ground for lawyers to revisit the entire issue of the importance of the word "while" in the purpose of the RMA, but in the context of "but also for". What comprises the 'health of the people' will become an area of considerable case law and distraction.
 - 2.3. In sum, 1.7 lays grounds for interpretations that may undermine the intent of the NPS and create ambiguity and confusion with respect to the purpose of the RMA and the purpose of this policy statement and its implementation, and add considerably to the time spent arguing over the case law interpretations of the concepts in 1.7
 - 2.4. **I request that 1.7 (1), be deleted in its entirety.** If that is not done then **alternatively that a less anthropocentric and utilitarian perspective be provided in its place or that the concepts application in all policies etc is restricted to Maori land. All references to the concept would need to be altered to reflect the changes made in this concept.**
3. Regarding 1.7 (3)
 - 3.1. the **inclusion of the concept of restoration as part of maintenance** in this section Is welcome and **supported.**
 - 3.2. To the extent to which other policies etc in this NPS refer to this definition of the meaning of effects on indigenous biodiversity it creates many problems for interpretation and implementation that will lead to many hours in courts
 - 3.3.

- 3.3.1. The descriptor “Full” is problematic in interpretation and consequently will be varied in the nature of its application. **I request the word ‘Full’ be deleted.**
- 3.3.2. **I request that the concept of “intrinsic value” be added**
4. Regarding 1.7(4) definition of adverse effects
- 4.1. I request you add to your list **“a reduction in the intrinsic value of ecosystems, habitats and species”**
- 4.2. I request you add to **“1.7(4)(i) a reduction in people’s ability to connect with and benefit from, indigenous biodiversity including from benefits such as -“ a new subsection “(iv) the exercise of stewardship roles in relation to indigenous biodiversity”**
- 4.3. **e) a “reduction in mauri” is part of (i) and should be shifted to there. Not listed as a separate item.** If listed as a separate item it would imply that mauri is separable from tangata whenua culture and able to be recognised by anyone. I understand that is not the way tangata whenua view mauri and may have difficulty if others started to exercise stewardship roles in relation to mauri regardless of kaitiaki responsibility for mauri.
- 4.4. 1.7(i) also offers opportunities to act on other directly relevant aspects of the Convention on Biological Diversity, such as the equitable sharing of the benefits of genetic resources and **I request that it be amended to include “the equitable sharing of genetic resources”**
5. Regarding 1.8(1) definitions
- 5.1. **Administrative boundaries. I find (d) hard to interpret.** What does the word ‘where’ mean” is it limited to the actual spot on the regional boundary that is crossed by a rohe boundary, in which case the boundaries of the rohe itself beyond that crosspoint are not relevant.
- 5.2. **Delete Hutia Te Rito or amend as noted above**
6. Regarding 2.1
- 6.1. **Delete Objective 3 (for reasons above)**
- 6.2. **I strongly support Objective 6.** It is great to see stewardship roles recognised.
7. Regarding 3.
- 7.1. **Delete Hutia Te Rito or restrict it to being only applicable in relation to tangata whenua action or to Maori land.** As noted above, the anthropocentric and utilitarian nature of this concept conflicts with intrinsic values that would better suite a more ecocentric preservationist approach
- 7.2. **Regarding 3.16 (5) This is strongly supported.** It is recognised that incentives would only be mandatory within the context of the RMA, but this may provide councils with a basis for adopting opportunities under rating and other legislation, for instance the cost of monitoring conditions on consents, or remove costs of application and processing of consents as an incentive to make appropriate changes to use.

I request special provisions for the Canterbury Region with regard to habitat mapping.

As part of the previous government's replacing the elected regional council with appointed commissioners, electoral accountability of the Council was removed and with that there was a loss of electoral accountability. More odious, however, was the removal of the ability to appeal decisions of the Council on regional land and water plans to the regional council. Similar provisions lie in the Resource Management Amendment Bill proposed new schedule 4. The consequence was that an ecologist, without consulting hydrological experts, applied a very basic modelling tool to identify inanga spawning habitat within the region. He then augmented this by a desk top hand drawing of buffers to map inanga Spawning habitat. There was no ability to appeal these and despite submissions to the hearing commissioners, only obvious alterations were made. For instance, the removal of a hay barn over 50 metre for a river, beyond a 3 m high stop bank and at about 2m above the river surface and never wet except in major flooding events, was removed from the inanga habitat area. Adjacent areas (without an obvious hay barn) were not altered. The consequence is that many areas of private land have been incorrectly identified as inanga spawning habitat. Given the policies in the NPS it would appear these would automatically be classified as significant areas. During the applications for resource consents to farm such land areas regional council staff have recognised the significant errors in the desktop mapping were made. The NPS will add further layers of restrictions to areas that are not appropriately defined and were not able to be contested in the Environment Court because of the ECan Act. Consequently a case exists for Canterbury to be treated as a special case in the application of the NPS and for all existing habitat areas to be required to be remapped and ground-truthed with landowners. To avoid any recurring problems of a similar nature ground truthing should be mandatory where a boundary is contested by the landowner.

As a general provision in identifying habitat areas, no area should be identified as a habitat of an endangered species without first providing a landowner with the intention to so classify their land and an opportunity to appeal or object to that identification to the Environment Court. Within the Canterbury region all existing mapped and identified habitat areas (eg inanga spawning habitat) must be remapped in accordance with the new procedures. More generally, groundtruthing is to be undertaken if there is disagreement but only if the landowner is prepared to allow relevant people on to their property to undertake the groundtruthing exercise.

Hamish Rennie, Assoc Professor (Planning), Lincoln University, NZ

Email: Hamish,rennie@lincoln.ac.nz

Phone: +64 3 42-30437