



Ministry for the Environment  
PO Box 10362  
Wellington 6153

14 March 2020

*Re the draft National Policy Statement on Indigenous Biodiversity (NPSIB).*

Dear Sir, Madam,

The draft National Policy Statement on Indigenous Biodiversity (NPSIB) represents the culmination of a lengthy process that has seen different government agencies and stakeholder sectors working together on plans to reverse biodiversity decline. It is a significant achievement to have before us a framework that embraces all land-uses and ownership types.

It goes without saying that I *fully* support any practicable measures that will prevent the ongoing loss of indigenous species and ecosystems in New Zealand.

I am concerned, however, that implementation of the Policy Statement could see it fall significantly short of its ambitions. The Policy Statement represents a powerful, top-down and comprehensive direction to lower levels of government to implement its objectives and policies.

I am by no means convinced that the governance, skills, financing, policy instruments and enforcement capacity are necessarily available on the ground to successfully implement the Policy Statement. It represents another sophisticated claim on human and financial resources across a local government landscape that is unevenly endowed. All things being equal – and with uniformly well-motivated players – its successful implementation would be a boon for biodiversity. But all things are not equal and there is a risk that we are about to promulgate powerful words that are only patchily executed.

With that concern in mind, I would like to note three particular matters that could benefit from further consideration.

Firstly, it is proposed that the NPSIB will apply in the “terrestrial coastal environment”<sup>1</sup>, but not in the “coastal marine area” (with limited exceptions)<sup>2</sup>.

This approach exacerbates an already overly complicated framework for managing New Zealand’s coast. Figure 1 (below) shows in diagrammatic form just how many different slices of ‘the coast’ the Resource Management Act 1991 (RMA) traverses.

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<sup>1</sup> See part 1.6 of the draft NPSIB “Relationship with New Zealand Coastal Policy Statement”.

<sup>2</sup> See part 1.5 of the draft NPSIB “Application”.

For example, the New Zealand Coastal Policy Statement (NZCPS) defines some content for the “coastal environment” and other content for the “coastal marine area”<sup>3</sup>. Regional coastal plans apply to another area again, being the coastal marine area and any “related part” of the coastal environment. There are of course a range of other provisions that apply to slightly different parts of the coast, including the “common marine and coastal area”.

Any national policy statement on indigenous biodiversity should apply throughout New Zealand. Indigenous biodiversity should not be dealt with in a compartmentalised way. A *ki uta ki tai* (from the mountains to the sea) approach is called for in order to meet the objective “to improve the integrated management of indigenous biodiversity”.<sup>4</sup> The NPSIB needs to account for the connectivity and interdependencies of these natural systems, and also the need to manage the migration of significant natural areas inland as sea levels rise.

In saying this, I recognise the proposal to add regional biodiversity strategies to the mix, and that they will cover “landscape scale” issues. However, they will only be able to set out a ‘vision’ and cannot include rules or other controls<sup>5</sup>.

Secondly, the designation of Significant Natural Areas (SNAs) on private land may create an economic, social or cultural cost to affected landowners. Because landowners are in effect the day-to-day custodians of SNAs, their whole-hearted, willing participation is required. I have no difficulty with regulatory controls on SNAs but the practical reality is that a policy that is trying to preserve areas across the entire surface area of New Zealand cannot be conceived of as something that is uniquely achievable through regulation. It requires the active engagement of those most immediately placed to ensure these sites are kept safe and that in turn requires resources.

Rating relief is one way to provide this. Existing circumstances where rates relief can be applied include land designated by the QEII Trust, which is non-rateable under the Local Government (Rating) Act 2002<sup>6</sup>, and the provision for rates remission (wholly or partially) under Subpart 2 of the same Act, s85.<sup>7</sup> The problem with rates relief is that it involves asking the very local government entities charged with implementing the strategy to deny themselves resources at the same time as they are taking on costly new obligations.

Other ways of mobilising finance should be investigated and trialled. Transferable development rights or bio-banking could represent novel instruments that relieve local government of direct contributions from ratepayers. It is also open to the government to provide financial support particularly during the implementation phase. Importantly, providing financial support would also help reduce the risk that some landowners may damage or even destroy significant natural areas in anticipation of the NPSIB.

Thirdly, the current proposal appears to devolve the very challenging work of monitoring and

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<sup>3</sup> See section 58 of the RMA.

<sup>4</sup> Draft NPS-IB Part 2: Objectives and policies, Objective 4.

<sup>5</sup> Under the RMA only plans can include rules and only rules can regulate the way activities within the coastal marine area are carried out. See section 12.

<sup>6</sup>[http://www.legislation.govt.nz/act/public/2002/0006/latest/DLM133512.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_Rating\\_resele\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2002/0006/latest/DLM133512.html?search=ts_act%40bill%40regulation%40deemedreg_Rating_resele_25_a&p=1)

<sup>7</sup>[http://www.legislation.govt.nz/act/public/2002/0006/latest/DLM133512.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_Rating\\_resele\\_25\\_a&p=1](http://www.legislation.govt.nz/act/public/2002/0006/latest/DLM133512.html?search=ts_act%40bill%40regulation%40deemedreg_Rating_resele_25_a&p=1)

maintaining indigenous biodiversity, including restoration or enhancement of degraded ecosystems to local government, where the expertise and capacity is lacking – at least outside of New Zealand’s main urban centres. My advice is that the level of ambition proposed is hugely beyond the resources available in local government and these resources are rather unbalanced from one region to the other.

The monitoring section of the NPSIB goes some way to defining mechanisms to deliver a system where ecosystem and species-population status, trends, stressors and effective management are monitored. But further work is needed to ensure comparability of datasets, and the implementation of nationally agreed standards for monitoring methodologies, data standards and data sharing. These appear, currently, to be optional <sup>8</sup>.

Alongside this, the data storage infrastructure needed to achieve these outcomes must be resourced. Investing in a federated data infrastructure - to create interoperable, national-level biodiversity databases, and leverage existing, but dispersed datasets - is worthwhile from many perspectives, including those elaborated in my recent report on NZ’s environmental reporting system. <sup>9</sup> This will facilitate consistency and comparability in monitoring between regions and through time, and allow New Zealand to make better environmental management decisions based on evidence. The investment in the required data-sharing infrastructure may seem overwhelming, but it is well over-due for New Zealand<sup>10</sup>.

I hope these observations are helpful and that they will encourage you to take as close an interest in the implementation of this policy statement as you have in developing its admirable ambitions.

Yours sincerely



Simon Upton  
**Parliamentary Commissioner for the Environment**  
CC: Prof. Ken Hughey

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<sup>8</sup> Section 3.20 (2) Every monitoring plan must – c) use best practice methods, or nationally agreed standards or methods, for monitoring areas to allow for comparability;

<sup>9</sup> PCE 2019, Focusing Aotearoa New Zealand’s environmental reporting system.

<https://www.pce.parliament.nz/publications/focusing-aotearoa-new-zealand-s-environmental-reporting-system>

<sup>10</sup> Royal Society of New Zealand 2015. *National Taxonomic Collections in New Zealand*. This report discusses the need for data infrastructure to mobilize data held in nationally significant databases and collections. <https://royalsociety.org.nz/assets/Uploads/Report-National-Taxonomic-Collections-in-New-Zealand-2015.pdf>

Figure 1. Areas where different RMA instruments apply in the coastal space.

					12NM
					Coastal Marine Area
	Boundary not defined and may vary	Boundary not defined			MHWS
					Coastal Environment
					Boundary not defined
NZ Coastal Policy Statement	NPS Indigenous Biodiversity	Regional Coastal Plans	Regional Biodiversity Strategies	Regional & District Plans	Land