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Monday, 23 March, 2020

Biodiversity Team
Ministry for the Environment
PO Box 10362
Wellington 6143,
By Email: indigenousbiodiversity@mfe.govt.nz

Tēnā koutou,

Consultation on the Draft National Policy Statement for Indigenous Biodiversity

Te Korowai o Ngāruahine Trust (TKONT) welcomes the opportunity to provide a response to the draft National Policy Statement for Indigenous Biodiversity (NPS-IB). We have established an iwi management plan (in draft format) and this will set the basis for the position of Te Korowai on resource management matters in the future. In general, the provisions of the NPS-IB align to the outcomes sought in the draft document, and our specific comments in response

TKONT's interest in this stems from Ngāruahine iwi being identified in statutory acknowledgements (Ngāruahine Deed of Settlement, 2014) as having a special cultural, spiritual, historical and traditional association with the whenua upon which many activities take place. Part of our responsibility is to ensure the interests of the iwi are fully considered. Therefore, TKONT makes submissions to any relevant policy matters within its rohe. This does not prevent the affected Ngāruahine hāpu commenting on their behalf, nor should it be in any way viewed as affecting the mana motuhake of the hapū.

We trust that these comments are helpful. Should you require any further information or clarification about these comments, please contact me at policy@ngaruahine.iwi.nz.

Nāku iti noa, nā



Andrea Rowe
Mātangi Hāpai Taiao – Environmental Consultant

1. The hapū regard all-natural resources as being gifts from Atua kaitiaki. Tangaroa-i-te-Rupetu is the spiritual guardian of the moana, other water bodies and all that lives within them. Tane-nui-a-rangi is the spiritual guardian of the ngahere and all life forms within the ngahere. These guardians were central to the lives of hapū tūpuna and remain culturally significant to the hapū whanau living in the present day.
2. Matauranga associated with the collection of resources from the various awa and ngahere were central to the lives of the hapū tūpuna and remains a significant part of the cultural identity of the hapū today. Matauranga and associated tikanga, kawa and karakia are essential for maintaining customary traditions along with the ritual and tapu associated with gathering and utilising resources.
3. The hapū have cultural, spiritual, traditional and historic associations with the rivers and their environs, and associated land, flora and fauna. The hapū have a responsibility as kaitiaki in accordance with their kawa and tikanga to restore, protect and manage all those natural and historic resources and sites. This relationship is as important to present day whanau as it was to their tūpuna. The continued recognition of the hapū, their identity, traditions and status as kaitiaki is entwined with the rivers in their rohe and associated lands and associated resources.
4. Te Korowai, as the post-settlement governance entity for Ngāruahine has a responsibility to ensure that the interests of Ngāruahine are safe-guarded. This includes considering the extent to which the proposals may impact (potential or actual) on the environmental, cultural and spiritual interests of Ngāruahine within its' rohe (tribal area); and those areas under statutory acknowledgement and/or Deed of Recognition (Ngāruahine Claims Settlement Act 2016); and the potential or actual risks to the physical, psychological, cultural and spiritual wellness of Ngāruahine (Te Korowai o Ngāruahine Trust Deed).
5. We would like to also tautoko the submissions made by:
 - i. Te Wai Maori
 - ii. Te Kāhui o Taranaki Trust.

Te Korowai o Ngāruahine Trust (TKONT) responses to questions from the discussion document – He Kura Koiora I hokia – The nurturing of our treasured species

Introduction: Address the Decline in New Zealand' indigenous flora and fauna

- 1. Do you agree a National Policy Statement for Indigenous Biodiversity (NPSIB) is needed to strengthen requirements for protecting our native plants, animals and ecosystems under the Resource Management Act 1991 (RMA)? Yes/no? Why/why not?**
- 2. The scope of the proposed NPSIB focuses on the terrestrial environment and the restoration and enhancement of wetlands. Do you think there is a role for the NPSIB within coastal marine and freshwater environments? Yes/no? Why/why not?**

Yes we agree that the NPSIB is necessary. The document provides clarity in the requirements to protect indigenous biodiversity, as well as outlining the role of tangata whenua as kaitiaki.

The management of indigenous biodiversity within Coastal Marine environments should remain a focus of the New Zealand Coastal Policy Statement, while the management of indigenous biodiversity in freshwater environments should be a focus of the National Policy Statement for Freshwater Management. Duplication and inconsistency between NPS's must be avoided so we do not think there is a role for the NPSIB within coastal and freshwater environments

Section A: Providing for the principles of the Treaty of Waitangi and engaging with Tangata Whenua

- 4. Hutia te Rito recognises that the health and wellbeing of nature is vital to our own health and wellbeing. This will be the underlying concept of the proposed NPSIB. Do you agree? Yes/no? Why/why not?**

TKONT support the inclusion of Hutia te Rito as the underlying concept of the proposed NPSIB, however there needs to be further clarification, discussion and development on how this is given effect and implemented.

- 6. Does the proposed NPSIB provide enough information on Hutia te Rito and how it should be implemented? Yes/no. Is there anything else that should be added to reflect te ao Māori in managing Indigenous Biodiversity?**

Clause 1.7(1) provides a good explanation of the Hutia te Rito whakatauki but does not provide much guidance on the implementation of the concept or on how to operationalise it.

Objective 3, Policy 1 and Policy 3 of the Draft NPS-IB provide a high-level requirement to recognise te ao Māori in terms of tangata whenua and their kaitiaki role within their rohe, providing for tangata whenua involvement, and the identification and protection of taonga species and ecosystems.

The implementation requirements in Clause 3.2 (Hutia Te Rito), 3.3 (tangata whenua as kaitiaki) are not directive in terms of the “how”, but rightly allow tangata whenua to play a central role within their rohe, requiring meaningful consultation and opportunities to be involved in decision making, and with flexibility to participate in accordance with their unique tikanga/mātauranga Māori.

Clause 3.14 (identified taonga) is clear on implementation requirements and the respective roles of tangata whenua, territorial authorities and regional councils. There would potentially be great variability as to what ecosystems and taonga might be identified by different iwi/hapū. We submit that it is more appropriate for iwi/hapū to identify taonga species but note that the timeframes to achieve this are tight. We encourage the Government to fund councils and iwi/hapū to generate this work

- 7. Do you think the proposed NPSIB appropriately takes into account the principles of the Treaty of Waitangi? Yes/no? Why/why not?**
- 8. What opportunities and challenges do you see for the way in which councils would be required to work with tangata whenua when managing indigenous biodiversity? What information and resources would support the enhanced role of tangata whenua in indigenous biodiversity management?**
- 9. Local authorities will need to consider opportunities for tangata whenua to exercise kaitiakitanga over indigenous biodiversity, including by allowing for sustainable customary use of indigenous flora. Do you think the proposed NPSIB appropriately provides for customary use? Yes/no? Why/why not?**

The NPSIB takes positive steps toward taking into account the principles of the Treaty of Waitangi but falls short of the enabling independent decision making by tangata whenua.

In the context of the role of tangata whenua and the relationship of kaitiaki with te taiao / indigenous biodiversity, there needs to be some elevation in the role above that of landowners and communities at large. The manner in how this has been applied is framed around stewardship by being a landowner, or member of community which is not reflective of the depth and application of kaitiaki. However, in terms of application, this will heighten the formal application and concept of kaitiakitanga.

There must also therefore, be further guidance, framework and compulsory legislative instruments for local authorities in the practical application of kaitiakitanga for Maori.

We anticipate that there will be procedural discussions about what this will look like in terms of application, and then resources provided (funded) to make this happen.

If the Government is genuinely seeking to achieve kaitiakitanga it must address the barriers for Māori, iwi and hapū participation in resource management processes and not further entrench and exacerbate this issue by developing new legislative instruments, that fail to adequately involve, consider or provide for Māori.

Section B: Identifying important biodiversity and Taonga

- 9. Territorial authorities will need to identify, map and schedule Significant Natural Areas (SNAs) in partnership with tangata whenua, landowners and communities. What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?**
- 10. Of the following three options, who do you think should be responsible for identifying, mapping and scheduling of SNAs? Why? a. territorial authorities b. regional councils c. a collaborative exercise between territorial authorities and regional councils.**

The principle of “partnership” excludes any requirement for territorial authorities to partner with Māori, instead requiring that “territorial authorities must seek to engage with landowners early and share information about indigenous biodiversity, potential management options and any support and incentives that may be available”. The absence of any encouragement for territorial authorities to partner with Iwi /hapū is also noted with concern. This therefore contradicts the objectives and policies of the NPSIB

This further assumes that there is established trust, partnership and dialogue between territorial authorities, tangata whenua, landowners and communities. This is the first limitation to work through and further the logistical issues of note is resourcing; specifically time, expertise and funding.

There is still a substantial barrier for Iwi to engage in the identification and description of taonga as the process requires disclosure in order to obtain protection.

TKONT supports option C where this is also extended to include Iwi authorities. Currently the role for Iwi/hapū is not provided in the SNA identification process outlined in Table 3 of the discussion document and section 3.8 of the draft NPSIB, nor any reference made to Māori interests (including taonga) to be taken into consideration as part of the identification process.

A coordinated mapping approach to identifying SNA should be extended to include areas managed under the NZCPS and the NPS-FM would best achieve Objective 4 (and associated policies) of the NPS-IB.

- 11. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPSIB appropriate for identifying SNAs? Yes/no? Why/why not?**
- 12. Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs? (see Part 3.8(2) of the proposed NPSIB) Yes/no? Why/why not?**

No for both.

The criteria is silent on mātauranga Māori, and related information which would inform ecological significance of an area

The principles and approaches exclude tangata whenua, which is out of line with the objectives and policies of the NPSIB

13. The NPSIB proposes SNAs are scheduled in a district plan. Which of the following council plans should include SNA schedules? Why?

a. regional policy statement b. regional plan c. district plan d. a combination.

Regional policy statement for consistency

14. We have proposed a timeframe of five years for the identification and mapping of SNAs and six years for scheduling SNAs in a district plan. Is this reasonable? Yes/no? What do you think is a reasonable timeframe and why?

The proposed timeframe for identification and mapping of SNAs will be determined on the timeframes that are set by Councils. Including the provision of meaningful engagement and timely consultation with Iwi to ensure the intentions of He Kura Koiroa I hokia are carried through.

16. Do you agree with the proposed approach to identifying and managing taonga species and ecosystems? (see Part 3.14 of the proposed NPSIB) Yes/no? Why/why not?

The process outlined for the consideration and protection of taonga species or ecosystems in the discussion document lacks detail (i.e. how taonga would best be protected, implications if not identified etc.) and will leave a lot to the discretion of territorial authorities. Which will also result in unnecessary costs being passed onto rate payers. In the absence of any focus on addressing existing barriers to Māori participation in resource management, and with no targeted support (staffing resources etc) for Māori included as part of this NPS, this is concerning.

This will place additional burdens on the already stretched capacity of iwi and hapu to participate in yet another resource management process in the absence of any Central Government support.

Section C – Managing adverse effects on biodiversity from activities

20. Do you agree with the use of the effects management hierarchy as proposed to address adverse effects on indigenous biodiversity instead of the outcomes-based approach recommended by the Biodiversity Collaborative Group? Yes/no? Why/why not?

It is not clear how this part implements Hutia te Rito, or the objectives of the NPS-IB. Part 3.9(a) must be amended to reference the protection and restoration of the mauri of a SNA as a specific outcome to take into account the provisions of each Iwi's environmental plan.

22. Do you agree with the distinction between high- and medium-value SNAs as the way to ensure SNAs are protected while providing for new activities? Yes/no/unclear? Please explain. If no, do you have an alternative suggestion?

TKONT does not support this approach. It is not clear why there needs to be a distinction of hierarchy, subsequently it may be unnecessary and further complicate its application, and is particularly difficult to implement when there is a paucity of data regarding a particular SNA, highly mobile species or similar. There is the risk of inconsistent application of the categories, and it may 'water down' how medium value areas are managed. Through the consent process, information on significance of values can be explored as part of the information requirements to assess the application, at the cost of the developer, in the event there is a threat to the protected item.

26. Do you agree with managing existing activities and land uses, including pastoral farming, proposed in Part 3.12 of the proposed NPSIB? Yes/no? Why/why not?

There appears to be a duplication of the existing rights provision (Sections 10 and 20A) of the RMA. It is not clear how this approach will achieve the objectives of the NPS-IB; specifically objective 3. This provision does not promote the active remediation of indigenous biodiversity, rather looks to legitimise current practises which undermine the protection, care or restoration of indigenous biodiversity. This approach does not take into account the provisions of each Iwi's environmental plans where these are available.

28. Do you think it is appropriate to consider both biodiversity offsets and biodiversity compensation (instead of considering them sequentially) for managing adverse effects on indigenous biodiversity outside of SNAs? Yes/no? Why/why not?

Yes, they can be considered as part of an 'overall effects' management package on a case by case basis. For particular species it is near impossible to calculate offsets, due to their size, hiding abilities and with some terrain being too technical to access to complete studies; and in these instances offsetting or compensation should not be available to an applicant.

29. Do you think the proposed NPSIB adequately provides for the development of Māori land? Yes/no? Why/why not?

No. Please refer to discussion regarding rangatiratanga above. Further the definition of Māori land is too narrow and doesn't include Treaty Settlement Land or land held under the Public Works Act 1981.

30. Part 3.5 of the proposed NPSIB requires territorial authorities and regional councils to promote the resilience of indigenous biodiversity to climate change. Do you agree with this provision? Yes/no? Why/why not?

Yes. Indigenous biodiversity is not static. Our understanding of climate change (as a society) has advanced in recent years where it is commonly acknowledged that our environment is changing, and that this will impact on indigenous biodiversity. The opportunities and challenges for the protection/restoration of indigenous biodiversity are going to change over

time, and the opportunity for native species to adapt (through corridors, intact and contiguous landscapes etc) must be considered through resource management processes.

31. Do you think the inclusion of the precautionary approach in the proposed NPSIB is appropriate? (see Part 3.6 of the proposed NPSIB) Yes/no? Why/why not

Yes, in general the level of knowledge of specific ecosystems (including mātauranga Māori) is not sufficient to inform resource management processes; until such time as a more complete data set is available for indigenous biodiversity in the rohe of Ngaruahine Iwi a precautionary approach must be applied.

34. Do you agree with the framework for biodiversity offsets set out in Appendix 3? Yes/no? Why/why not?

35. Do you agree with the framework for biodiversity compensation set out in Appendix 4? Yes/no? Why/why not? Include an explanation if you consider the limits on the use of biodiversity compensation set out in Environment Court Decision: Oceana Gold (New Zealand) Limited v Otago Regional Council as a better alternative.

Offsets and compensation mechanisms are complex to apply; as noted above these should only be available to an applicant when there is sufficient data on the particular ecosystem. The process of considering the limits of an offset or compensation in Appendix 3 and Appendix 4 must specifically include the recommendation of any advice received from tangata whenua as to how these tools may apply on a case by case basis.

36. What level of residual adverse effect do you think biodiversity offsets and biodiversity compensation should apply to? a. More than minor residual adverse effects b. All residual adverse effects c. Other. Please explain.

TKONT support option b.

Introducing value-based qualifiers (more than minor) will result in inconsistent implementation of these tools. We note that assessments for less than minor, minor and more than minor are made to determine an affected party, as opposed to the acceptability of an adverse effect on the environment; and in the context proposed in the NPS-IB is not appropriate.

37. What specific information, support or resources would help you implement the provisions in this section (section C)?

Resources need to be provided by way of specific training to support those who are involved in the process. Expert ecologist input and experience will be required to assist Iwi

41. Do you think regional biodiversity strategies should be required under the proposed NPSIB, or promoted under the New Zealand Biodiversity Strategy? Please explain.

42. Do you agree with the proposed principles for regional biodiversity strategies set out in Appendix 5 of the proposed NPSIB? Yes/no? Why/why not?

43. Do you think the proposed regional biodiversity strategy has a role in promoting other outcomes (eg, predator control or preventing the spread of pests and pathogens)? Please explain.

44. . Do you agree with the timeframes for initiating and completing the development of a regional biodiversity strategy? (see Part 3.18 of the proposed NPSIB) Yes/no? Why/why not?

There is a need to avoid strategy duplication and to acknowledge the existing programmes and structures already established in the regions. Mandatory requirements for strategies that are focused on an RMA context may limit the wider context of biodiversity management. TKONT note the effectiveness of the Biodiversity Strategy for Taranaki and of other non-regulatory and collaborative initiatives such as Wild for Taranaki which coordinate the region's biodiversity efforts. Linking in with other landscape scale projects such as Restore Taranaki, Taranaki Mouna and Towards Predator Free Taranaki have a significant impact on biodiversity outcomes in the region. Regulatory responses and tools should be implemented in the context of these higher level, more broadly focussed strategies.

SECTION E – Monitoring and Implementation

46. Do you agree with the requirement for regional councils to develop a monitoring plan for indigenous biodiversity in its region and each of its districts, including requirements for what this monitoring plan should contain? (see Part 3.20) Yes/no? Why/why not?

Monitoring and reporting are fundamental to the development of policy and methodologies, as well as the implementation of current rules. Without specified methods, there is a risk that data obtained through monitoring will be incompatible between regions and fail to provide a complete picture across NZ. Any monitoring must be underpinned by mātauranga Māori, with the scope/planning etc designed alongside tangata whenua.

47. Part 4.1 requires the Ministry for the Environment to undertake an effectiveness review of the proposed NPSIB. Do you agree with the requirements of this effectiveness review? Yes/no? Why/why not?

Yes, agree

48. Do you agree with the proposed additional information requirements within Assessments of Environment Effects (AEEs) for activities that impact indigenous biodiversity? (see Part 3.19 of the proposed NPSIB). Yes/no? Why/why not?

TKONT generally agree but note that this list is not definitive, and that case by case assessment must still be made. Any advice set out in an iwi planning document, or advice received from tangata whenua with regard to an SNA, taonga species or indigenous biodiversity generally.

49. Which option for implementation of the proposed NPSIB do you prefer? Please explain.

a. Implementation as soon as reasonably practicable – SNAs identified and mapped in five years, scheduled and notified in plans in six years.

b. Progressive implementation programme – SNAs identified and mapped within seven years, scheduled and notified in plans in eight years.

TKONT supports a progressive implementation programme

This will provide additional time for funding to be raised to respond to this matter, as should be led by Government in a measure of implantation. The already more than necessary financial burden on Iwi to be at an engagement level, will increase. In addition to the financial burden that will be placed on Māori as a consequence of the proposed NPS, it will also have impacts in terms of placing an additional burden on the already stretched capacity of Iwi and hapū to participate in yet another resource management process in the absence of any Central Government support.

53. Part 3.4 requires local authorities to manage indigenous biodiversity and the effects on it of subdivision, use and development, in an integrated way. Do you agree with this provision? Yes/no? Why/why not?

TKONT supports the principle of ki uta ki tai/integrated management across agencies, particularly where there are joint functions as with biodiversity.

CONCLUDING POINTS

Te Korowai o Ngaruahine Trust have a significant interest in the resource management system, particularly the Resource Management Act and its relationship to protecting Māori interests in freshwater fisheries (including surrounding terrestrial and riparian habitats); protecting habitat to ensure quality water and abundant species and empowering our people to uphold their responsibilities to ensure healthy freshwater fisheries and freshwater environments.

We would like to see Central Government commit to genuinely acknowledging and addressing the barriers for Māori, Iwi and hapū participation in resource management processes and commit to meeting its Treaty and settlement obligations and move toward implementing a Treaty compliant environmental regime.

We trust that these comments are helpful and would be happy to meet kānohi ki te kānohi to discuss the points raised in this submission.

Should you require any further information or clarification please contact me at policy@ngaruahine.iwi.nz

Nāku iti noa, nā

A handwritten signature in black ink, appearing to read 'A Rowe', with a stylized flourish at the end.

Andrea Rowe
Mātangi Hāpai Taiao – Environmental Consultant