

# Explanation document for the Proposed National Policy Statement on Indigenous Biodiversity

## Introduction

The proposed National Policy Statement on Indigenous Biodiversity (proposed NPS) contains eight policies. This note sets out a high-level explanation of the scope of those policies. It should be read in conjunction with the proposed National Policy Statement on Indigenous Biodiversity, which is available at [www.mfe.govt.nz/npsbiodiversity](http://www.mfe.govt.nz/npsbiodiversity).

## Policy 1 – Relationship of the proposed NPS to section 6(c) of the Resource Management Act

Policy 1 explains that, for the purpose of the proposed NPS, an area of significant native vegetation or a significant habitat for native species is an area or habitat whose protection is important for maintaining biodiversity. It aims to ensure the proposed NPS does not cut across what councils might be doing in respect of section 6(c) of the Resource Management Act 1991 (RMA)<sup>1</sup> for reasons other than biodiversity, while clarifying that at least one legitimate measure of ‘significance’ is whether an area or habitat contributes to the maintenance of biodiversity.

## Policy 2 – Standard criteria for identifying significant vegetation and habitat

Policy 2 sets out five standard criteria to assist in the identification of areas of native vegetation and habitats of native species that are rare and/or threatened at the national level. These criteria are drawn from the *National Priorities for Protecting Rare and Threatened Native Biodiversity on Private Land*, published in 2007. It is important to note that these criteria are not an exhaustive list of all areas of significant indigenous vegetation and habitats of indigenous species that councils have responsibilities for under section 6 (c) of the RMA.

Policy 2 requires that these standard criteria are applied when a council considers a resource consent application or any other matter, including a plan change, designation, or change in consent conditions. It will ensure greater consistency across councils, which is essential if biodiversity is to be maintained at the national scale.

The policy is worded in such a way as to ensure that these standard criteria are taken into account in councils’ decision-making, whilst retaining each council’s ability to choose their own additional criteria for identifying areas of native vegetation and habitats of native species that are significant for other reasons. This policy, combined with Policy 1, means that the proposed

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<sup>1</sup> *6 Matters of national importance*

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

NPS should not result in any narrowing of the recognition currently given to areas of significant native vegetation and the significant habitats of native species under section 6(c) of the RMA.

### **Policy 3 – Criteria and regional policy statements**

Policy 3 requires regional policy statements (RPSs) notified after the proposed NPS is in place to include the criteria of Policy 2a–d.

The policy makes clear that the criteria are to apply *in addition* to any other provisions/criteria that a regional council chooses to include in its RPS.

The policy only applies to RPSs notified after the date on which the NPS takes effect. This is proposed to reduce compliance costs, given that there are a number of second-generation RPSs that are, or have recently been, on the verge of notification. To require changes to these documents so soon after they have been notified would add cost with little benefit (especially given that Policy 2 requires that the NPS criteria be applied to council’s decision-making under the RMA regardless of the RPS provisions).

Habitats of threatened and at risk species are deliberately excluded. This criterion should be applied on a case-by-case basis (for example, in the context of a resource consent), where the requisite information is available. It is not required to be applied in all cases because the cost of an ecological survey to determine the presence of such a large number of species (over 2000) over a potentially large number of sites is considered unreasonable to impose on territorial authorities.

### **Policy 4 – Areas and habitats in district plans**

Policy 4 requires district plans to identify, using (where practical) maps and/or schedules, areas of significant native vegetation and significant habitats of native fauna. Having sites identified is a prerequisite to being able to manage them (and any impacts on them).

In identifying these areas, decision-makers must include in their plans the criteria of the relevant RPS. Policy 4 requires that district plans and relevant regional plans include the criteria of Policy 2 a–d within five years of the proposed NPS taking effect.

The words “where practical” are included to recognise that in districts with a large number of sites, it may not be practical to map them all and other means of identification (eg, by vegetation type) might be necessary. Habitats of threatened and at risk species (criterion 2e) should be identified to the extent that existing information makes this possible.

### **Policy 5 – Managing effects to achieve no net loss**

Policy 5 sets out an effects management hierarchy and establishes the obligation for local authorities to manage the effects of resource use to achieve ‘no net loss’ in biodiversity within significant areas and habitats. The use of the term “or be satisfied that the effects are managed by methods outside of district or regional plans” is intended to allow councils to rely on methods such as public ownership or covenants on land titles as appropriate means of managing the risks of adverse effects. Without this option, Policy 5 could be read as requiring councils to address risks through RMA plans when they were already adequately addressed through other existing mechanisms.

Policy 5 introduces offsetting as an option to deal with residual adverse effects, where they cannot be fully mitigated.

The application of biodiversity offsets is still evolving. Therefore the proposed NPS contains safeguards against inappropriate use. The first is the hierarchy presented in parts a–d of Policy 5. This sets out a clear obligation to avoid effects as a first priority, remedy second and then mitigate. Only once these approaches have been exhausted is it appropriate to consider whether any residual effects can be properly offset.

The second safeguard is that any biodiversity offset under this policy needs to be developed in accordance with principles listed in Appendix 1. Those principles replicate those agreed internationally through the Business and Biodiversity Offset Programme (BBOP). Finally, Policy 5 makes it clear that offsetting is not always appropriate; where habitats or areas are vulnerable or irreplaceable, for example.

## **Policy 6 – Supporting maintenance and enhancement of biodiversity**

Policy 6 promotes the protection and enhancement of biodiversity more widely. That is, it recognises that biodiversity occurs across the landscape and various scales, and that the robustness and resilience of ecosystems requires more than protection of the most significant sites. Policy 6 is important in making the proposed NPS about biodiversity protection and not simply about the protection of specific high value sites.

The policy refers to a range of matters well recognised in ecology and in many existing RMA plans, such as avoiding impediments to movement of migratory species and maintaining buffers around significant sites and riparian vegetation.

Policy 6 also encourages councils to consider adverse effects that might be less obvious than blanket vegetation clearance (including, for example, exposing areas and habitats to greater risk of plant and animal pests). It also encourages consideration of appropriate incentives in recognition that ecologically sympathetic management of land requires ongoing actions by thousands of individual land managers.

Importantly, the measures outlined in policies 6 a–h are not intended to be mandatory. Rather Policy 6 is intended to provide guidance on best practice, and support those councils that are already showing leadership.

## **Policy 7 – Tangata Whenua**

Policy 7 recognises the relationship of Māori to biodiversity. Māori have a number of particular interests in biodiversity which are recognised in accordance with Part 2 of the RMA, and the New Zealand Biodiversity Strategy.

The first is that principles from traditional Māori knowledge (mātauranga Māori) may be usefully applied in the management of biodiversity. Recognising and providing for these principles is important in recognising the role of Māori as kaitiaki in accordance with section 7 of the RMA. It is also consistent with Objective 7.2 of the New Zealand Biodiversity Strategy, which seeks to recognise mātauranga Māori.

Some areas and habitats identified using the criteria of the NPS will be of particular significance to Māori due to continuing Māori ownership, historical association or perhaps because of the resources they provide for traditional cultural practices. In respect of such areas and habitats, specific consultation with Māori will be of particular importance. Policy 7 (b) ensures that such consultation will occur.

Policy 7(c) ensures that tangata whenua are involved in the protection of areas and habitats when these are associated with particular cultural values. It is expected that this involvement could take a variety of forms including partnerships in active management programmes or specific consultative/joint decision-making arrangements.

Policy 7(d) ensures consistency with the New Zealand Biodiversity Strategy by ensuring that protection of vegetation and habitat provides for the customary use of indigenous species by Māori provided that use is in accordance with tikanga (traditional customs and practices). Customary use is, however, limited by other conservation legislation, under which the taking of indigenous species may specifically controlled (including the Wildlife Act, Conservation Act, National Parks Act, Reserves Act, and Marine Mammals Protection Act).

## **Policy 8 – Consultation**

Policy 8 reinforces the expectation already apparent in the Resource Management Act itself, that those landowners whose properties would be affected by councils' efforts to identify and protect biodiversity values, are to be consulted early in the process (ie, before plans are notified and have legal effect). While the First Schedule of the RMA implies this already, the proposed NPS makes this obligation much more explicit.

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