

## **Proposed Change to the NPS IB – Feedback to Ministry for the Environment**

### **What is Taituarā?**

Taituarā — Local Government Professionals Aotearoa (Taituarā) thanks Ministry for the Environment (MfE) for meeting with us and the focus group we pulled together – with the assistance of Te Uru Kahika – on the *Proposed Change to the NPS IB*. As you know Taituarā is an incorporated society of approximately one thousand individual members drawn from local government: Chief Executives, senior managers, and council staff with significant policy or operational responsibilities. We are committed to working with you to ensure the technical, practical, and managerial implications of legislation are well understood and how we can help local authorities perform their roles and responsibilities effectively and efficiently.

Thank you for your openness to feedback.

### **For MfE consideration**

#### **1. Macro issues**

- a) What is the issue that we are trying to solve, and will the proposed actions solve that problem? If the issue is stopping SNAs, most councils already have these. Those that do not are most likely to be impacted by these changes.
- b) What might be the unintended consequences be and might they create more problems than the proposed actions solve?
  - For clarity, as noted by Auckland Council, the proposed changes appear to indicate that individual property rights override the general public benefit of

indigenous biodiversity, and the ecosystem services it provides. A healthy and biodiverse environment also has significant economic benefits, such as ecosystem health supporting primary production, and the value to the tourism sector who rely on the unique natural environment. We also raise issues around the LTP, public certainty, and costs below.

- c) Is the promulgation of unnecessary legislation effective and efficient and in the national interest?

**2. If this process is going ahead clarity is needed in these areas**

- a) What does a pause for new SNAs really mean in practice? Is this a pause on identifying new SNAs for three years? If councils can continue with the direction they have indicated, new 'SNAs' will be identified.
- b) SNAs are only one mechanism, other obligations under the RMA continue –
- e.g. section 6, rules around indigenous plants.
- c) Do regional council responsibilities remain the same?
- d) Additional 'SNAs' developed under RPS, and current Plans can proceed – i.e. not prohibited. However, new SNAs will not have the policy framework around them, which makes it administratively challenging.
- e) Effects on plan changes already in progress should be spelt out clearly in the legislation.
- f) Alternatively, legal advice should be obtained for affected councils. Ideally this would be undertaken by MfE, not by multiple councils across the country.
- g) What else is changing and when?

### 3. **Impact on councils (and others)**

- a) NPSIB required to be implemented now and post the amendment.
- b) It will be up to councils to determine how these obligations are met. Additional changes will result in further costs for councils and communities at a time of unprecedented rates increases.
- c) Challenges re timing for territorial authorities and unitary authorities going through plan change processes or currently identifying and mapping SNAs. Particularly tricky issues were identified by Waimakariri. Their prepared plan was notified in 2020, the exposure draft. Then the NPSIB came out and SNAs. The RMA mapped SNAs but now they are unable to map. It is not just the ecosystems chapter that will be affected, it has quite an impact on things that happened during the submission process.
- d) Repercussions for community, councils, and Ministers if things do not proceed as anticipated.
- e) Impact on LTP:
  - Timing - Councils need to have signed up to new plan by 30<sup>th</sup> June.
  - There are costs involved in reworking LTP for 30<sup>th</sup> June and again later as further amendments and changes are made.
  - Lower level of service. Further biodiversity decline.
- f) Difficult to plan and carry out section 6 obligations in an ambiguous environment. The functions of territorial authorities and regional councils, particularly related to delivery of the SNA programme, will also be impacted. Furthermore, instead of the bar being raised for indigenous biodiversity management, the proposed changes and uncertainty surrounding them is likely to result in continued biodiversity loss.
- g) Precautionary principles may be impacted by changes to 3.7.

h) Legal risk.

- Councils are legally required to implement but lack certainty to prioritise investment. The lack of clarity around upcoming Resource Management Act (RMA) reform further increases uncertainty.
- There is the potential that councils will be challenged by private landowners, farming interest groups and environmental groups for action and inaction. It is an uncomfortable place to be.

i) International obligations?

#### 4. **Next steps**

- a) Local government needs to be involved in the upcoming review(s), scope development, and provision of advice.
- b) Clear communication about the changes and what they do and do not mean will be required. The group we organised to meet with MfE has indicated that they are happy to be involved further in this mahi.
- c) Need to have an integrated package – across the reform programme – and across regulatory and non-regulatory methods for biodiversity.
- d) We recommend that officials take up offers from councils to talk through “sticky” issues councils are facing.

We note that MfE has received feedback from a number of local government professionals. Taituarā supports the feedback from Auckland Council and Biomanagers Special Interest Group.

We hope you have been able to talk with Matt Bacon at Waimakariri as you are preparing your advice, and we hope you have received some other feedback from the district and city

councils that participated on the day. We are happy to facilitate a future conversation with Matt and other TA reps if that is useful in developing further advice on this part of the reform programme prior to legislation being introduced – and we are happy to help with the future programme too.