



100-day plan commitment: Approach to ceasing implementation of new Significant Natural Areas

Date submitted: 14 December 2023

Tracking number: BRF-3970

Security level: Policy and Privacy

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Penny SIMMONDS Minister for the Environment	Discuss with officials next steps for achieving the 100-day plan commitment to “Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas”	21 December
cc Hon Chris BISHOP Minister Responsible for RMA Reform	Note the content of this briefing	

Actions for Minister’s office staff
<p>If agreed forward to Hon Andrew Hoggard, Associate Minister for the Environment</p> <p>If agreed forward to Hon Tama Potaka, Minister of Conservation.</p> <p>Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).</p>

Appendices and attachments
Appendix 1: NPSIB operational details

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Rosemary Feary		
Responsible Manager	Jo Burton		
General Manager	Hayden Johnston	0221530221	✓

Minister’s comments

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Key messages

1. The Government’s 100-day plan commits to “Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas”.
2. All decision makers under the Resource Management Act 1991 (RMA) are required to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance.
3. Prior to the National Policy Statement for Indigenous Biodiversity (NPSIB), councils took a variety of approaches to implementing this requirement. The NPSIB standardised the approach to identifying and managing these areas and named them ‘Significant Natural Areas’ (SNAs). The NPSIB sets out timeframes for including SNAs in plans. Similarly named areas already exist in many plans to give effect to the RMA.

4. 9(2)(f)(iv) [Redacted]

5. 9(2)(f)(iv) [Redacted]

6. Ceasing implementation of SNAs under the NPSIB would not change RMA requirements for councils to protect significant indigenous biodiversity.

7. 9(2)(f)(iv) [Redacted]

8. 9(2)(f)(iv) [Redacted]

9. 9(2)(f)(iv) [Redacted]

Recommendations

We recommend that you:

Discuss with officials the next steps for achieving the commitment to “Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas”.

Yes | No

Agree to forward this briefing to Hon Andrew Hoggard, Associate Minister for the Environment.

Yes | No

Agree to forward this briefing to Hon Tama Potaka, the Minister of Conservation.

Yes | No

Signatures

Hayden Johnston
General Manager – Natural Environment Policy
14 December 2023



Hon Penny SIMMONDS
Minister for the Environment

Date

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Purpose

10. This briefing provides initial advice on how to achieve the 100-day plan commitment to “Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas”.

Background

Overview of the National Policy Statement for Indigenous Biodiversity

11. The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023. It intends to help address New Zealand’s biodiversity decline (with New Zealand having one of the highest proportions of threatened and at-risk species in the world). It also contributes to delivering on the Aotearoa New Zealand Biodiversity Strategy goals and meeting international obligations.¹
12. The NPSIB codifies the requirements on councils in the Resource Management Act 1991 (RMA) to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (indigenous biodiversity) as a matter of national importance (refer section 6 (c) of the RMA) and council functions for indigenous biodiversity (sections 30 and 31 of the RMA). The Courts have provided strong determinations that voluntary actions are, in the main, not sufficient unless they are paired with stronger protective planning mechanisms.
13. Prior to the NPSIB, the RMA requirements for councils lacked detail, resulting in inconsistent implementation, inefficiency, uncertainty, litigation, and poor communication with landowners.
14. The NPSIB provides standardised procedures for councils on how to carry out the RMA requirements in their policy statements, plans and resource consent decision making (including via significance criteria to assess SNAs, management approaches, and consent pathways for certain activities).
15. The NPSIB directs councils’ resource management functions – not landowners. For example, it does not require landowners to undertake proactive restoration,

¹ The UN Convention on Biological Diversity, and Kunming-Montreal Protocol Global Biodiversity Framework.

fencing, or pest control. The NPSIB builds on the policy direction of the multi-stakeholder Biodiversity Collaborative Group (BCG) set up in 2017².

How the NPSIB manages SNAs

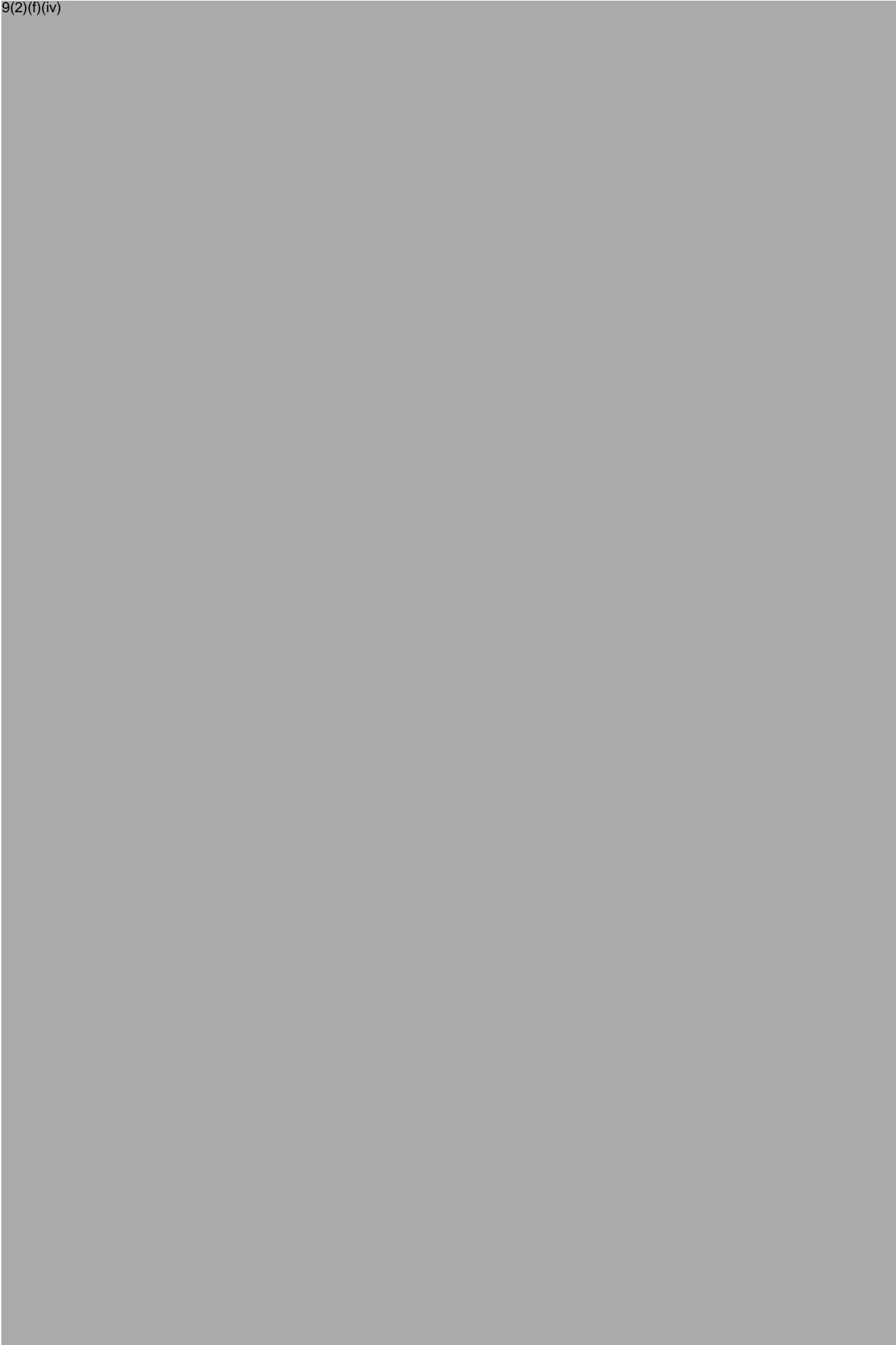
16. The NPSIB requires councils to identify SNAs and map them in plans, using specified ecological significance criteria. Councils have five years to include SNAs in plans from when the NPSIB came in to force on 4 August 2023.
17. The NPSIB also establishes principles councils must use when working with landowners and communities to ensure processes are fair and robust.
18. The NPSIB sets out management approaches for new activities that affect SNAs, including to avoid five critical adverse effects (these are listed in Appendix 1) and otherwise manage the adverse effects of new activities through an effects management hierarchy and other management regimes. Existing activities can continue, as long as their effects on an SNA do not increase or further degrade it.
19. The NPSIB provides exemptions for activities needed for people's social, economic and cultural wellbeing. For example, important activities like infrastructure and mineral extraction can be consented if they meet a specified management approach. Other activities are provided for such as maintenance of improved pasture for farming, and plantation forestry, which have their own management regimes. The NPSIB does not apply to renewable electricity generation and electricity transmission activities.
20. Appendix 1 provides a more detailed overview of the NPSIB and SNA mechanisms.

9(2)(f)(iv)




² The BCG was commissioned by Hon Nick Smith, the Minister for the Environment. Its core members were Federated Farmers of New Zealand Incorporated, the New Zealand Forest Owners Association, the Royal Forest and Bird Protection Society of New Zealand Incorporated, Environmental Defence Society Incorporated, a representative of the Iwi Chairs Forum through the Pou Taiao Iwi Advisors Group, and representatives from infrastructure industries. Local and central government representatives were involved as active observers.

9(2)(f)(iv)



9(2)(f)(iv)



Treaty of Waitangi analysis

38. Māori have a significant interest in indigenous biodiversity. Some submissions from Māori on the NPSIB opposed SNAs on their land unless they were agreed.
39. The NPSIB strengthens the role of Māori in RMA decision making about indigenous biodiversity and provides a pathway for Māori to identify and protect their taonga species in RMA processes. It requires councils to work in partnership with Māori. It also provides for more flexible provisions that enable development on Māori land due to extensive indigenous biodiversity cover and the historical disadvantages to development faced by Māori.
40. Officials can provide further advice about iwi and Māori groups who would have a particular interest in changes to the NPSIB for early engagement.

Next steps

41. We propose that you discuss this briefing with officials to determine next steps for achieving the commitment to “Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas”.

Appendix 1 – NPSIB operational details

The NPSIB as a national policy statement provides:

- direction to councils to identify and protect SNAs according to a set of well-established ecological criteria on all land tenures
- procedures to improve how councils work with landowners, communities and tangata whenua
- management of adverse effects of new activities on indigenous biodiversity
- for activities needed for social, economic and cultural wellbeing – including infrastructure, mining and plantation forestry, and Māori land
- permission for existing activities to continue (including farming and domestic use)
- a strengthened role for tangata whenua in working with councils to manage indigenous biodiversity
- direction on highly mobile fauna, taonga species, biodiversity strategies.

Other aspects of the NPSIB include councils working to restore priority areas that have been degraded over time, developing monitoring plans for the condition and extent of biodiversity to understand what changes are taking place, and increasing indigenous vegetation cover in urban and rural areas.

The SNA identification framework consists of 4 significance criteria, with 2-8 attributes underneath each. These criteria are:

- representativeness - where the remaining biodiversity is typical or characteristic of the ecological district, ie taken together these areas will represent the full range and extent of biodiversity in the district
- diversity and pattern – the extent that the expected natural range of diversity is present in the area
- rarity and distinctiveness – rare, depleted or distinctive species, habitats or ecosystems
- ecological context – how the size, shape and configuration of biodiversity contributes to the wider surrounding landscape and the ability for biodiversity to be maintained.

The adverse effects that must be avoided by new subdivision, use or development in SNAs (clause 3.10(2) are:

- a) loss of ecosystem representation and extent
- b) disruption to sequences, mosaics, or ecosystem function

- c) fragmentation of SNAs or the loss of buffers or connections within an SNA
- d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems
- e) a reduction in the population size or occupancy of threatened or at risk (declining) species that use an SNA for any part of their life cycle.

The Effects Management Hierarchy is a series of steps which must be addressed by proposals to mitigate their effects. Proposals should first avoid effects, then minimise, then remedy, and finally manage residual effects via offset or compensation. If all adverse effects cannot be mitigated using this hierarchy the activity is not appropriate and should not take place.

The NPSIB focuses on new activities that cause damage to significant biodiversity, but provides dispensation for activities needed for people's social, economic and cultural wellbeing:

- councils are required to work in partnership with landowners, use the best quality information available, and be transparent with their identification process and how any gathered information will be used
- existing activities, like farming and residential activities, can continue in SNAs (RMA existing use rights) and NPSIB provisions for established activities allow ongoing activities if effects do not intensify
- works for public safety, indigenous harvest permitted under the Forests Act 1949, customary use and certain works/activities of the Crown, are permitted in SNAs
- an exception or consent pathway using the effects management hierarchy is provided for specified infrastructure, mineral and aggregate extraction (under certain circumstances), new dwellings on existing empty lots, harvest of indigenous species planted for that purpose and restoration
- activities on QEII and other biodiversity covenanted land can be managed by the covenant so will not necessarily need resource consent, removing process duplication and acknowledging the protection given by biodiversity covenants
- existing pasture maintenance (often undertaken at long term intervals so may not retain existing use rights) can continue, with some conditions
- the NPSIB does not apply to renewable electricity generation and electric transmission assets and activities, awaiting finalisation of amendments to national policy statements on these.

Implementing the NPSIB:

- 5 years to identify and notify policy statement and plan provisions/changes to protect SNAs, 4 years for an ecologist to confirm existing SNAs in plans, 8 years for all other provisions/changes to be notified in policy statements and plans and 10 years to complete regional biodiversity strategies.