

Chair, Cabinet Environment, Energy and Climate Committee

**PUBLIC CONSULTATION ON THE NATIONAL POLICY STATEMENT FOR
INDIGENOUS BIODIVERSITY**

Proposal

1. This paper seeks agreement to undertake public consultation on a proposed National Policy Statement for Indigenous Biodiversity (NPSIB). A national policy statement is a regulatory instrument under the Resource Management Act 1991 (RMA) and states objectives and policies for matters of national significance. The proposed NPSIB strengthens and clarifies the requirements under the RMA for local authorities to manage New Zealand's indigenous biodiversity.

Executive Summary

2. New Zealand's indigenous biodiversity is a matter of national significance but is in crisis¹. Our indigenous biodiversity is unique – more than half of our species are found only in this country. Biodiversity has intrinsic value, and is essential for our economic, cultural and social wellbeing. However, many of our unique species and ecosystems are declining and are threatened with extinction.
3. The RMA provisions addressing indigenous biodiversity protection are not working as they should. They are unclear and subject to different application by councils. This has led to confusion and uncertainty for landowners and a highly litigious environment with repeated costs for councils, landowners and stakeholders. Meanwhile, we continue to lose our indigenous biodiversity at an alarming rate.
4. This situation needs to change, or our children and grandchildren will not be able to experience our unique natural environment as we have. We also face losing the economic benefits provided by healthy biodiversity.
5. To turn this situation around, the Government is currently reviewing the New Zealand Biodiversity Strategy (NZBS; ENV-19-MIN-0038, confirmed by CAB-19-MIN-0337, refers). A clear and strong regulatory framework is one of the system shifts identified in the proposed strategy.
6. The proposed NPSIB provides clear direction to address key gaps and inconsistencies in the management of terrestrial indigenous biodiversity under the RMA. This approach will improve biodiversity protection while allowing both existing and new activities to occur, within constraints. In particular, the proposed NPSIB would require territorial authorities to identify and manage Significant Natural Areas (SNAs), using consistent criteria and management approaches.

¹ Ministry for the Environment and Stats NZ. 2019. New Zealand's Environmental Reporting Series: Environment Aotearoa 2019. Available from www.mfe.govt.nz and www.stats.govt.nz.

The proposed NPSIB also contains provisions regarding tangata whenua involvement in local authorities' management of biodiversity, and provisions to promote restoration and enhancement of priority areas (including SNAs and wetlands).

7. I seek Cabinet agreement to release a package of documents on approximately 25 November 2019 until 14 March 2020, testing the key components of the proposed NPSIB with the wider public. The package includes the attached discussion document, Section 32 / Cost Benefit Analysis (CBA) report and Regulatory Impact Statement (RIS). Officials are developing a programme of engagements and hui from early February to mid-March 2020 to support public consultation. As Associate Minister for the Environment, I can confirm that the Minister for the Environment has approved this package for Cabinet lodging.
8. There will be minor changes made to the Discussion Document prior to printing for consultation. This may include minor editing changes and will include changing the title to "He Kura Koiora i hokia". The Discussion Document will also include a description and explanation of the title referencing the translator.
9. A draft NPSIB was developed by a collaborative group. The Biodiversity Collaborative Group (BCG) was announced in August 2016 and commenced its work on the draft in March 2017. This draft and a set of 'complementary measures' was publicly released in October 2018. The BCG members have continued to work with officials to refine the current draft NPSIB and have indicated they will support the public consultation process.
10. I intend to engage with iwi / Māori, the general public, key stakeholders and with councils. Public consultation on the NPSIB follows closely on the consultation for the NZBS and the two are well-aligned.
11. The CBA found that the cumulative benefits of the proposed NPSIB outweigh the expected aggregate costs. The proposed NPSIB will protect and enhance our natural capital to the benefit of current, and especially future, generations.
12. Implementing the requirements of the proposed NPSIB will require a change to the status quo for many councils and landowners. This change will be hard for some but is necessary to prevent the ongoing loss. The ultimate cost of business as usual is losing our unique biodiversity forever.
13. Financial costs are likely to be concentrated on a subset of councils, iwi / Māori and landowners. For some of these groups direct central government support may be warranted to assist with implementing the NPSIB. Through consultation, I propose to test the need for measures to support implementation of the proposed NPSIB.
14. Following consultation, I intend to run a Minister-led statutory process in accordance with s46A(4) of the RMA to finalise the NPSIB and report back to Cabinet to seek final policy decisions in mid-2020.

Background

15. New Zealand's prosperity relies on our natural environment and is part of 'Brand Aotearoa'. This gives us a competitive advantage that underpins our top two export earners: primary production and tourism.

16. The ties between New Zealanders and indigenous biodiversity run deep. We call ourselves 'kiwis' and proudly use the silver fern for our national identity. For iwi / Māori, the connection with nature is one of whakapapa, of kinship. The health of people and the environment are intrinsically linked.
17. New Zealand's indigenous species, both plants and animals, have intrinsic value. Fifty two percent of our species are found nowhere else. This means the continued existence of our species is not just nationally but globally important.
18. However, the recently released *Environment Aotearoa* report finds that many of our species are currently threatened with or at risk of extinction. The extinction risk has worsened for 86 species in the past 15 years. When Europeans first arrived, native forests covered about 80 percent of New Zealand's land area, but approximately 65 percent of our original native forest has been removed. Even in recent years, we are still experiencing loss through land conversion to pasture, plantation forestry, and urban areas. Between 1996 and 2012 there was a 1.3 percent loss of tussock grassland (reduced by 31,000 hectares), a 1.3 percent loss of indigenous shrubland (reduced by 24,000 hectares), and a 0.2 percent loss of native forests (reduced by 16,000 hectares)². Some of the greatest loss of indigenous biodiversity is happening on private land, on which most of our rarest species and ecosystems are found³.
19. Under the RMA, councils must include policies, objectives and rules in their plans regarding the protection of significant indigenous vegetation and significant habitat of fauna in order to maintain biodiversity. This is currently the main regulatory mechanism for managing effects to indigenous biodiversity on private land.
20. However, provisions addressing indigenous biodiversity protection under the RMA are unclear and subject to different application by councils. This has led to confusion and uncertainty for landowners and a highly litigious environment with repeat litigation costs for councils, landowners and stakeholders. Ultimately, this has resulted in inadequate regulatory protection, which has contributed to indigenous biodiversity loss. Our regulatory framework is clearly not working.
21. A 2017 environmental review of New Zealand by the OECD⁴ concluded that biodiversity is not well integrated into land-use planning and management, and protection of biodiversity is not incentivised appropriately.
22. The Minister for Conservation is currently leading a review of the NZBS, which will result in a refreshed strategy in 2020 covering the marine, terrestrial and freshwater domains. The review sets out goals and fundamental shifts to ensure that nature in Aotearoa is healthy and thriving. To ensure that species and ecosystems are healthy, the first shift is to improve the legislative and governance system relating to biodiversity. The NPSIB will be one of the key interventions sitting within the wider NZBS framework.

² Ministry for the Environment and Stats NZ. 2019. New Zealand's Environmental Reporting Series: Environment Aotearoa 2019. Available from www.mfe.govt.nz and www.stats.govt.nz. P.34

³ Ministry for the Environment (2007), *Protecting our Places: Information about the Statement of National Priorities for Protecting Rare and Threatened Biodiversity on Private Land*, MfE, Wellington, ISBN: 0-478-30135-9, ME 805

⁴ OECD (2017), *OECD Environmental Performance Reviews: New Zealand 2017*, OECD Environmental Performance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264268203-en>.

The NPSIB is the right tool for the job

23. It is imperative that the regulatory framework is applied more consistently and effectively by councils to help address biodiversity loss, particularly on private land. This can be addressed by stronger national direction to clarify council roles and responsibilities under the RMA.
24. An NPS is a regulatory instrument under the RMA and states objectives and policies for matters of national significance. It provides clear direction to address key gaps and inconsistencies in the management of natural resources.
25. The RIS prepared for this work outlines five options to address the key problem arising from RMA biodiversity provisions being subject to different interpretation, application and monitoring by councils.

These options are:

- Option 1: Provide guidance and support for councils and landowners
 - Option 2: Amend RMA to provide more direction on planning requirements relating to indigenous biodiversity
 - Option 3: Prepare National Environmental Standards to require consistent approach to biodiversity provisions in the RMA
 - Option 4: Prepare a National Policy Statement similar to the Biodiversity Collaborative Group recommendation
 - Option 5: Prepare a National Policy Statement using a habitat classification approach.
26. An NPSIB (option 4) alongside guidance and support for councils and landowners (option 1) is the preferred approach. The proposed NPSIB provides a balance between flexibility and the need for clear national requirements for indigenous biodiversity maintenance. It also builds on the extensive work and consensus achieved by a range of stakeholders through the collaborative process summarised below and can be implemented in a relatively short timeframe.

The Biodiversity Collaborative Group's draft NPSIB and recommendations

27. In 2016, a stakeholder-led collaborative process was started with the aim of reaching cross-sector agreement on a National Policy Statement for Indigenous Biodiversity and to provide recommendations on complementary measures.
28. Previous attempts by the government to draft and agree an NPSIB (most recently in 2011) failed due to lack of cross-sector support. Creating the Biodiversity Collaborative Group (BCG) was aimed at encouraging parties with different interests to reach agreement on key concepts while also gaining their support.
29. The BCG was composed of key stakeholders with interests in biodiversity management. It included Forest & Bird, Federated Farmers, the Environmental

Defence Society, the Forest Owners Association and representatives from the extractive/infrastructure industries, as well as the Pou Taiao Iwi Leaders Group, for the Iwi Chairs Forum. 'Active observers' supported the process but were not part of the Group's consensus. Observers came from the Ministry for the Environment (MfE), Department of Conservation (DOC), Ministry for Primary Industries (MPI), Land Information New Zealand (LINZ), Te Puni Kōkiri (TPK), Marlborough District Council and Taranaki Regional Council.

30. The BCG delivered a draft NPSIB and recommendations for complementary measures to me on 1 October 2018 with good cross-stakeholder support for its provisions. Officials have had ongoing discussions with the BCG, who have indicated support for the refined, proposed NPSIB and the consultation process going forward.
31. The Group was clear in its report that the NPSIB was not a complete solution to the biodiversity challenge. It is one intervention within a larger biodiversity system and sits within the wider framework of the NZBS.

Officials have been refining the NPSIB since December 2018

32. The BCG did not reach consensus in every policy area. There was disagreement around how to manage effects within plantation forestry and geothermal areas. Where disagreement remained, officials have revised the policies to ensure that they fit with other national direction instruments (existing or in development), for example the National Environmental Standard for Plantation Forestry, and the National Policy Statement for Renewable Electricity Generation.
33. While the BCG's draft was well-developed, officials have undertaken further analysis and testing. As part of this, I set a programme of pre-engagements with iwi / Māori and stakeholders between December 2018 and April 2019. To date, officials have:
 - engaged with iwi, hapū and whānau in 23 hui
 - hosted a council workshop in February with over 70 territorial and regional council staff members attending to discuss the BCG's draft NPSIB
 - tested the draft with councils through Biomanagers, the Biodiversity Working Group, and the Territorial Authority reference group
 - tested some analysis with the NZBS reference groups in late February and April 2019.
34. Officials have engaged with iwi / Māori during the development of the proposed NPSIB in accordance with government guidelines. An advisor to the Iwi Chairs Forum was involved in the BCG process, and iwi and hapū were invited to early engagement hui in early 2019. There was a range of feedback during this early engagement, including support for stronger biodiversity management in general, taking care to ensure mātauranga Māori is place-based, and in some areas, concern that the NPSIB could impact on iwi / hapū aspirations for land use. There will be a series of hui throughout the consultation period to provide opportunity for further face to face discussion in more detail.

35. Officials have assessed and refined the BCG's draft considering feedback received through these pre-engagements and with other expert input.
36. On August 19, officials shared the most recent draft of the NPSIB and discussed key elements with the BCG. Members were broadly in agreement with the direction of policy proposals. The most significant feedback from the Group was whether officials' recommendation for the commonly used effects management hierarchy was the right tool for managing effects on indigenous biodiversity or whether a more outcomes-based framework was preferable. Both options are included in the discussion document for the public to consider in submissions.
37. The draft has been refined to improve its clarity, workability and technical accuracy, and to fill policy gaps identified by the BCG. The proposed NPSIB has also been reworked to follow a common structure so that it is consistent with other National Policy Statements that have been developed or amended this year. It is now time to test the proposed NPSIB with the wider public.

The core elements of the proposed NPSIB

38. The NPSIB that I am proposing to notify for public consultation is a refined draft based on the BCG's draft and largely consistent with its policy intent. As an NPS under the RMA, regional councils and territorial authorities will have to give effect to it, largely through changes to regional and district plans. Landowners seeking to undertake new activities on their land would have to comply with the new requirements of the NPSIB, however, existing activities that have been lawfully established are provided for.
39. The main focus of the proposed NPSIB is terrestrial biodiversity. Marine and freshwater biodiversity are also important but focusing on terrestrial biodiversity at this stage builds on the BCG's consensus in this area. Further investigation should be made on ways to protect marine biodiversity, including extending the scope of the NPSIB to the coastal marine area in future.
40. The core policy areas of the proposed NPSIB are as follows, with a) - d) described in more detail below:
 - a) A requirement for councils to take into account the principles of the Treaty of Waitangi and engage with tangata whenua on biodiversity in plans
 - b) A foundational concept of Hutia Te Rito and a requirement for councils to recognise and provide for Hutia Te Rito
 - c) A requirement for Significant Natural Area (SNA) identification and mapping to be undertaken by district councils, following principles with their communities such as partnership and transparency, to assess sites using four ecological criteria
 - d) An 'avoid' policy for effects management inside SNAs for most new activities⁵, where four key adverse effects to biodiversity must be avoided, and other adverse effects can be avoided, remedied, mitigated, offset, or compensated

⁵ Partial exceptions apply for infrastructure, mining, papakainga and Māori land with 'medium-value' SNAs.

- e) Alternative effects management for geothermal ecosystems, nationally significant infrastructure, activities on Māori-owned land, single dwellings, and plantation forest SNAs
- f) Providing for existing activities in plans including flexibility for pastoral farming
- g) Broad parameters for the management of biodiversity outside of SNAs, where and as necessary to maintain biodiversity overall
- h) A precautionary approach to biodiversity management where information is uncertain or unknown, and a requirement for councils to consider impacts of climate change on biodiversity
- i) Provisions for information gathering and managing effects on highly mobile fauna
- j) Restoration and enhancement policies, which are largely developing and implementing collaborative regional biodiversity strategies, promoting restoration to communities, and introducing restoration targets for biodiversity-depleted and urban areas
- k) A requirement for councils to have methods to monitor key aspects of biodiversity

Working with tangata whenua (Clause 3.3; supports NZBS Outcome 2)

- 41. There is a requirement for councils to take into account the principles of the Treaty of Waitangi and engage early and effectively with tangata whenua when preparing regional and district plan components regarding indigenous biodiversity.
- 42. The proposal also includes the foundational concept of ‘Hutia Te Rito’⁶ that was provided to the BCG by the Iwi Science Panel. This concept emphasises the interconnections between people, terrestrial biodiversity and the environment - and the consequences of disrupting these linkages. The proposed NPSIB will require councils to recognise and provide for Hutia Te Rito in regional and district plans.

Identifying and managing Significant Natural Areas (Clauses 3.8-3.9; supports NZBS Outcomes 3 and 4)

- 43. SNAs are places where significant indigenous biodiversity is present. Protecting these places is important for achieving biodiversity strategy goals such as ‘no net loss of rare indigenous habitat’. The proposed NPSIB balances the protection of these areas from new activities, while providing for existing activities to continue and for other activities that are important for New Zealand’s social, cultural and economic outcomes.
- 44. The proposed NPSIB includes a requirement for territorial authorities to identify and map SNAs on both public and private land using four nationally consistent

⁶ From the proverb ‘Hutia te rito o te harakeke/Kei hea te Kōmako, e kō?’ When the centre of the flax bush is picked/Where will the bellbird sing? ‘Hutia te rito’ provides a framework for considering the integrated and holistic well-being of the environment. It is consistent with the concept of ‘te mana o te wai’ in the National Policy Statement for Freshwater Management. Both recognise that the health of the environment is integral to our wellbeing.

criteria. For example, an area of indigenous vegetation occurring on sand-dunes would qualify as an SNA under the 'rarity and distinctiveness' criterion.

45. This will provide an understanding of what needs to be protected and plan rules will include the requirement to avoid specific adverse effects on the ecology of that area. Identifying SNAs provides certainty to landowners about what areas of significant indigenous biodiversity are on their land.
46. The SNA identification criteria that have been developed are not intended to capture all indigenous vegetation or habitat, but to identify the significant vegetation and habitats needing protection and management, in order to maintain biodiversity across New Zealand.
47. A core aspect of the identification process is how territorial authorities work with landowners. The proposed NPSIB highlights partnership, transparency and quality as key principles to guide interactions between councils and landowners.
48. Approximately 39 percent of councils have undertaken no or very limited SNA identification. There will be a change to the status quo for these councils and implementation of the proposed NPSIB will be more resource intensive in the first few years after gazettal, requiring new areas to be identified and managed as SNAs.
49. Landowners will need to manage new activities to 'avoid' adverse effects to key ecological characteristics that are critical for maintaining the most significant of New Zealand's biodiversity. Other adverse effects are first avoided if possible, then remedied, mitigated, offset, or compensated for, demonstrated in this order.
50. Land that is used for industry, farming, forestry and other social, cultural and economic reasons can also be important for indigenous biodiversity. The proposed NPSIB recognises this and contains exceptions to provide for these activities while managing effects on biodiversity. Care is needed to allow for the economic development of Māori land, given the high level of indigenous vegetation cover on this land.
51. There are two policy areas that include options for testing through consultation: managing effects to indigenous biodiversity in geothermal areas; and identifying SNAs on public land. I will bring policy direction on these areas to Cabinet following consultation.
52. The use of national identification criteria and effects management will mean that the ecological value of SNAs is more transparent across New Zealand and better able to be protected. This will contribute to a more consistent regulatory process, with greater certainty and less litigation for councils and landowners. The discussion document provides scenarios of how these policies would impact different land users, developed with the support of BCG members.

Other provisions and complementary measures

53. The proposed NPSIB has a number of other provisions which include: management of biodiversity outside SNAs; use of a precautionary approach where information is uncertain or unknown; a need to consider climate change impacts on biodiversity; information on and management of highly mobile fauna; and monitoring key aspects of biodiversity so that progress can be checked.

54. The BCG suggested a need for complementary and supporting measures to assist NPSIB implementation. I propose testing a selection of supporting measures through consultation, namely:
- a) Guidance and implementation support for councils, which could include technical guidance, liaison with officials, and funding ecological expertise, particularly for identifying and mapping SNAs
 - b) What support landowners need to manage SNAs
 - c) Whether the Crown should identify and map SNAs on Crown-owned public land that does not pay rates, rather than councils and ratepayers covering these costs
 - d) The resourcing of covenanting bodies to protect and restore biodiversity on private and Māori-owned land (including QEII covenants and Ngā Whenua Rāhui).
55. In addition to these four main complementary measures, I have also heard through early engagement that iwi / Māori and owners of Māori land will need support to effectively engage with councils on biodiversity matters.
56. These measures are described in the discussion document at a high level and without budget commitments. Government can then decide if support is warranted and what the nature and quantum of that support needs to be.
57. The New Zealand Biodiversity Strategy proposes a broad framework of non-regulatory interventions, including incentives / support for landowners and communities, and a clear role for mana whenua in decision-making. Many of these measures will be considered through future NZBS implementation programmes.

Alignment with other government policies

58. Throughout its development, the BCG and officials have worked to align the NPSIB with other government policy priorities. These include:
- a. climate change (The Zero Carbon targets, ETS reform and Just Transitions work programme; the renewable electricity targets)
 - b. the Essential Freshwater programme to improve freshwater quality and water allocation
 - c. mining reforms (reform of Crown Minerals Act; no new mining on Conservation land)
 - d. land use support and incentives (The Green Investment Fund and projects for Māori Land; The Provincial Growth Fund; 1 Billion Trees programme)
 - e. biosecurity reform
 - f. Kiwibuild and the provision of land and supply of aggregate for housing
 - g. New Zealand's contribution to addressing global issues.
59. The recently initiated review of the RMA will examine the broader and deeper changes that may be needed to support the transition to a more productive, sustainable and inclusive economy. The review will recommend ways that the system can deliver better outcomes for our built and natural environments. It is

expected that biodiversity identification and protection is likely to remain important in any new framework.

60. Four other areas of statutory national direction are being consulted on between August and December 2019: highly productive land, urban development, freshwater and air quality. These policy tools are intended to complement each other and retain flexibility for councils to make any necessary trade-offs in their districts or regions. The proposed NPSIB is aligned with these and we recognise that extra care will be needed post-consultation to minimise the risk of duplications or gaps. Officials have assessed these interactions and continue to work across departments in terms of policy integration and implementation.
61. The discussion document outlines and seeks feedback on the interactions between proposed and existing national direction tools and the proposed NPSIB.

Impacts and benefits of the proposed NPSIB

62. Officials have undertaken a Cost Benefit Analysis (CBA) to inform the RIS and Section 32 evaluation report. The CBA, as it currently stands, concludes that the aggregate, long-term and cumulative benefits of implementing the proposed NPSIB will outweigh the expected aggregate and generally short-term costs. Some of the costs to councils and landowners could be mitigated by investment from central government.
63. Evaluation of the impacts and benefits is not finalised and will be informed by consultation and further analysis. The discussion document includes questions around costs and benefits to landowners, tangata whenua and councils. This information will inform an updated CBA, before Cabinet decisions on the final NPSIB in 2020.
64. The overarching benefit is to all New Zealanders and visitors, so that current and future generations can continue to enjoy our unique biodiversity and benefit from the ecosystem services it provides.

Councils

65. Councils will benefit from clear policy direction and clarification of their roles and responsibilities under the RMA, allowing them to manage indigenous biodiversity and other land use activities more effectively. Reduced litigation and cost savings over time are likely. Regional councils will be better placed to evaluate the effectiveness of their regulatory framework. Having regional monitoring plans and biodiversity strategies will help leverage community support more efficiently.
66. Depending on the work they have already done, and the nature of the areas they are responsible for, some councils will face significant short-term costs (in the first five years after gazettal) to implement the NPSIB. For councils that have identified SNAs and are managing effects both on SNAs and other areas of biodiversity, the task will be more one of review than creation.
67. For those 39 percent of councils that have not or only partially identified SNAs, the work involves identifying potential sites through aerial maps and ground

visits⁷. The NPS criteria are then applied, and the indicative sites mapped. These sites and the supporting provisions are then taken through an RMA plan change (or review).

68. The size of this task will vary, but economies of scale are likely to be possible from incorporating other national direction requirements in plan changes at the same time.
69. Regional councils will need to collaborate with district councils to develop a biodiversity strategy, monitoring plan and recording areas used by highly mobile fauna. Monitoring costs and the costs of updating plans will be ongoing.
70. For regional councils and unitary authorities, the additional costs of developing and implementing indigenous biodiversity monitoring programmes depend on the comprehensiveness of current regional state of the environment monitoring for indigenous biodiversity. The CBD estimates costs of \$100,000-\$400,000 per annum, per region⁸.

The Crown

71. There is an issue whether the Crown should identify and map SNAs on land it manages. Such a requirement could lead to some government departments needing to undertake identification of SNAs on land they manage, such as public conservation land or road reserves. This would mainly affect LINZ, DOC, New Zealand Transport Agency (NZTA) and the New Zealand Defence Force (NZDF). I propose to test four options for this through consultation.

Iwi / Māori

72. Iwi / Māori will benefit from greater involvement in resource management and decision-making through better incorporation of the concepts of te ao Māori, mātauranga Māori and tikanga Māori in council practices. Māori landowners will have the ability to carry out existing and new activities within limits.
73. Iwi / Māori will bear costs through the requirement for councils to engage with them. This is likely to be beyond existing capacity for many iwi and hapū.

Landowners

74. Landowners will benefit from greater certainty on the location and value of SNAs on their land and how that may affect their operations and future plans. They will be able to carry out existing and new activities within limits. The greater clarity brought by the NPSIB should reduce time and other costs associated with RMA processes and litigation. The ecosystem services that indigenous biodiversity provides (e.g. carbon sequestration, climate and water regulation, nutrient cycling, soil formation and erosion stabilisation, water purification, pollination, recreation, eco-tourism, aesthetics) will be protected, with direct and flow-on benefits to landowners and local communities. Rural landowners may choose to align these outcomes through Farm Environment Plans, as proposed in the Action for Freshwater package, which would assist in their business planning.

⁷ Councils that have identified SNAs will need to classify them as 'high' or 'medium' and check that they substantially conform to the NPSIB.

⁸ Based on estimates from interview case studies of six councils. The results are not easily applied across all councils due to the variability of monitoring that councils are already undertaking.

75. For landowners, cost impacts are less certain. Many landowners won't be affected as SNAs don't exist on all properties, and some are already identified by councils and protected by the landowner. It is difficult to make an assessment on the quantum of costs due to the variability of SNAs (location, frequency, type, size).
76. For properties where an SNA has been identified, a landowner will only need to do something (and incur costs) if they want to change the way they use the land within the SNA, triggering a resource consent process. Where the intended land use is not suitable, there could be indirect costs, for example if development opportunities are limited. This impact will be to both rural and urban landowners if undertaking new activities on their land where significant indigenous biodiversity is present.
77. The CBA identified and described costs and benefits across a range of stakeholders and factors but was unable to quantify many of these due to the complexity of monetising non-market values. This is particularly so with regards to the values of indigenous biodiversity.
78. There are currently several national environmental policy proposals in development that will have cumulative impacts on communities. Officials recognise this and are working to assess and quantify these impacts. Further advice will be provided in 2020 to inform final policy decisions.

Implementation and support

79. The provisions in the proposed NPSIB are wide ranging and impactful. There is a general requirement for local authorities to implement the NPSIB as soon as practicable and no later than 2028. There are various specific timeframes for undertaking SNA identification, mapping and scheduling, and for developing regional strategies. These timeframes range from three to six years post-gazettal.
80. The place of the NPSIB in terms of the overall timing and amount of national direction is an important consideration for effective implementation. There is a risk of overloading regional and local ratepayers' ability to fund additional capacity and capability and straining the ability of iwi / Māori to engage effectively. The question of central government support therefore needs to be carefully considered.
81. Direct support may be warranted to assist with aspects of implementing the NPSIB. Technical guidance and liaison will be required as a minimum, with costs estimated at between \$1.77m-\$2.65m over five years. This would likely be funded within existing agency baselines. Options for agency support could include facilitating best practice and collaboration or working directly with the least-resourced councils.
82. Other supporting measures could take the form of funding for iwi / Māori, councils and landowners. Landowner support could also be delivered through existing covenanting programmes that support landowners, such as QEII and Ngā Whenua Rāhui.
83. Ministers responsible for the International Visitors Levy (IVL) initiative (Conservation, Tourism and Finance) have indicatively agreed that supporting

implementation of the NPSIB is one of the priorities for the IVL. Funding could be provided from the IVL, provisionally to support councils and private landowners to identify and protect SNAs and highly mobile fauna. The NPSIB will need to be finalised before Ministers determine whether those or other activities are the highest priorities for IVL funding, and whether to approve an investment plan for NPSIB implementation support.

84. Officials are considering support options alongside the implementation requirements of other national direction. I expect support for implementation to be considered as part of normal budget processes, before the NPSIB is finalised.

Timeframes and public engagement

85. Collective buy-in is critical for the delivery of NPSIB proposals. Extensive early engagement through hui with iwi / Māori and key stakeholders has helped inform the proposed NPSIB and supporting documents.
86. I intend to release a package of documents on approximately 25 November 2019 until 14 March 2020, to test the proposed NPSIB with the wider public over 16 weeks. The package includes the attached discussion document, proposed NPSIB, Section 32 report / CBA and RIS. Officials are developing a process for engagements and hui from early February to mid-March 2020. Hui, public meetings and social media engagement are planned to solicit feedback on the proposals and build support from key stakeholders and the general public.
87. The BCG members have indicated they are supportive of the engagement approach and are willing to be part of public communications and engagement processes.

Departmental consultation

88. The following agencies have been provided this Cabinet paper and the draft discussion document, and their comments have been incorporated where received: DOC, MPI, Te Uru Rākau, LINZ, Te Puni Kōkiri, Ministry of Business Innovation & Employment (MBIE) Ministry for Housing and Urban Development (MHUD), the Office for Māori Crown Relations - Te Arawhiti, the Treasury, and the Department of Prime Minister and Cabinet.
89. Officials have consulted with MHUD and incorporated feedback. MHUD questioned how local authorities would meet the obligations of the proposed NPSIB, particularly in relation to the restoration targets in urban areas. Officials have worked to ensure the proposed NPSIB is compatible with the National Policy Statement for Urban Development. The policy intends that timeframes to achieve the targets would be determined by the council and community. Actions and methods to reach the targets would be flexible and largely involve encouraging or supporting community restoration efforts.
90. Officials worked with MBIE to resolve energy sector concerns regarding geothermal areas. Options will be tested through the discussion document.
91. Officials also worked with Te Uru Rākau to resolve forestry sector concerns regarding identification and management of significant indigenous vegetation and significant habitat of indigenous fauna in plantation forestry. The proposal for public consultation is a flexible management approach, focusing on

threatened and at-risk flora and fauna within plantation forestry. The detailed management approach would be mainly implemented through changes in the National Environmental Standard for Plantation Forestry once the NPSIB is finalised.

92. Officials continue to work across central government agencies to ensure that these instruments are aligned in both policy intent and implementation.

Financial implications

93. There are no direct financial implications from the decisions sought in this paper.

Legislative implications

94. In 2011, the Government consulted on, but did not finalise, a proposed national policy statement on indigenous biodiversity. This document is withdrawn as it is superseded by the current proposal. I will give public notice of the withdrawal in line with section 51A of the RMA.
95. Following consultation, I will follow a Minister-led statutory process for finalising the 2019 proposed NPSIB under delegation from the Minister for the Environment. I will then report back to Cabinet.
96. I propose that Cabinet approve the release of the discussion document, proposed NPSIB, Section 32 / CBA report and RIS, and also delegate responsibility for any final changes to the discussion document and NPSIB that give effect to the policies in this paper to the Associate Minister for the Environment (Hon Nanaia Mahuta).

Regulatory Impact Analysis

97. A Quality Assurance Panel with representatives from the Ministry for the Environment and the Department of Conservation has reviewed the RIS and considers that it meets the Quality Assurance criteria. The Panel considers the RIS convincingly sets out the evidence base for intervention that has accumulated over the preceding years and draws on a comprehensive process by the Biodiversity Collaborative Group to make the case for the proposed intervention. The Panel considers that, in addition to the preferred option, a range of alternative options have been given serious consideration and a sound case is made for the preferred package.
98. It is difficult to have precise information on all aspects of the costs of the proposed option, particularly the impacts on landowners. The Panel considers that, as this is a pre-consultation RIS, the information on costs to stakeholders and the relatively high-level content on supporting measures is appropriate, given the consultation will look to elicit information on these particular things. The Panel considers that it will be important to ensure that the consultation is designed in a way that will draw out further information on costs and impacts, in particular on the relative ability of landowners and the public to bear the costs.

Climate implications of policy assessment (CIPA)

99. The development of the proposed NPSIB has advanced prior to the CIPA requirement. As such, climate change impact analysis of the proposal has not been quantified. However, officials consider that the proposed NPSIB will provide an overall benefit for climate change. The proposed NPSIB would require councils to consider the impacts of climate change at a strategic level in the management of indigenous biodiversity. Additionally, indigenous vegetation cover promotes carbon sequestration and resilience to the effects of climate change – and this vegetation cover would be retained more than the status quo if the NPSIB is finalised.

Human Rights, gender and disability implications

100. This paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

101. There are no gender implications.

102. There are no disability implications.

Publicity and proactive release

103. A press release and announcement are planned for the launch of the consultation period.

104. I propose to provide an embargoed copy of the discussion document and proposed NPSIB to the BCG prior to the launch. I also propose to proactively release the Cabinet paper within 30 working days of Cabinet's decision.

Recommendations

The Associate Minister for the Environment recommends that Cabinet:

1. **Note** that New Zealand's indigenous biodiversity is in crisis and that the Government is currently developing a refreshed New Zealand Biodiversity Strategy as an overarching framework to address this crisis
2. **Note** that the Biodiversity Strategy needs to be underpinned by a clear regulatory approach to halt the further decline of indigenous biodiversity
3. **Note** that the proposed National Policy Statement for Indigenous Biodiversity (NPSIB) can provide this approach for terrestrial biodiversity, supported by other national direction instruments under the Resource Management Act

4. **Note** that the proposed NPSIB largely reflects the policy direction of the Biodiversity Collaborative Group, that included members representing Federated Farmers, Forest and Bird, the Environmental Defence Society, the Forest Owners Association and representatives from the extractive and infrastructure industries, as well as the Pou Taiao Iwi Leaders Group, for the Iwi Chairs Forum
5. **Agree** to explore how the NPSIB could include the coastal marine area in future.
6. **Note** that the proposed NPSIB includes the following provisions:
 - a) A requirement for councils to take into account the principles of the Treaty of Waitangi and engage with tangata whenua on biodiversity in plans
 - b) A foundational concept of Hutia Te Rito and a requirement for councils to recognise and provide for Hutia Te Rito
 - c) A requirement for Significant Natural Area (SNA) identification and mapping to be undertaken by district councils, following principles with their communities such as partnership and transparency, to assess sites using four ecological criteria
 - d) An 'avoid' policy for effects management inside SNAs for most new activities⁹, where four key adverse effects to biodiversity must be avoided, and other adverse effects can be avoided, remedied, mitigated, offset, or compensated
 - l) Alternative effects management for geothermal ecosystems, nationally significant infrastructure, activities on Māori-owned land, single dwellings, and plantation forest SNAs
 - e) Geothermal and plantation forest SNAs
 - f) Providing for existing activities in plans including flexibility for pastoral farming
 - g) Broad parameters for the management of biodiversity outside of SNAs, where and as necessary to maintain biodiversity overall
 - h) A precautionary approach to biodiversity management where information is uncertain or unknown, and a requirement for councils to consider impacts of climate change on biodiversity
 - i) Provisions for information gathering and managing effects on highly mobile fauna
 - j) Restoration and enhancement policies, which are largely developing and implementing collaborative regional biodiversity strategies, promoting restoration to communities, and introducing restoration targets for biodiversity-depleted and urban areas
 - k) A requirement for councils to have methods to monitor key aspects of biodiversity

⁹ Partial exceptions apply for infrastructure, mining, papakainga and Māori land with 'medium-value' SNAs.

7. **Note** that there will be implementation costs to councils and some landowners to implement the NPSIB. Many of the costs could be mitigated through central government support for councils and landowners
8. **Note** that extensive feedback on implementation support is expected. I will report back to Cabinet in 2020 with policy and resourcing recommendations, and may seek budget for implementation
9. **Note** that officials will update the CBA following consultation and further analysis of cumulative impacts of this and other policy proposals
10. **Note** that I will follow a Minister-led process for finalising the NPSIB under delegation from the Minister for the Environment
11. **Note** that the RIS meets quality assurance requirements
12. **Note** that I am withdrawing the proposed 2011 NPSIB, in line with section 51A of the RMA
13. **Agree** to release the discussion document, Section 32 / Cost Benefit Analysis and Regulatory Impact Statement alongside a proposed NPSIB for the purposes of public consultation from approximately 25 November 2019 to 14 March 2020.
14. **Note** that engagements and hui will take place between early February and mid-March 2020 to support public consultation, and that this process will be supported by Biodiversity Collaborative Group members
15. **Agree** that the Associate Minister for the Environment (Hon Nanaia Mahuta) may make minor amendments to the discussion document, including to the title before its release.

Authorised for lodgement

Hon Nanaia Mahuta

Associate Minister for the Environment