



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Andrew Hoggard	<b>Portfolio</b>	Environment
<b>Name of package</b>	Proposed cessation of new significant natural areas and review of their operation	<b>Date to be published</b>	10 July 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
29 February 2024	Cabinet paper: Proposed cessation of new significant natural areas and review of their operation	Associate Ministry for the Environment
6 March 2024	ECO-24-MIN-0021 – Cabinet Economic Policy Committee Minute of Decision	Cabinet Office
8 March 2024	CAB-24-MIN-0069 – Cabinet Minute of Decision	Cabinet Office

### Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### Summary of reasons for redaction

Some information has been withheld from the Cabinet Paper under:

- Section 9(2)(h) of the Official Information Act to maintain legal professional privilege.

## Policy and Privacy

### In-Confidence

Office of the Associate Minister for the Environment

ECO - Cabinet Economic Policy Committee

## Proposed cessation of new significant natural areas and review of their operation

### Proposal

- 1 This paper seeks Cabinet agreement to amend the National Policy Statement Indigenous Biodiversity (NPSIB) to suspend the implementation of new significant natural areas (SNAs) under its provisions for three years and outlines my approach to reviewing the operation of SNAs.

### Relation to government priorities

- 2 The proposals in this paper give effect to the Government's 100-day plan to rebuild the economy and ease the cost of living by delivering action 22: "Begin to cease implementation of new SNAs and seek advice on operation of the areas".

### Executive Summary

- 3 The Resource Management Act 1991 (RMA) requires all persons exercising functions and powers under it, to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- 4 The NPSIB came into force in August 2023. It provides objectives and policies (including implementation requirements) for councils to maintain indigenous biodiversity. Amongst other matters, the NPSIB requires councils to assess their districts, identify SNAs and include them within their plans. The NPSIB also contains policy directed at the management of SNAs and specifies timeframes for those actions.
- 5 This Government is committed to valuing and protecting New Zealand's biodiversity for future generations. However, the approach in the NPSIB to the identification of SNAs appears to be too broad. I have heard that the NPSIB's SNA identification provisions are likely to capture areas with less significant indigenous biodiversity and overly burden farmers, Post Settlement Government Entities (PSGEs) and Treaty Partners, landowners, infrastructure providers and developers.
- 6 I propose to:
  - 6.1 amend the NPSIB to suspend the implementation of new SNAs under its provisions for three years
  - 6.2 start a review of the SNA provisions in the NPSIB in the second quarter of 2024 to provide advice on the operation of SNAs, which may result in further changes to the NPSIB.

## INCONFIDENCE

- 7 Amending the NPSIB would be delivered via a Resource Management Amendment Bill (the Bill) [CAB-24-MIN-0008 refers].
- 8 I will be undertaking targeted engagement on the changes to the NPSIB prior to the introduction of the Bill as well as broader engagement on the review.

### Background

- 9 The RMA requires councils to establish, implement and review objectives, policies and methods to maintain indigenous biodiversity and to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna as matters of national importance - refer section 6(c), 30 and 31.
- 10 Councils are at different stages of giving effect to these requirements and have instituted a range of approaches to fulfil their RMA obligations including identifying and protecting SNAs (or similarly named protected areas) in their plans and policy statements.
- 11 The NPSIB came into force in August 2023. It codifies the requirements of the RMA, providing a consistent framework and criteria for councils to identify and include SNAs within their plans, manage the effects of development on SNAs and specifies timeframes for those actions.
- 12 The NPSIB requires councils to, among other things:
- 12.1 undertake an assessment of the land in their district to identify SNAs (Clause 3.8(1)). This assessment must apply ecological criteria set out in the NPSIB (NPSIB Appendix 1) and be undertaken in accordance with a set of defined principles (Clause 3.8(2))
  - 12.2 notify a plan or plan change to include areas in its district identified as qualifying as an SNA by August 2028 (Clauses 3.9 and 4.2)
  - 12.3 include areas of land identified as SNAs as they become aware of them (eg, as a result of a resource consent application) in the next appropriate notified plan or plan change (Clause 3.8(6))
  - 12.4 allow established activities in SNAs (such as farming) to continue provided they do not increase adverse effects on SNAs. Existing uses rights under the RMA are also not affected by the NPSIB
- 12.s provide for certain uses and development that have wider economic, social and cultural benefits such as infrastructure, mining, forestry and pasture.
- 13 Some regional councils such as Waikato, Wellington, Canterbury, and Otago include SNA identification criteria within their plans and policy statements to meet their RMA obligations. A number of councils have also used criteria similar to those in the NPSIB in their plans and policy statements - including Auckland, Waipa, South Waikato, Taupo, Whakatane, Kapiti, Porirua and Gore.

### Amending the NPSIB to cease implementation of new SNAs

- 14 This Government is committed to valuing and protecting New Zealand's biodiversity for future generations; however, feedback we have received is that the approach directed by the NPSIB captures less significant indigenous biodiversity and overly

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burdens farmers, PSGEs and Treaty Partners, landowners, infrastructure providers and developers.

- 15 I propose to amend the NPSIB to suspend the direction to councils to assess their districts and include areas qualifying as SNAs in their plans. I propose that this suspension apply for three years from the date of the change taking effect.
- 16 Doing this would move commencement of the NPSIB requirement to identify new SNAs to circa 2027 (depending on when the change takes effect), allowing time for the Government to review the operation of SNAs under the NPSIB (discussed in the next section) and make any necessary changes.
- 17 This change could be achieved by amending all or part of the following NPSIB clauses:
  - 17.1 Clause 3.8, which sets out the process and requires councils to commence assessments of their districts for areas that qualify as SNAs
  - 17.2 Clause 3.9, which require councils to identify and notify SNAs in district plans
  - 17.3 Clauses 4.1 and 4.2, which set the timeframes for councils to implement SNAs.
- 18 There may be a need to make any consequential changes to the NPSIB to implement the changes set out above (including transitional provisions as required).
- 19 The proposed changes would not affect councils' existing RMA obligations under section 6(c) of the RMA to recognise and provide for areas of significant indigenous vegetation and significant habitats of indigenous fauna in accordance with their plans. Councils may still continue to notify plans which include newly identified SNAs to meet these obligations. Nor would the changes stop processes initiated before the NPSIB came into force including SNAs and biodiversity protection rules already in plans and policy statements.
- 20 An alternative option that was considered but not favoured, was to extend the timeframes for councils to include SNAs in plans by a fixed period of time. This option would not remove the direction to councils to undertake NPSIB-based assessments and include new SNAs in their plans but would allow councils to deprioritise such activity until a review was undertaken and the national direction settled. This option was not favoured as it provided less certainty to councils and landowners about whether new SNAs could be identified under the NPSIB and affect landowners.
- 21 I also considered whether it would be appropriate to revoke the NPSIB in its entirety. I do not favour this approach because it would not remove existing RMA obligations for councils, but it would remove any direction to councils about how to achieve those obligations. The NPSIB in its current form does provide for activities needed for social, economic and cultural wellbeing, and I am concerned that revoking it in full may have unintended impacts. It is not certain that the consent pathways and permissions would be carried forward by councils without the direction in place.
- 22 My preferred approach is to suspend the NPSIB direction to councils, as not doing so risks councils, Treaty Partners, communities and businesses wasting resources and effort implementing national direction requirements that may change following a review.

## Review of the operation of SNAs

- 23 I have directed officials to initiate scoping of an official-led review of the operation of SNAs to commence in the second quarter of 2024.
- 24 I intend the scope of the review to look at the NPSIB's SNA identification criteria and processes, and the use of SNAs under the provisions of the RMA, to address stakeholder concerns. It will also assess how the NPSIB directs the management of new development and land uses in areas identified as SNAs, and processes for engaging with landowners.
- 25 I intend to refine the scope and terms of reference for the review in consultation with the Minister for the Environment, Minister for Conservation and Minister for Maori Crown Relations as well as input from councils, targeted technical experts, key stakeholders and Treaty Partners.
- 26 The review will then work with a broader range of technical experts, stakeholders and PSGEs and Treaty Partners as well as other agencies on the operation of SNAs under the NPSIB with the aim of identifying key issues and potential solutions.
- 27 The outcome of the review may result in developing and delivery of alternatives to national direction. If changes to the NPSIB are necessary following the review, including whether it should be revoked in full, these can be progressed through the processes set out in the RMA which will include consultation with the public and Iwi authorities. I will seek further Cabinet decisions on that when needed.

## Implementation

- 28 I propose to make the proposed amendments to the NPSIB via a legislative amendment to the RMA (discussed below in the legislative implications section), as opposed to using the standard process for changing national direction via s53 and s46A of the RMA. A legislative process will be quicker, which is necessary to provide certainty to stakeholders while a review of the operation of SNAs under the NPSIB is undertaken.

29 s9(2)(h)



s9(2)(h)



30 s9(2)(h)



s9(2)(h)

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**Cost-of-living Implications**

33 No cost-of-living implications have been identified in relation to this proposal.

**Financial Implications**

34 There are no immediate financial implications for the Government. There may be implications for councils in terms of recent Long-Term Planning and financial delegations made based on existing timeframes and expectations for implementation of the NPSIB.

**Legislative Implications**

35 I propose that the amendments to the NPSIB be made via the Resource Management Amendment Bill that Cabinet has noted would be introduced by April 2024 [CAB-24-MIN-0008 refers]. This is subject to decisions about the scope of the Bill and that there is sufficient time to include the NPSIB amendments into that Bill process.

36 The amendments to the NPSIB will be discrete and reasonably straight forward. There are no anticipated issues for drafting.

37 Nonetheless, I seek delegation from Cabinet to approve PCO to make minor and technical drafting changes as needed to achieve the policy intent and ensure a smooth transition.

38 The review of the operation of SNAs may result in subsequent substantive amendments to the NPSIB, which will be addressed via a subsequent RMA process.

### Impact Analysis

#### *Regulatory Impact Statement*

39 The Treasury's Regulatory Impact Analysis Team has determined that the proposal to amend the NPSIB to cease implementation of the new SNAs for three years is not subject to Cabinet's impact analysis requirements as amended by Cabinet for 100 Day Plan proposals [CAB-23-MIN-0468].

#### *Treaty Impact analysis*

40 The RMA requires the principles of te Tiriti o Waitangi and kaitiakitanga (Section 7(a)) to be taken into account when developing national direction. It also requires anyone exercising authority under the RMA to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites and other taonga (Section 6(e)).

41 s9(2)(h)

42 Officials carried out an assessment of the impacts on Maori and on the consistency of the NPSIB with te Tiriti o Waitangi prior to the NPSIB being made<sup>1</sup>. The final NPSIB sought to address the concerns about SNA identification raised by tangata whenua through the development of the national direction.

43 Based on prior engagement, the recommendation to amend the NPSIB to cease implementation of new SNAs, pending the outcome of a review, is likely to be supported by some Maori, in particular those that have extensive indigenous vegetation cover on their lands. However, it is likely that there could be disapproval, s9(2)(h) from other Maori/iwi/hapO groups given their close relationship and responsibilities as kaitiaki to care for and nurture the environment.

44 During the development of the NPSIB, some tangata whenua sought direct engagement while others requested greater involvement in the design of the NPSIB. Some treaty settlement deeds and accords require specific engagement requirements to be met when making key policy decisions on national direction.

45 s9(2)(h)

<sup>1</sup>This assessment was undertaken in accordance with the guidance set out in Cabinet Circular CO(19)5.

*Climate Implications of Policy Assessment*

- 46 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal as it not expected to result in any significant, direct emissions impacts.

**Population Implications**

- 47 No policy impacts have been identified for any specific population groups.

**Human Rights**

- 48 No policy implications have been identified relating to the New Zealand Bill of Rights Act 1990 or Human Rights Act 1993.

**Use of external Resources**

- 49 No external resources have been used as part of the policy process.

**Consultation**

- 50 The following agencies were informed of the content of this paper: Department of Prime Minister and Cabinet, the Treasury, Department of Internal Affairs, Department of Conservation (DOC), Te Puni Kokiri; Te Arawhiti, Ministry of Business, Innovation and Employment (MBIE), Ministry for Primary Industries (MPI) and Land Information New Zealand, Ministry of Foreign Affairs and Trade, Te Uru Rakau - New Zealand Forest Service, New Zealand Defence Force, and NZ Transport Agency Waka Kotahi.

**Engagement**

- 51 Changes to NPSIB were clearly identified, communicated and prioritised within the Government's 100 Day Action Plan. The Government's approach will be of interest to a range of stakeholders and PSGEs and Treaty Partners. I anticipate that stakeholders and PSGEs and Treaty Partners will be keen to participate in the forthcoming review, there will also however be interest on the proposed changes to the NPSIB.

- 52 There is limited time for meaningful and broad engagement prior to the introduction of the Bill. I therefore propose to undertake targeted engagement with key Maori groups (including Iwi Leaders Group, Pou Taiao), organisations that were part of the Biodiversity Collaborative Group, and local government representative organisations.

- 53 s9(2)(h)

- 54 I propose that this targeted engagement will be between 12 - 21 March. Information will be provided in writing and invite feedback either in writing or verbally via online hui. There is some risk that it will be shared widely, however given the timeframe, we consider this the most appropriate approach to maximising effort and resource.

- 55 Any feedback received will be incorporated into Cabinet consideration of the Resource Management Amendment Bill.

- 56 The review process will likely include targeted engagement with key stakeholders, councils, PSGEs and Treaty Partners, and the public, and will include expert input as appropriate.

### Proactive Release

- 57 I intend to proactively release this Cabinet paper following Cabinet decisions and the introduction of the Bill, subject to redactions as appropriate under the Official Information Act 1982.

### Recommendations

The Associate Minister for the Environment recommends that Cabinet:

#### *Background*

- 1 **note** that the proposals in this Cabinet paper seek to deliver on the Government's 100-Day plan commitment to "Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas" [CAB-23-MIN-0468 refers]
- 2 **note** that this Government is concerned that the National Policy Statement for Indigenous Biodiversity (NPSIB) approach to identifying Significant Natural Areas (SNAs) is too broad, and could capture areas with less significant indigenous biodiversity and overly burden farmers, PSGEs and Treaty Partners, landowners, infrastructure providers and developers

#### *Amend the NPSIB to suspend the implementation of SNAs under the NPSIB*

- 3 **agree** to suspend the clauses in the NPSIB that direct councils to identify new SNAs and include them in their plans
- 4 **agree** that the suspension of those clauses should be for a period of three years from the date the change to the NPSIB takes effect
- 5 **note** that this will allow time for a proposed review of the SNA provisions in the NPSIB, particularly the SNA identification criteria and processes to address concerns raised by some stakeholders such as that the criteria are too broad and the processes are burdensome
- 6 **agree** to include provision(s) in the Bill to clarify that the proposed amendments to the NPSIB do not affect councils' Resource Management Act 1991 (RMA) obligations to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, or stop processes initiated before the NPSIB came into force
- 7 **agree** to make agreed amendments to the NPSIB, via a Resource Management Amendment Bill [CAB-24-MIN-0008 refers]
- 8 **note** that I considered whether to revoke the NPSIB in its entirety, but do not favour this approach as the current provisions for activities that have social, economic and cultural benefits may not be carried into council plans without the direction in place

#### *Drafting instructions*

- 9 **authorise** the Associate Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement recommendations in this paper

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- 10 **authorise** the Associate Minister for the Environment to approve associated minor and technical changes to the proposed amendments identified during drafting

*Engagement*

- 11 **note** that the changes to NPSIB were clearly identified, communicated and prioritised within the Government's 100 Day Action Plan
- 12 **note** there is limited time for meaningful and broad engagement prior to the introduction of the Bill
- 13 **agree** that officials undertake targeted engagement between 12 - 21 March with key Maori representative organisations (including Iwi Leaders Group, Pou Taiao), relevant organisations that were part of the Biodiversity Collaborative Group, and local government representative organisations
- 14 **note** that relevant feedback will be incorporated into Cabinet consideration of the Resource Management Act Amendment Bill

*Commence a review of the SNA provisions in the NPSIB*

- 15 **note** that the Associate Minister for the Environment has directed officials to commence a review of the SNA provisions in the NPSIB
- 16 **note** that the Associate Minister for the Environment will determine the scope and terms of reference for the review, in consultation with the Minister for the Environment and Minister of Conservation and Minister for Maori Crown Relations
- 17 **note** that the review process will likely include targeted engagement with key stakeholders, councils, Maori and the public, and will include expert input as appropriate
- 18 **note** that any necessary changes to the NPSIB based on the findings of the review can be progressed through the review processes set out in the RMA and I will return to Cabinet seeking agreement on the appropriate process

*Communication*

- 19 **approve** the proactive release of this Cabinet paper following Cabinet decisions and the introduction of the Bill, subject to redactions as appropriate under the Official Information Act 1982.

Authorised for lodgement

Hon Andrew Hoggard

Associate Minister for the Environment



# Cabinet Economic Policy Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Proposed Cessation of New Significant Natural Areas and Review of their Operation

Portfolio                      Associate Environment

On 6 March 2024, the Cabinet Economic Policy Committee:

#### Background

- 1        **noted** that the decisions in the paper under ECO-24-SUB-0024 seek to deliver on the Government's 100-Day plan commitment to "Begin to cease implementation of new Significant Natural Areas and seek advice on operation of the areas" [CAB-23-MIN-0468];
- 2        **noted** that the Government is concerned that the National Policy Statement for Indigenous Biodiversity (NPSIB) approach to identifying Significant Natural Areas (SNAs) is too broad, and could capture areas with less significant indigenous biodiversity and overly burden farmers, Post Settlement Government Entities (PSGEs) and Treaty Partners, landowners, infrastructure providers and developers;

#### Amend the NPSIB to suspend the implementation of SNAs under the NPSIB

- 3        **agreed** to suspend the clauses in the NPSIB that direct councils to identify new SNAs and include them in their plans;
- 4        **agreed** that the suspension of those clauses should be for a period of three years from the date the change to the NPSIB takes effect;
- 5        **noted** that this will allow time for a proposed review of the SNA provisions in the NPSIB, particularly the SNA identification criteria and processes to address concerns raised by some stakeholders such as that the criteria are too broad and the processes are burdensome;
- 6        **agreed** to include provision(s) in the Bill to clarify that the proposed amendments to the NPSIB do not affect councils' Resource Management Act 1991 (RMA) obligations to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, or stop processes initiated before the NPSIB came into force;
- 7        **agreed** to make agreed amendments to the NPSIB, via a Resource Management Amendment Bill;

- 8 **noted** that the Associate Minister for the Environment (the Associate Minister) considered whether to revoke the NPSIB in its entirety, but do not favour this approach as the current provisions for activities that have social, economic and cultural benefits may not be carried into council plans without the direction in place;

### Drafting instructions

- 9 **authorised** the Associate Minister to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions in the paper under ECO-24-SUB-0021;
- 10 **authorised** the Associate Minister to approve associated minor and technical changes to the amendments identified during drafting;

### Engagement

- 11 **noted** that the changes to NPSIB were clearly identified, communicated, and prioritised within the Government's 100 Day Action Plan;
- 12 **noted** there is limited time for meaningful and broad engagement prior to the introduction of the Bill;
- 13 **agreed** that officials undertake targeted engagement between 12 – 21 March 2024 with key Māori representative organisations (including Iwi Leaders Group, Pou Taiao), relevant organisations that were part of the Biodiversity Collaborative Group, and local government representative organisations;
- 14 **noted** that relevant feedback will be incorporated into Cabinet consideration of the Resource Management Act Amendment Bill;

### Commence a review of the SNA provisions in the NPSIB

- 15 **noted** that the Associate Minister has directed officials to commence a review of the SNA provisions in the NPSIB;
- 16 **authorised** the Associate Minister to determine the scope and terms of reference for the review, in consultation with the Minister for the Environment, Minister of Conservation, and Minister for Māori Crown Relations: Te Arawhiti;
- 17 **noted** that the review process will likely include targeted engagement with key stakeholders, councils, Māori and the public, and will include expert input as appropriate;
- 18 **noted** that any necessary changes to the NPSIB based on the findings of the review can be progressed through the review processes set out in the Resource Management Act 1991, and the Associate Minister intends to return to the Cabinet Economic Policy Committee to seek agreement to the appropriate process.

Jenny Vickers  
Committee Secretary

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**Attendance: (see over)**

**Present:**

Hon David Seymour  
Hon Nicola Willis (Chair)  
Hon Brooke van Velden  
Hon Chris Bishop  
Hon Erica Stanford  
Hon Paul Goldsmith  
Hon Tama Potaka  
Hon Melissa Lee  
Hon Simon Watts  
Hon Chris Penk  
Hon Andrew Bayly  
Hon Andrew Hoggard  
Hon Mark Patterson  
Simon Court MP  
Jenny Marcroft MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for ECO  
Office of Hon Chris Bishop  
Office of Hon Judith Collins



# Cabinet

## Minute of Decision

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### Report of the Cabinet Economic Policy Committee: Period Ended 8 March 2024

On 11 March 2024, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 8 March 2024:

ECO-24-MIN-0016	<b>Residential Tenancies Act 1986 Amendments: Pet Bonds and Other Pet Related Matters</b> Portfolio: Housing	Separate minute: CAB-24-MIN-0069.01
ECO-24-MIN-0017	<b>Residential Tenancies Act 1986 Amendments: Termination of Tenancy and Other Provisions</b> Portfolio: Housing	CONFIRMED
ECO-24-MIN-0020	<b>Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Act 2022: Proposed Regulations</b> Portfolio: Housing	CONFIRMED
ECO-24-MIN-0022	<b>Work Programme for Reforming the Resource Management System</b> Portfolio: RMA Reform	CONFIRMED
ECO-24-MIN-0023	<b>Delivering on Coalition Agreement Commitments on Local Government Representation</b> Portfolio: Local Government	<i>[Referred to ECO on 20 March 2024]</i>
ECO-24-MIN-0015	<b>Digital Identity Services Trust Framework Act 2023: Approval to Develop Regulations</b> Portfolio: Digitising Government	CONFIRMED
ECO-24-MIN-0018	<b>Online Casino Gaming Duty and Regulation</b> Portfolios: Finance / Revenue	Separate minute: CAB-24-MIN-0072
ECO-24-MIN-0019	<b>Making it Easier to Build</b> Portfolio: Building and Construction	CONFIRMED

ECO-24-MIN-0021    **Proposed Cessation of New Significant Natural Areas and Review of their Operation**    CONFIRMED  
Portfolio: Associate Environment

Rachel Hayward  
Secretary of the Cabinet