

# **National Policy Statement for Indigenous Biodiversity: Evaluation Report under Section 32 of the Resource Management Act 1991**



*Ministry for the*  
**Environment**  
*Manatū Mō Te Taiao*



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

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# **Addendum to: National Policy Statement for Indigenous Biodiversity: Evaluation Report under Section 32 of the Resource Management Act 1991**

## **Purpose**

1. This addendum provides an update to the National Policy Statement for Indigenous Biodiversity: Evaluation Report under section 32 of the Resource Management Act 1991 (s32 report) that supports the National Policy Statement for Indigenous Biodiversity (NPSIB).
2. It highlights the key changes to the NPSIB since the s32 report was written and their implications for the s32 report.

## **Background**

3. The changes made to the NPSIB since the s32 report was completed in November 2022, are to:
  - make clear that no part of the NPSIB applies to development, operation, maintenance or upgrade of renewable electricity generation (REG) assets and activities and electricity transmission network (ETN) assets and activities and that they are not considered specified infrastructure. The intention is to address all REG and ETN development within the amendments to the National Policy Statement for Renewable Electricity Generation (NPS-REG), National Policy Statement of Electricity Transmission (NPSET) and the National Environmental Standard for Electricity Transmission (NES-ETA), as consulted on in the discussion document *Strengthening national direction on renewable electricity generation and electricity transmission consultation document*.
  - make other minor wording amendments to fix errors, for clarity and to ensure consistency with other national direction, in particular the National Policy Statement for Freshwater Management (NPSFM) and its policies related to offsetting and compensation.

4. The amendments have not altered the intent, objective or policies of the NPSIB. Therefore, these amendments do not impact on or change the overall analysis and conclusions of the s32 report.

## Changes made to the NPSIB and their implications for the s32 report

5. The following sets out the key changes made to the NPSIB since the s32 report was completed and the resulting implications for the s32 report content.

### **Specified infrastructure**

- An additional paragraph was included as clause 1.3(3) stating nothing in the NPSIB applies to the development, operation, maintenance or upgrade of REG and ETN assets and to clarify that ETN and REG are not considered specified infrastructure under the NPSIB.
- As an adjunct, definitions for 'renewable electricity generation assets', 'electricity transmission network' and 'electricity transmission network assets' were added to clause 1.6.
- These amendments do not change the overall intent of the NPSIB.
- The references in the s32 report to specified infrastructure should be read as not including ETN or REG. References in the discussion and analysis of the section 32 report to 'electricity transmission' and 'renewable electricity generation', including 'geothermal electricity generation', are no longer relevant in the context of s32 analysis of the NPSIB as it does not regulate these matters. The main areas of the document that addresses these matters are the discussion and analysis in the sections on:
  - Policy 7: Managing adverse effects on SNAs and clauses 3.10 and 3.11
  - Policy 11: Geothermal significant natural areas and clause 3.13

### **Minor corrections and amendments**

- Minor corrections to wording and amendments to ensure consistency with other current and emerging legislation and national policy have been made.
- Minor wording amendments to the definitions and principles of offsetting and compensation in clause 1.6 and appendices 3 and 4 were made to align with the NPS-FM as appropriate.
- Clause 3.10(4) was also amended to guide councils in their consideration of consent applications, and on how to apply the effects management hierarchy.
- Some minor wording changes around Māori land clarified further that development is enabled on Māori land.
- These changes ensure consistency across national direction and make no change to the intent or substance of the clauses or appendices. However, the references to clause titles and wording in the s32 report do not include these changes so should be read alongside the promulgated NPSIB.

## Conclusions

6. The amendments made do not impact on the overall intent of the NPSIB. Nor has there been any change to the objective or policies of the NPSIB. As such they do not impact on or change the overall section 32 analysis.
7. The primary impacts of the amendments on the s32 report are that:
  - all references in the s32 report to ETN and REG are no longer relevant
  - some of the clause wording in the NPSIB differs a little from that in the s32 report
  - the s32 report should be read in the context of the promulgated NPSIB.
8. In conclusion, the overall substance and conclusions of the s32 report remain accurate and appropriate.

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# Introduction

The Associated Minister for the Environment<sup>1</sup> is proposing national direction on indigenous biodiversity under the Resource Management Act 1991 (RMA). This report evaluates the proposed National Policy Statement for Indigenous Biodiversity (NPSIB) in accordance with section 32 of the RMA.

The overarching objective of the NPSIB is to maintain indigenous biodiversity to achieve at least no overall loss after it comes into force and do this in a way that:

- recognises the mana of tangata whenua as kaitiaki of indigenous biodiversity
- recognises people and communities as stewards of indigenous biodiversity
- protects and restores as necessary to achieve the overall maintenance of indigenous biodiversity
- provides for the economic, social and cultural wellbeing of people and communities.

This evaluation report examines whether the NPSIB objective is the most appropriate way to achieve the purpose of the RMA, and whether the provisions are most appropriate to achieve the objective based on an assessment of costs, benefits, effectiveness and efficiency in accordance with the requirements in section 32 of the RMA.

This report has been prepared by 4Sight Consulting (4Sight) and has been informed by a revised Cost Benefit Analysis for the NPSIB (NPSIB CBA) prepared by Market Economics (M.E)<sup>2</sup>. This section 32 evaluation report and the NPSIB CBA build on an earlier draft section 32 and CBA<sup>3</sup> which were prepared prior to consultation on the NPSIB, which took place from November 2019 to March 2020. This was followed by a consultation process on the “exposure draft” of the NPSIB process in 2022. Several changes to the NPSIB have been made since public and exposure draft consultation, which are assessed as part of this evaluation.

This evaluation report is structured in three parts:

## Part 1 – Overview to the evaluation

This section provides background to the NPSIB and an overview of the legislative requirements for section 32 evaluation reports and national direction under the RMA. It also provides an explanation of the approach adopted for this section 32 evaluation, including an assessment of the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of the NPSIB.

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<sup>1</sup> Acting under delegated authority.

<sup>2</sup> Market Economics (2022), *NPS-IB Cost Benefit Analysis Report*, prepared for the Ministry for the Environment.

<sup>3</sup> 4Sight Consulting and Market Economics (2019), *NPSIB Draft Section 32 Evaluation and CBA*, refer: [npisb-section-32-evaluation\\_0.pdf \(environment.govt.nz\)](#).



## **Part 2 – Statutory and policy context**

This section provides:

- an overview of the relevant statutory and policy context for the proposal
- an overview of the resource management issues the proposal seeks to address, including current state, key opportunities and problems under the status quo RMA framework.

## **Part 3 – Evaluation of the proposal**

This section evaluates the NPSIB and is structured as follows:

- Assessment of the extent to which the objective of the proposal is the most appropriate way to achieve the purpose of the RMA.
- Assessment of whether the provisions are the most appropriate way to achieve the NPSIB objective by:
  - identifying and assessing reasonably practicable options for achieving the NPSIB objective
  - assessing the efficiency and effectiveness of the provisions in achieving the NPSIB objective.
- An overall conclusion summarising the reasons for the proposal.

# Executive summary

The Associated Minister for the Environment<sup>4</sup> is proposing national direction on indigenous biodiversity under the Resource Management Act 1991 (RMA) – the National Policy Statement for Indigenous Biodiversity (NPSIB). This report evaluates the NPSIB in accordance with section 32 of the RMA which the Minister for the Environment must have regard to when making decisions on the NPSIB.

This section 32 evaluation report has been prepared by 4Sight and has been informed by a Cost Benefit Analysis (CBA) prepared by M.E. It builds on an earlier draft section 32 evaluation report and indicative CBA prepared prior to consultation on the NPSIB which took place from November 2019 to March 2020.

In accordance with section 32 of the RMA, this evaluation report:

- evaluates the extent to which the objective of the NPSIB is the most appropriate way to achieve the purpose of the RMA
- evaluates whether the provisions (policies and implementation clauses) in the NPSIB are the most appropriate to achieve the NPSIB objective by:
  - identifying other reasonably practicable options for achieving the objective
  - assessing the efficiency and effectiveness of the provisions in achieving the objective
  - summarising the reasons for deciding on the provisions.

The key conclusions from this evaluation are summarised below with a detailed evaluation of the NPSIB provided in Part 3 of this report – Evaluation of the proposal.

## **The appropriateness of the NPSIB objective to achieve the purpose of the RMA**

Section 32(1) of the RMA requires the evaluation examine the extent to which the objectives of the proposal are the most appropriate to achieve the purpose of the RMA. The overarching objective of the NPSIB is to maintain indigenous biodiversity to achieve at least no overall loss from the commencement date (when the NPSIB comes into force) and achieve this in a way that:

- recognises the mana of tangata whenua as kaitiaki of indigenous biodiversity
- recognises people and communities as stewards of indigenous biodiversity
- protects and restores indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity
- provides for the economic, social, and cultural wellbeing of people and communities.

The evaluation of the NPSIB objective concludes that it is the most appropriate way to achieve the purpose of the RMA based on an assessment of the objective against selected criteria. Key conclusions from this assessment include the following:

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<sup>4</sup> Acting under delegated authority.

- The NPSIB objective is directed to address a nationally significant resource management issue – the ongoing decline of Aotearoa New Zealand’s indigenous biodiversity.
- The NPSIB objective is directly focused on achieving the purpose of the RMA. It aims to protect, maintain and restore indigenous biodiversity and achieve at least no overall loss in a way that enables people and communities to provide for their social, economic and cultural wellbeing. This direction is strongly aligned with the purpose of the RMA defined in section 5(2). The NPSIB objective is also highly relevant to several matters in sections 6 and 7 of the RMA, as discussed in detail Part 2 of this report (Statutory and Policy Context).
- The NPSIB objective and implementing provisions will be highly effective in assisting local authorities to carry out their RMA statutory functions, addressing key gaps in existing national direction relating to indigenous biodiversity in the terrestrial environment. In particular, the NPSIB objective and implementing provisions will help local authorities carry out the following RMA functions:
  - Protection of significant indigenous vegetation and significant habitats of indigenous fauna under section 6(c) of the RMA.
  - Recognising tangata whenua values and interests, having particular regard to kaitiakitanga and taking into account the principles of the Treaty of Waitangi under sections 6(e), 7(a) and 8.
  - Maintaining indigenous biodiversity diversity under section 30 and 31 of the RMA.

## Reasonably practicable options for achieving the objectives

Section 32(1)(b)(i) of the RMA requires that “*other reasonably practicable options to achieve the objectives*” are identified as part of the assessment of whether the provisions are the most appropriate way to achieve the objectives. This section 32 evaluation report identifies and assesses the following broad options to achieve the NPSIB objectives:

- National Environmental Standards for Indigenous Biodiversity.
- A National Policy Statement focused on Terrestrial Indigenous Biodiversity.
- A National Policy Statement that comprehensively addresses the terrestrial environment, freshwater and coastal marine area.
- Developing national direction on indigenous biodiversity through the National Planning Framework (NPF) in the new resource management system.

The assessment of reasonably practicable options concludes that a National Policy Statement focused on terrestrial indigenous biodiversity (the NPSIB) is the most appropriate, efficient, and effective option to achieve the NPSIB objective. The NPSIB provides a comprehensive approach to manage indigenous biodiversity in the terrestrial environment. It provides clear direction on the outcomes sought for indigenous biodiversity, while also providing some flexibility for local authorities to respond to local pressures and priorities. This is achieved through a combination of directive provisions including:

- ‘avoid’ policies and requirements to applying a comprehensive ‘effects management hierarchy’ to manage adverse effects on Significant Natural Areas (SNAs)
- other provisions that provide more discretion and flexibility to promote and incentivise good outcomes (eg, increasing indigenous vegetation cover, restoration).

The NPSIB also clarifies its application outside the terrestrial environment (Clause 1.3) and the relationship with other national direction that include provisions on indigenous biodiversity in the coastal environment and in waterbodies (Clause 1.4). It also includes provisions to manage indigenous biodiversity in an integrated way (Policy 5). This is considered to be the most effective national direction option to achieve the NPSIB objective of maintaining indigenous biodiversity and achieving at least no overall loss.

## **Assessment of effectiveness and efficiency**

### **Assessing and quantifying costs and benefits where practicable**

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal (environmental, economic, social and cultural) are to be quantified. The requirement to quantify benefits and costs *if practicable* recognises it is often very difficult and, in some cases, inappropriate to quantify certain costs and benefits of provisions through section 32 evaluations – particularly those relating to non-market values. Accurately quantifying the costs and benefits of provisions is also particularly challenging for national direction instruments.

It has not been practicable to quantify all the costs and benefits associated with the NPSIB due to a number of factors and this is discussed in detail in the NPSIB CBA. This includes the significant variability in the expected impacts of the NPSIB on different regions and districts, land uses, agencies and stakeholders. It also relates to the challenges quantifying the significant benefits associated with indigenous biodiversity. As such, the evaluation of the efficiency and effectiveness of the provisions in this evaluation report is primarily based on a qualitative assessment of benefits and costs (environmental, economic, social, cultural) with some monetised and quantified costs for certain NPSIB provisions drawing on the NPSIB CBA prepared by M.E.

### **Effectiveness**

Assessing the effectiveness of the NPSIB provisions focuses on how likely they are to achieve the NPSIB objective and address the identified issues. Overall, this evaluation concludes that the NPSIB provisions will collectively be highly effective in achieving the NPSIB objective for the following reasons:

- The NPSIB provisions require a comprehensive range of actions to protect, maintain and restore indigenous biodiversity. This comprehensive package will be effective in maintaining indigenous biodiversity and achieve at least no overall loss (from commencement date).
- The NPSIB provisions require a nationally consistent approach to identifying SNAs based on existing best practice and will introduce a nationally consistent policy either to avoid significant adverse effects on SNAs or to apply the 'effects management hierarchy', with specific exceptions. This hierarchy is clearly defined in the NPSIB and is based on best practice nationally and internationally. This approach is expected to be highly effective in protecting SNAs nationally and in maintaining indigenous biodiversity across Aotearoa.
- The NPSIB provisions strike the right balance by providing clear direction on the adverse effects that need to be avoided on SNAs and applying the effects management hierarchy, while providing consenting pathways and bespoke management approaches for activities and ecosystems recognised as being important to economic, social and cultural wellbeing. This includes, for example, specified infrastructure that provides significant public

benefits, plantation forestry activities, use and development on Māori lands, and geothermal SNAs. This ensures subdivision, use and development occur in appropriate locations, forms, and within appropriate limits, to maintain indigenous biodiversity while meeting wellbeing requirements.

- The provisions recognise and provide for the significant role of tangata whenua as kaitiaki and people and communities as stewards of indigenous biodiversity. This is achieved through a range of provisions to restore indigenous biodiversity focusing on those areas that need it most. These actions are to be articulated through a regional biodiversity strategy developed in a collaborative manner between local authorities, tangata whenua, landowners and the wider community. This is likely to be an effective approach to incentivise positive efforts and form partnerships between local authorities, tangata whenua, communities, and landowners to restore indigenous biodiversity and achieve the NPSIB objective.

## **Efficiency**

Assessing the efficiency of the provisions focuses on whether they are likely to achieve the NPSIB objective at the least cost or highest net benefit to society. The assessment of the NPSIB provisions in Part 3 of this report is focused on the main environmental, economic, social, and cultural benefits and costs anticipated from the NPSIB policies and implementing provisions. This assessment identifies a range of expected benefits and costs from the implementation of the NPSIB provisions, with these impacting central government, local authorities, tangata whenua, landowners, and industries in different ways and some having greater relative benefits and costs than others.

The assessment concludes that the long-term environmental benefits of the NPSIB provisions will be widespread and will be felt by current and future generations throughout Aotearoa. This is because indigenous biodiversity is a public good that delivers multiple and significant environmental, economic, social, and cultural benefits or ecosystem services.

The costs of the NPSIB will primarily be borne more locally – at the landowner, project and district and regional level, although there will be national costs for central government and industries and sectors that operate nationally. A key implementation cost of the NPSIB will be the requirement for territorial authorities to undertake a district-wide SNA assessment and mapping exercise within five years and for all local authorities to implement a stringent and robust effects management framework to protect SNAs and maintain indigenous biodiversity to achieve no overall loss. These costs are expected to be significant for some local authorities, although actual costs will depend on the level of change required from current provisions relative to NPSIB requirements and/or their ability to fund the implementation of the NPSIB. These are mostly short-term costs, and it is expected that the ongoing implementation costs of the NPSIB will reduce substantially over time.

There will also be opportunity, transaction and compliance costs for different land uses and activities to comply with the NPSIB provisions relating to the protection of SNAs, applying the effects management hierarchy and other effects management provisions. In some situations, the NPSIB will effectively preclude or limit some activities where compliance with the avoid policy for SNAs or effects management hierarchy cannot be complied with (eg, the limits to when biodiversity offsetting and biodiversity compensation is appropriate). However, at a national level, the provisions relating to SNA protection will not affect most landowners and the overall impact/costs for those affected over and above the status quo is not expected to

be unjustifiably high to realise the benefits of maintaining the indigenous biodiversity of Aotearoa and addressing the ongoing loss.

Overall, the assessment of efficiency concludes that the aggregate, long-term and cumulative benefits of implementing the NPSIB will, on balance, outweigh the expected aggregate and generally short-term implementation and project-specific costs.

## **Conclusion and summary of reasons**

The NPSIB is a significant national direction instrument that addresses complex and challenging issues. It is directly relevant to achieving the purpose of the RMA and the ongoing decline of indigenous biodiversity in Aotearoa. It has been subject to significant testing and refinement and there is now some urgency to introduce and implement effective national direction on maintaining indigenous biodiversity in the terrestrial environment.

A key finding of this section 32 evaluation of the RMA is that there is a high level of variability in how the NPSIB will impact each region and district and the impacts for different types of subdivision, use and development. The type, scale, geography and tenure of indigenous biodiversity is highly varied throughout Aotearoa, as is the extent to which local authorities already provide for indigenous biodiversity protection, maintenance and restoration in their policy statements and plans, consenting and monitoring (in terms of scope and effectiveness). This presents challenges for accurately assessing the effectiveness and efficiency of the NPSIB provisions estimating the benefits and costs of the NPSIB provisions at the district, regional and national level.

However, there is clear and compelling evidence that preventing the further loss of indigenous biodiversity is critical and that better protection, maintenance and restoration of indigenous biodiversity will contribute directly to environmental, economic, social and cultural wellbeing. Overall, this evaluation concludes that the NPSIB objective is the most appropriate way to achieve the purpose of the RMA to promote sustainable management in relation to indigenous biodiversity. The provisions are assessed as being effective and efficient to achieve the NPSIB objective of maintaining the terrestrial indigenous biodiversity of Aotearoa while also enabling subdivision, use and development in appropriate forms and places. This will ensure indigenous biodiversity is maintained under the NPSIB in a way that provides for social, economic and cultural wellbeing of people and communities.

# Part 1 – Overview

## Purpose of report

This report provides a revised section 32 evaluation report on national direction for indigenous biodiversity under the RMA. The national direction is a National Policy Statement for Indigenous Biodiversity (NPSIB) which seeks to provide clear direction to local authorities on maintaining indigenous biodiversity to achieve at least no overall loss in a way that provides for the economic, social and cultural wellbeing of people and communities.

This report has been prepared in accordance with the requirements in section 32 of the RMA by 4Sight Consulting (4Sight). It has been informed by a Cost Benefit Analysis for the proposed NPSIB (NPSIB CBA) done by Market Economics (M.E) and background information reports and advice provided by the Ministry for the Environment (the Ministry) and Department of Conservation (DOC).

In accordance with section 32 of the RMA, this report evaluates:

- the extent to which the objective of the NPSIB is the most appropriate way to achieve the purpose of the RMA
- whether the provisions<sup>5</sup> in the NPSIB are the most appropriate to achieve the NPSIB objective by:
  - identifying other reasonably practicable options for achieving the objective
  - assessing the efficiency and effectiveness of the provisions in achieving the objective
  - summarising the reasons for deciding on the provisions.

This report follows on from the draft section 32 evaluation report for the proposed NPSIB and indicative CBA published in 2019 prior to public consultation to help inform stakeholders on the likely impacts, benefits and costs of the NPSIB. It has been updated and refined to reflect changes to the NPSIB following public consultation and the exposure draft process and further analysis of the appropriateness of the NPSIB objective and provisions.

## Background

### Developing the NPSIB

The need for greater national direction under the RMA on indigenous biodiversity has been identified for some time with several unsuccessful attempts to develop a National Policy Statement (NPS) under the RMA. The two key stages leading up to the development of the NPSIB are summarised below.

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<sup>5</sup> The policies in Part 2 and implementation requirements in Part 3 of the NPSIB are “provisions” for the purposes of section 32 evaluation. This is in accordance with the definition of provisions in section 32(6) of the RMA which includes policies or provisions that implement, or give effect to, the objectives of the proposal.

## Development of national policy on indigenous biodiversity prior to 2016

In April 2007, the Minister for the Environment and Minister of Conservation issued a statement of national priorities for protecting rare and threatened native species on private land. This statement provided greater guidance on indigenous biodiversity management to local authorities and other decision-makers.

In 2009, the Government agreed to progress work on a proposed NPS for Indigenous Biodiversity. In January 2011, a proposed NPS for Indigenous Biodiversity was released for public consultation, drawing 426 submissions. The proposed NPS was well supported by research institutions, community groups and conservation interests. Local Government New Zealand submitted in general support on behalf of more than 80 local authorities. The main opposition to the NPS came from private landowners, businesses and industry. This proposed NPS version was not progressed due to mixed stakeholder support and a change in Government priorities.

## The Biodiversity Collaborative Group

In 2016, the Minister for the Environment announced that a collaborative group would be formed to draft an NPS for Indigenous Biodiversity. In 2017, the Biodiversity Collaborative Group (BCG) was formed with representatives from:

- Royal Forest and Bird Protection Society of New Zealand Incorporated
- Federated Farmers of New Zealand Incorporated
- New Zealand Forest Owners Association
- Environmental Defence Society Incorporated
- Iwi Chairs Forum (through the Conservation and Freshwater Iwi Leadership Group)
- extractive/infrastructure industries.

The BCG's purpose, as set out in their terms of reference, was:

*To ensure that Aotearoa/New Zealand's unique biodiversity is protected and supported to thrive through the collaborative efforts of iwi, landowners, stewards, the Government and advocates.*

The explicit role of the BCG was to:

- Develop a draft National Policy Statement on Indigenous Biodiversity; and*
- Make recommendations on supporting and complementary measures to address agreed issues and opportunities for biodiversity.*

The work of the BCG ran over approximately 18 months and on 25 October 2018 the group provided its recommendations in the form of a draft National Policy Statement for Indigenous Biodiversity and a report on complementary and supporting measures<sup>6</sup>. The BCG considered the appropriate balance between what should be included in the NPS as regulatory measures and what should be included as part of the (largely non-regulatory) supporting and complementary measures. The BCG concluded that a comprehensive and detailed NPS would

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<sup>6</sup> [Report of Biodiversity Collaborative Group, 2018.](#)



be the most effective approach to achieve the desired outcome “to ensure that Aotearoa/New Zealand’s unique biodiversity is protected and supported to thrive”.

In preparing the draft NPS and recommendation report, the BCG drew on considerable expertise from central and local government, tangata whenua, landowners, infrastructure providers, environmental groups, research agencies and experts. This ensured they had a robust evidence-based approach to policy.

## Development and consultation on the NPSIB

### Public consultation on the NPSIB

From October 2018 to November 2019, the Ministry and DOC reviewed and revised the BCG’s draft NPS on Indigenous Biodiversity into the draft NPSIB. This process was informed by engagement with iwi/Māori in early 2019 involving over 20 hui nationwide. Public consultation on the draft NPSIB took place between 26 November 2019 and 14 March 2020. This included targeted engagement with stakeholders and local authorities and with iwi/Māori. The draft NPSIB drew 7305 submissions. The summary of submissions noted that there was more support for the draft NPSIB (in full or in part) compared to submitters who opposed it (in full or in part)<sup>7</sup>.

General reasons why submitters supported the draft NPSIB<sup>8</sup> include:

- it will help address the decline of indigenous biodiversity in Aotearoa, which is urgently needed
- it will clarify council responsibilities for implementing section 6(c) of the RMA to protect SNAs and to maintain indigenous biodiversity
- it has the potential to increase the ability of Māori to exercise their rights as kaitiaki.

General reasons why submitters opposed the draft NPSIB include:

- there are risks of unintended consequences or perverse outcomes for indigenous biodiversity
- it may unduly prevent activities relating to forestry, farming, and the provision of infrastructure and energy generation
- it will be too resource-intensive and costly to implement and does not allow for regional variations in biodiversity, management approaches and local authority resources
- it may breach private property rights
- the requirement for restoration as well as protection is beyond the purpose of the RMA, and protection should be prioritised.

Broader issues raised by submitters included whether the management of indigenous biodiversity should take regulatory or non-regulatory approaches, that guidance and funding will be critical to support the implementation of the NPSIB, and that it is important to consider

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<sup>7</sup> *He Kura Koiora i hokia: A proposed National Policy Statement for Indigenous Biodiversity: Summary of submissions, 2020*

<sup>8</sup> Ibid.

how the NPSIB will interact with other RMA national direction and other acts relating to environmental management.

There have been several amendments to the NPSIB as a result of public consultation, the most significant being:

- rationalisation of the NPSIB objectives into a single overarching objective while retaining the overall intent to protect, maintain and restore indigenous biodiversity
- providing for Te Tiriti o Waitangi/the Treaty of Waitangi – strengthening the NPSIB provisions to clarify the obligations of local authorities to engage with tangata whenua in a collaborative and meaningful way when giving effect to the NPSIB and managing indigenous biodiversity
- clarification of the roles and responsibilities of local authorities to identify and map SNAs – led by territorial authorities and regional councils assist territorial authorities in undertaking the district-wide assessment when requested
- managing effects on SNAs – removal of the High/Medium rating for SNAs for the purposes of effects management and clarifying the consenting pathway for significant infrastructure, mineral and aggregate extraction, and single dwellings that cannot “avoid adverse effects” on SNAs.
- SNAs in plantation forests – a bespoke approach that requires a SNA within a plantation forest to be managed over the course of consecutive rotations to maintain the long-term populations of any Threatened or At Risk (declining) species in the SNA
- Māori lands – a new framework for managing indigenous biodiversity on Māori land to provide flexibility to tangata whenua, including Māori landowners, to work with local authorities to develop provisions in local plans and policy statements that will help maintain and protect indigenous biodiversity while allowing appropriate occupation, use and development.
- Geothermal SNAs – clarifying that geothermal ecosystems are covered by the NPSIB, providing a definition of a geothermal system, and requiring local authorities to protect geothermal SNAs at a level that reflects their vulnerability, or in accordance with any pre-existing underlying geothermal system classification.

## **Exposure draft consultation on the NPSIB**

Targeted consultation on the exposure draft of the NPSIB was run between 9 June 2022 and 21 July 2022 to test the workability of the provisions to ensure they achieve the policy intent. There were 287 substantive submissions received.

Feedback through the exposure draft process resulted in further amendments to the NPSIB, most of which were minor amendments to provide clarity or improve workability. There were also some additional changes to the NPSIB provisions to improve alignment with other government guidance and policy documents. In summary, the key amendments to the NPSIB as a result of the exposure draft process are:

- amendments to certain NPSIB provisions relating to managing adverse effects on SNAs and outside SNAs
- exceptions to the management of adverse effects of new subdivision, use and development on SNAs

- assessing areas that qualify as SNAs (including changes to the process for identifying SNAs on Public Conservation Land)
- amendments to the provisions relating to Māori lands
- removing Te Rito o te Harakeke as a fundamental concept and reframing this as decision-making principles that will inform the NPSIB and its implementation
- a new sunset clause for the exception for some coal mining activities
- clarification of how SNAs and significant indigenous biodiversity is to be managed in the interim period until SNAs are mapped
- specific recognition of the role of covenants and kawenata established through other mechanisms to protect SNAs
- other minor corrections for clarity or workability.

## Overview of the proposal

### Scope of proposal

The NPSIB is a national policy statement prepared pursuant to sections 45 to 55 of the RMA. It is a comprehensive NPS focused on the protection, maintenance and restoration of terrestrial indigenous biodiversity, with some provisions relating to the restoration of wetlands<sup>9</sup>. When developing the NPSIB, a decision was made to limit its scope to indigenous biodiversity in the terrestrial environment, given that there is already other national direction in place to manage indigenous biodiversity in freshwater bodies<sup>10</sup> and the coastal environment<sup>11</sup>. This also recognises that the methods to manage terrestrial indigenous biodiversity are well established and there is a greater urgency to protect indigenous biodiversity on private land.

### Objective of the proposal

The NPSIB includes a single overarching objective:

- (a) *to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*
- (b) *to achieve this:*
  - (i) *through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
  - (ii) *by recognising people and communities as stewards of indigenous biodiversity; and*
  - (iii) *by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*

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<sup>9</sup> Natural inland wetlands are primarily managed under the National Policy Statement for Freshwater Management 2020 (NPS-FM) and National Environmental Standards for Freshwater 2020 (NES-F).

<sup>10</sup> NPS-FM, NES-F.

<sup>11</sup> The New Zealand Coastal Policy Statement 2010 (NZCPS).

- (iv) *while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

This objective is directly relevant to a number of matters in Part 2 of the RMA, most significantly safeguarding the life-supporting capacity of ecosystems, the protection of SNAs, and the intrinsic values of ecosystems<sup>12</sup>, and providing for kaitiakitanga and the ethic of stewardship<sup>13</sup>. The NPSIB objective will also directly assist local authorities to carry out their functions under section 30 and 31 of the RMA to maintain indigenous biodiversity.

Importantly, there is an “enabling” component of the NPSIB objective to provide for the social, economic and cultural wellbeing of people and communities consistent with section 5(2) of the RMA. This is critical to the provisions that implement the NPSIB objective to ensure that activities that are important to the economic, social and cultural wellbeing of Aotearoa are adequately provided for while maintaining, protecting and restoring indigenous biodiversity. Overall, the NPSIB objective is assessed as being directly relevant to the sustainable management of natural and physical resources and an appropriate way to achieve the purpose of the RMA, as assessed in detail in Part 3 of this report.

## Overview of the provisions

The NPSIB includes a comprehensive range of provisions (policies in Part 2.2 and implementation requirements in Part 3) addressing all aspects of indigenous biodiversity protection, maintenance, restoration, and monitoring to achieve these objectives. Many of the provisions in the NPSIB are highly prescriptive, detailed and complex and will represent a substantial shift (and improvement) in practice for managing indigenous biodiversity across Aotearoa. In summary, the NPSIB provisions include:

- 17 policies which seek to include a range of outcomes and actions
- implementation requirements in Part 3 which set out what local authorities must do to give effect to the objectives and policies:
  - Subpart 1 – Approaches to implementing this National Policy Statement
  - Subpart 2 – Significant natural areas
  - Subpart 3 – Specific requirements
- Part 4 – Timing – sets out the timeframes for local authorities to give effect to the NPSIB.
- six appendices which set out more detailed requirements and guidance for implementing certain NPSIB provisions:
  - Appendix 1: Criteria for identifying areas that qualify as significant natural areas
  - Appendix 2: Specified highly mobile fauna
  - Appendix 3: Principles for biodiversity offsetting
  - Appendix 4: Principles for biodiversity compensation
  - Appendix 5: Regional biodiversity strategies
  - Appendix 6: Glossary of ecological terms used in appendices.

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<sup>12</sup> Sections 5(2)(b), section 6(c), and 7(d) of the RMA.

<sup>13</sup> Section 7(a) and 7(aa).

## Requirements under section 32 of the RMA

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and that the proposed objectives and provisions are the most appropriate, efficient and effective means to achieve the purpose of the RMA. Section 5 sets out the purpose of the RMA, to “promote the sustainable management of natural and physical resources”, with sustainable management further defined in section 5(2) as:

*Managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In achieving this purpose, all those involved in exercising functions and powers under the RMA are required to:

- recognise and provide for the matters of national importance identified in section 6
- have particular regard to other matters referred to in section 7
- take into account the principles of the Treaty of Waitangi referred to in section 8.

The relevant parts of these matters to the NPSIB are discussed in more detail in Part 2 of this evaluation – statutory and policy context.

Prior to deciding whether to recommend a proposed NPS under section 52 of the RMA, the Minister is required to prepare and publish an evaluation report. Section 32(1) of the RMA states that evaluation reports must:

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by –*
  - (i) identifying other reasonably practicable options for achieving the objectives*
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives*
  - (iii) summarising the reasons for deciding on the provisions*
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives of proposed national direction, section 32(2) of the RMA requires that the assessment:

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*

- (i) *economic growth that are anticipated to be provided or reduced*
- (ii) *employment that are anticipated to be provided or reduced*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

## National policy statements

National policy statements (NPS) are prepared in accordance with section 46A of the RMA and issued under section 52(2). They state objectives and policies for matters of national significance relevant to achieving the purpose of the RMA. Section 45A(1) requires NPS to include objectives and policies and section 45A(2) of the RMA also sets out a range of matters and requirements a NPS may include, as follows:

- (a) *the matters that local authorities must consider in preparing policy statements and plans*
- (b) *methods or requirements in policy statements or plans, and any specifications for how local authorities must apply those methods or requirements, including the use of models and formulae*
- (c) *the matters that local authorities are required to achieve or provide for in policy statements and plans*
- (d) *constraints or limits on the content of policy statements or plans*
- (e) *objectives and policies that must be included in policy statements and plans*
- (f) *directions to local authorities on the collection and publication of specific information in order to achieve the objectives of the statement*
- (g) *directions to local authorities on monitoring and reporting on matters relevant to the statement, including —*
  - (i) *directions for monitoring and reporting on their progress in relation to any provision included in the statement under this section*
  - (ii) *directions for monitoring and reporting on how they are giving effect to the statement*
  - (iii) *directions specifying standards, methods, or requirements for carrying out monitoring and reporting under subparagraph (i) or (ii)*
- (h) *any other matter relating to the purpose or implementation of the statement.*

A NPS can apply nationally or within a specified part of Aotearoa (section 45A(3)). Councils must ‘give effect to’ relevant NPS provisions through their regional policy statements and plans<sup>14</sup> as soon as practicable or within the timeframe specified in the statement (section 55(2D)). Consent authorities must also ‘have regard to’ relevant provisions of an NPS when considering an application for resource consent (section 104(1)(b)(iii)).

Under section 55(2) of the RMA, a NPS can direct local authorities to amend their policy statements and plans to:

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<sup>14</sup> Section 62(3), 67(3)(a) and 75(3)(a).

- a) *include specific objectives and policies in the statement; or*
- b) *give effect to objectives or policies contained in the policy statement; or*
- c) *be consistent with any constraint or limit set out in the statement.*

The amendments to policy statements and plans required under section 55(2) of the RMA must be done without using the RMA Schedule 1 process (section 55(2A)). All other amendments to policy statements and plans to give effect to a NPS must be done using the Schedule 1 process (section 55(2C)).

Prior to approval of a NPS, section 52(1) of the RMA states that the Minister:

- (a) *first, consider a report and any recommendations made to him or her by a board of inquiry under section 46A(4)(c) or 51, as the case requires*
- (b) *secondly, may —*
  - (i) *make any changes, or no changes, to the proposed national policy statement as he or she thinks fit*
  - (ii) *withdraw all or part of the proposed national policy statement and give public notice of the withdrawal, including the reasons for the withdrawal*
- (c) *thirdly, undertake an evaluation of the proposed national policy statement in accordance with s32 and have particular regard to that evaluation when deciding whether to recommend the statement.*

## Approach to evaluation

### Methodology

A structured approach has been applied to evaluating the proposal to ensure a consistent assessment that corresponds to the scale and significance of the effects anticipated from its implementation. The approach broadly comprises the following:

- analysing the relevant statutory and policy context
- identifying and analysing the relevant resource management issues the proposal seeks to address, including key pressures, opportunities and problems with the current RMA framework for indigenous biodiversity
- assessing the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of the proposal
- evaluating the NPSIB objective to determine whether this is the most appropriate way to achieve the purpose of the RMA based on assessment of criteria to test different aspects of appropriateness (relevance, usefulness, reasonableness, achievability)
- evaluating whether the NPSIB provisions are the most appropriate way to achieve the NPSIB objective by:
  - identifying other reasonably practicable options for achieving the objectives
  - assessing the efficiency and effectiveness of the options in achieving the objectives (including an assessment of environmental, economic, social and cultural benefits and costs from the proposal) drawing on the CBA prepared by M.E.

## Scale and significance of the proposal

Under section 32(1)(c) of the RMA, evaluation reports need to:

*“Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.”*

Table 1 below provides an assessment of the scale and significance of the effects anticipated from the NPSIB against selected criteria.

**Table 1: Assessment of the scale and significance of the effects from the NPSIB**

Criteria	Assessment
<b>Relates to a matter of national importance or significance in terms of the Treaty of Waitangi</b>	<p>The NPSIB is highly relevant to the Treaty of Waitangi as it seeks to increase involvement of tangata whenua in the management of indigenous biodiversity. Indigenous biodiversity is taonga for tangata whenua and tangata whenua are kaitiaki for the protection and management of indigenous biodiversity. Indigenous species enable, inform and inspire customary practices including mahinga kai, rongoā, waiata, and whaikōrero.<sup>15</sup> As such, comprehensive national policy direction in the NPSIB that changes and improves the way indigenous biodiversity is managed in Aotearoa is highly significant to tangata whenua and the Treaty of Waitangi.</p> <p>The NPSIB provides for greater involvement of tangata whenua in protecting and managing indigenous biodiversity. It will require local authorities to partner with tangata whenua and Māori landowners to develop provisions to protect indigenous biodiversity on Māori lands while enabling Māori landowners to use and develop their land. This includes specific provision for papakāinga, marae and ancillary community facilities, dwellings and associated infrastructure. The NPSIB also forms part of the Government’s response to WAI 262<sup>16</sup> - Te Pae Tawhiti which is highly significant in terms of the Treaty of Waitangi.</p> <p>Overall, the proposal is considered to have <b>high significance</b> in terms of the Treaty of Waitangi.</p>
<b>Relates to a matter that affects or potentially affects any structure, feature, place, or area of national significance</b>	<p>The proposal relates to the protection of ecological areas throughout Aotearoa, including ecological areas of national significance. There are nationally significant habitats due to the presence of rare and threatened indigenous species and other ecological attributes. This includes areas of national ecological significance on both public conservation and private land which will be subject to the NPSIB provisions relating to the protection of SNAs and which will provide stronger protection for these areas.</p> <p>As such, the proposal is considered to have <b>moderate significance</b> in terms of the potential effects on areas of national significance.</p>
<b>Is required to maintain or enhance the interests and obligations of Aotearoa concerning aspects of the national or global environment</b>	<p>The indigenous biodiversity of Aotearoa is unique and distinctive. Many indigenous species, particularly animals, come from old lineages – a result of millions of years of geographic isolation. They are internationally distinctive and important to global biodiversity with a large portion unique to Aotearoa. This</p>

<sup>15</sup> Ministry for the Environment and Stats NZ. 2018. [New Zealand’s Environmental Reporting Series: Our land 2018](https://www.mfe.govt.nz/publications/new-zealand-s-environmental-reporting-series-our-land-2018). Retrieved from [www.mfe.govt.nz](https://www.mfe.govt.nz) and [www.stats.govt.nz](https://www.stats.govt.nz).

<sup>16</sup> The Wai 262 claim looked into the Government’s role in relation to mātauranga Māori with a large focus on indigenous biodiversity. The Wai 262 report *Ko Aotearoa Tēnei* found the Government needs to take significant steps to address the issues it highlighted.



Criteria	Assessment
	<p>includes 78 per cent of vascular plants and 91 per cent of animal species<sup>17</sup>. The ecosystems in which these species live are also highly distinctive. As an international biodiversity hotspot<sup>18</sup>, Aotearoa has the challenge of protecting globally unique and increasingly threatened flora and fauna. Many species lost here are lost to the world. The need to protect the indigenous biodiversity of Aotearoa was officially recognised in 1993 when Aotearoa ratified the Convention on Biological Diversity. This is the primary international commitment by Aotearoa to maintain and restore a full range of remaining habitats and ecosystems, and viable populations of all native species.</p> <p>Climate change is a key threat to the indigenous biodiversity of Aotearoa, with evidence suggesting it is already starting to impact native species. Increasing temperatures have shifted the distribution of some species and increased the numbers of invasive pests in some areas.<sup>19</sup> Aotearoa is a party to the United Nations Framework Convention on Climate Change and has signed the Paris Agreement to reduce emissions to 30 per cent below 2005 levels by 2030. The response of Aotearoa to climate change will impact the future decline or protection of indigenous biodiversity nationally and its contribution to biodiversity internationally. The protection and restoration of indigenous biodiversity also has important carbon sequestration benefits and is essential to meeting national climate change targets under the Climate Change Response Act 2002 and international obligations relating to climate change.</p> <p>Overall, the proposal is assessed as having <b>moderate significance</b> in relation to the interests and obligations of Aotearoa in national or global environments. It will help preserve the indigenous biodiversity of Aotearoa, retaining it as part of the global ecosystem and assist in meeting international obligations relating to indigenous biodiversity and climate change.</p>
<p><b>Relates to an issue that is localised or affects or potentially affects more than one region</b></p>	<p>The core problem the NPSIB seeks to address is the ongoing loss of the indigenous biodiversity of Aotearoa. This issue affects all regions, albeit with regional variations. In some regions/districts, practice is poor leading to ongoing loss of indigenous biodiversity. Attempts by local authorities to introduce stronger provisions to protect indigenous biodiversity and to identify and protect SNAs on private land have been controversial, resulting in ongoing debate, litigation and associated costs.</p> <p>All regional councils and territorial authorities have functions for maintaining indigenous biodiversity under sections 30(1)(ga) and 31(b)(iii) of the RMA respectively. The NPSIB will introduce clear national direction that will clarify their role in managing indigenous biodiversity and promoting collaboration and integrated management. The NPSIB will require a consistent approach to district-wide SNA mapping with the process led by territorial authorities with assistance from regional councils when requested. All local authorities will be required to amend their policy statements and plans to give effect to the NPSIB. The NPSIB will, therefore, affect all regions with the overall intent to maintain indigenous biodiversity throughout Aotearoa to ensure there is at least no overall loss in indigenous biodiversity from when the NPSIB comes into force.</p>

<sup>17</sup> Ministry for the Environment and Stats NZ. 2018. *New Zealand's Environmental Reporting Series: Our land 2018*. Retrieved from [www.mfe.govt.nz](http://www.mfe.govt.nz) and [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>18</sup> Mittermeier, R.A., Robles-Gil, P., Hoffmann, M., Pilgrim, J.D., Brooks, T.B., Mittermeier, C.G., Lamoreux, J.L. and Fonseca, G.A.B. 2004. *Hotspots Revisited: Earth's Biologically Richest and Most Endangered Ecoregions*. CEMEX, Mexico City, Mexico.

<sup>19</sup> Ministry for the Environment and Stats New Zealand. 2019. *New Zealand's Environmental Reporting Series: Environment Aotearoa 2019*. Retrieved from [www.mfe.govt.nz](http://www.mfe.govt.nz).

Criteria	Assessment
	Overall, the NPSIB addresses an issue that affects more than one region and is a significant issue in most regions. As such, it is assessed as having <b>high significance</b> in relation to this criterion.
<b>Relates to an issue that is of significance to/could impact on the nation due to its scale or the nature or degree of uncertainty/change to a community or to natural and physical resources</b>	<p>The loss of indigenous biodiversity is a nationally significant issue. It is a result of the impacts of human activities such as habitat clearance, degradation and fragmentation, pollution from sediment, heavy metals and nutrients, development pressures and resource use, and the introduction of pests and diseases<sup>20</sup>.</p> <p>Ecosystems which were once widespread (eg, wetlands and sand dunes) continue to decline in extent with almost two-thirds of rare and naturally uncommon ecosystems now threatened, most of these in coastal and lowland environments. Of the remaining terrestrial indigenous biodiversity, 80 per cent of bat species, 84 per cent of reptile species, 74 per cent of terrestrial bird species and 75 per cent of frog species are currently Threatened or At Risk of extinction. The extinction risk has worsened for 86 land, freshwater and marine species in the past 15 years<sup>21</sup>.</p> <p>This ongoing decline can be linked to a lack of effective national policy direction and market failure. Biodiversity and the ecosystem services it provides are not adequately typically valued in decision-making, if at all. The cost of biodiversity loss is born by communities and future generations, and the cost of protecting indigenous biodiversity typically falls on private landowners. A significant change in how indigenous biodiversity is valued and protected in decision-making is required to prevent further loss of indigenous biodiversity. The NPSIB seeks to address this nationally significant issue through effective national policy direction and implementation requirements but is likely to need a range of supporting measures, including incentives for private landowners.</p> <p>Overall, the proposal is assessed as being of <b>high significance</b> in terms of its potential national impact due to its scale and degree of change. The extent of indigenous biodiversity loss is a nationally significant issue, and the proposal seeks to address this issue through clear policy direction to protect, maintain and restore indigenous biodiversity which will be supported by complementary measures and implementation support from central government.</p>
<b>Involve a minor or major change to the current situation (the status quo)</b>	<p>Mandatory identification, mapping and protection of SNAs required under the NPSIB will represent a significant change in practice for some local authorities. The NPSIB also recognises that maintaining indigenous biodiversity will require more than regulatory tools and a focus on protecting SNAs; it will require the collective effort of agencies, landowners, and communities as stewards, and tangata whenua as kaitiaki to maintain, protect, and restore indigenous biodiversity on private and public land. This will require a major change in thinking, approach and practice for some parties.</p> <p>The degree of change from the status quo to the NPSIB will vary between and within regions. In some regions/districts, such as Auckland or Waikato, the impacts will be less significant, as they already identify SNAs and have a regime in place to protect them which is broadly aligned with the NPSIB. Conversely, the change from the status quo will be substantial in other regions/districts, where SNAs have not been identified and existing protections are limited.</p> <p>Overall, the proposal is assessed as being <b>moderate to high significance</b> in terms of the change from the status quo. This reflects the high level of variability in existing plan provisions and practices. The NPSIB aims to improve practice</p>

<sup>20</sup> Ministry for the Environment and Stats NZ (2019), *New Zealand's Environmental Reporting Series: Environment Aotearoa 2019*. Available from [www.mfe.govt.nz](http://www.mfe.govt.nz) and [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>21</sup> Ibid.

Criteria	Assessment
	nationally based on current best practice, so the degree of change depends on existing practice and plan provisions.
<b>Is likely to have a major impact on private property interests or associated compliance and/or administrative costs</b>	<p>The NPSIB will impact on certain land uses and landowners (including Māori landowners) through increased restrictions and associated transaction, compliance and opportunity costs. In some cases, those impacts will be significant where there is high SNA coverage on the property, the land is currently undeveloped, and existing protections do not exist. There will also be increases in transaction and compliance costs to assess and manage effects on indigenous biodiversity in a more robust manner, including through applying the effects management hierarchy.</p> <p>The opportunity, transaction and compliance costs for private landowners are discussed in detail in the evaluation of the proposal in Part 3 of this report and the CBA. At a general level, the NPSIB may result in impacts and costs for private landowners to manage the effects of their activities on indigenous biodiversity as well as potential opportunity costs through greater restrictions on the ability to subdivide, use and develop land (over and above the status quo). This will primarily occur when planned subdivision, use and development is within a SNA, which may result in planned developed being moved, scaled down or modified and, in some cases, prevented altogether. In these circumstances, the costs for individual landowners may be considered significant. However, at a national level, the NPSIB will have no or very limited impacts on most landowners over and above the status quo – the reasons for which are detailed in Part 3 of this evaluation report.</p> <p>Overall, the proposal is assessed as being moderate to high significance in terms of potential impacts on landowners and opportunity, transaction and compliance costs.</p>

Overall, the scale and significance of the environmental, economic, social and cultural effects anticipated from the NPSIB are assessed as being high for the following reasons:

- The proposal represents a significant change in how tangata whenua will be involved in indigenous biodiversity management and decision-making. Providing tangata whenua with a more active participation role to better enable their role as kaitiaki will be a substantial shift from the status quo in some areas and will ensure better alignment with the principles of the Treaty of Waitangi.
- The proposal will assist Aotearoa in meeting international obligations under the Convention on Biological Diversity and will help protect globally unique flora and fauna species endemic to Aotearoa. The protection and restoration of indigenous biodiversity also has important carbon sequestration benefits which is essential for meeting the national and international climate change obligations of Aotearoa.
- The core issue of ongoing loss of the indigenous biodiversity of Aotearoa is an issue occurring on a national scale that requires a national solution – it impacts every region to some degree. The fact that regional variations to indigenous biodiversity management are contributing to the issue justifies a national response through the NPSIB rather than risk ongoing inconsistencies in practice and biodiversity loss under the status quo.
- The scale of indigenous biodiversity loss is extensive and is driven by a range of factors including lack of national policy direction and market failure. The failure of existing regulatory systems and markets to reverse this trend requires a major change from the status quo to achieve meaningful results and a range of initiatives – including regulatory and complementary measures. This is likely to result in a significant degree of change for most local authorities nationally.

- The NPSIB may impose significant opportunity, transaction and compliance costs for private landowners. Actual costs will vary based on a range of factors, including the extent of the SNA coverage, whether the land has already been developed and the aspirations of landowners to further develop their land. In some cases, these costs may be significant at the property level when there is high portion of SNA coverage and certain adverse effects on SNA cannot be avoided. However, for most landowners the NPSIB is expected to have no impact or a very minor marginal impact over and above the status quo.

## Quantification of benefits and costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal (environmental, economic, social and cultural) are to be quantified. The requirement to quantify benefits and costs *if practicable* recognises that it is often very difficult and, in some cases, inappropriate to quantify certain costs and benefits of provisions through section 32 evaluations, particularly those relating to non-market values. Accurate quantification is also particularly challenging for national direction instruments as the costs and benefits of the provisions typically vary regionally and locally due to a range of factors. Where benefits and costs of provisions are quantified or monetised within a section 32 evaluation, it is important to clearly communicate all underlying assumptions, uncertainties and limitations.

The CBA includes analysis at national, district and theoretical property levels, examples and literature reviews to understand the benefits and costs, and includes some quantification of costs (primarily implementation costs with data limitations). It does not include a national level Benefit Cost Ratio (BCR) as set out in the Treasury guidance<sup>22</sup> or quantification of costs and benefits at a district level, due to the unique nature of the cost and benefits arising from the NPSIB which do not lend themselves to practicable or robust quantification in monetary terms. This relates to a number of factors:

- The costs and benefits of the NPSIB are expected to vary significantly within, and between, regions and districts and for different land uses and activities, and different agencies and stakeholders.
- The variable status quo regulatory environment for indigenous biodiversity which is a key factor for the net regulatory change that can be attributed to the NPSIB in a CBA.
- The level of discretion local authorities have to give effect to the NPSIB, particularly for certain provisions that give considerable flexibility in approach (eg, SNAs on Māori lands). These levels of uncertainty and flexibility make it very challenging to quantify costs for any one district given the data requirements that would be needed to examine costs at a property level and aggregate them to a district level.
- Limited accurate information on the implementation and opportunity costs of the NPSIB from central government, local authorities and stakeholders despite this being a key focus throughout the development of, and consultation, on the draft NPSIB.

As a result, this section 32 evaluation report and the NPSIB CBA include a combination of qualified, monetised and quantified benefits and costs, supported by examples and commentary to help understand the relative scale and significance.

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<sup>22</sup> [Guide to Social Cost Benefit Analysis, 2015](#)

# Part 2 – Context for proposal

## Statutory and policy context

### Purpose and principles of the RMA

A fundamental requirement for section 32 evaluation reports is to clearly understand how the proposal achieves the purpose and principles in Part 2 of the RMA. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. To achieve this purpose, everyone exercising functions and powers under the RMA, including the Minister for the Environment, are to:

- recognise and provide for the matters of national importance in section 6
- have particular regard to the 'other matters' in section 7
- take into account the principles of the Treaty of Waitangi referred to in section 8.

The sections below identify the matters in Part 2 of the RMA that are most relevant to the NPSIB.

### Section 5

The matters in section 5 of the RMA of most relevance to the NPSIB are outlined below.

**Table 2: Relevant section 5 matters**

Section	Relevance
5(2)	<p><i>"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing"</i></p> <p>Comment: The indigenous biodiversity of Aotearoa is a natural resource that underpins much of what people and communities value about the natural environment of Aotearoa. There are significant economic, social and cultural benefits associated with enabling communities to access, experience and enjoy indigenous biodiversity. There are also recreational, educational, scientific, historical, amenity, landscape and natural character values associated with areas of indigenous biodiversity that contribute to the social, economic and wellbeing of people and communities. Thriving indigenous biodiversity also provides significant economic benefits for sectors such as tourism and is central to the identity of Aotearoa internationally as a clean and green country. The NPSIB will help to protect these values by providing clear direction on how indigenous biodiversity should be managed to provide for the social, economic and cultural wellbeing of people and communities. This is directly relevant to the purpose of the RMA in section 5(2) of the RMA.</p>
5(2)(b)	<p><i>"safeguarding the life-supporting capacity of air, water, soil, and ecosystems"</i></p> <p>Comment: The NPSIB will help to safeguard the life supporting capacity of all components of terrestrial ecosystems, including species populations and occupancy, ecosystem representation, ecosystem connectivity, buffering, resilience and adaptability. This will be achieved as a consequence of improved protection and management of indigenous biodiversity throughout Aotearoa as a result of the NPSIB requirements. The ongoing natural capital benefits of maintaining the life supporting capacity of indigenous biodiversity ecosystems are significant and will be felt by current and future generations.</p>

Section	Relevance
5(2)(c)	<p><i>“avoiding, remedying, or mitigating any adverse effects of activities on the environment”</i></p> <p>Comment: The NPSIB requires certain adverse effects to be avoided and introduces an effects management hierarchy to ensure that other adverse effects on SNAs are avoided, remedied, mitigated, offset, or compensated in a robust manner. This will result in greater clarity on how to avoid and manage adverse effects on indigenous biodiversity and an improvement nationally in how adverse effects on SNA and indigenous are avoided, remedied or mitigated based on international and national best practice.</p>

## Section 6

The matters of national importance in section 6 of the RMA of most relevant to the NPSIB are outlined below.

**Table 3: Relevant Section 6 matters**

Section	Relevance
Section 6(a)	<p><i>“the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development”</i></p> <p>Comment: The NPSIB focuses on terrestrial indigenous biodiversity as there is national policy direction in place for freshwater ecosystems in the National Policy Statement-Freshwater Management and for indigenous biodiversity in the coastal environment in the Aotearoa Coastal Policy Statement (NZCPS).<sup>23</sup> However, section 6(a) is still relevant as there is clear direction in the NPSIB to prioritise the restoration of wetlands whose ecological integrity is degraded or wetlands that no longer retain their indigenous vegetation or habitat for indigenous fauna. Local authorities are required to do this through their planning documents, including through the reconstruction of an area.<sup>24</sup> Other policies that prioritise the restoration of buffers areas and require the setting of indigenous vegetation cover targets are also likely to have a positive impact on the natural character of lake and river margins, as these areas typically provide additional indigenous vegetation buffer areas or corridors for these waterbodies. As such, the NPSIB will help recognise and provide for section 6(a) of the RMA.</p>
Section 6(c)	<p><i>“the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna”</i></p> <p>Comment: Section 6(c) is a key consideration for indigenous biodiversity and a focus of the NPSIB. It requires all persons exercising functions under the RMA to provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (SNAs). The word ‘protection’ is not defined in the RMA, but the Environment Court has stated it has the ordinary meaning ‘to keep safe from harm, injury or damage’ and that it has a near synonym meaning as safeguard in section 5(2)(b) of the RMA. Section 6(c) is not subject to any qualifiers and has more absolute terms than section 6(a) and 6(b) of the RMA.</p> <p>The NPSIB provides a comprehensive framework to better identify, map and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna nationally. It introduces a nationally consistent approach to assess and map SNAs in district plans and includes a range of effects management provisions to ensure the ecological significance of these areas are protected. This will represent a significant improvement in the status quo approach to protecting SNAs in some districts to better implement section 6(c) and achieve the purpose of the RMA.</p>

<sup>23</sup> Note that both the NZCPS and the NPSIB apply in terrestrial coastal environments and the NZCPS and NPS-FM prevail over the NPSIB in the event of conflict (Clause 1.4 of the NPSIB).

<sup>24</sup> Reconstruction is defined in NPSIB as *“means reintroducing and maintaining appropriate biota to recreate an ecosystem that would not regenerate or recolonise even with best practice restoration interventions”*.

Section	Relevance
Section 6(e)	<p><i>“the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga”</i></p> <p>Comment: The NPSIB contains a range of provisions to recognise and provide for section 6(e) of the RMA, including requirements to identify and protect taonga species, habitats and ecosystems (in agreement with tangata whenua). Its provisions also seek to better recognise the relationship between tangata whenua and indigenous biodiversity and better provide for that relationship through plan provisions and decision-making when giving effect to the NPSIB. The NPSIB will, therefore recognise and provide for section 6(e) of the RMA which is discussed in more detail in Part 3 of this evaluation report.</p>

## Section 7

The ‘other matters’ in section 7 of the RMA that are most relevant to the NPSIB are outlined below.

**Table 4: Relevant section 7 matters**

Section	Relevance
Section 7(a)	<p><i>“Kaitiakitanga”</i></p> <p>Comment: The NPSIB contains strong direction to recognise the role of tangata whenua as kaitiaki of indigenous biodiversity. The NPSIB aims to protect, maintain and restore indigenous biodiversity in a way that recognises tangata whenua as kaitiaki and the implementation provisions require local authorities to actively involve tangata whenua in managing that biodiversity. The provisions go beyond consultation and will require local authorities to work with tangata whenua to investigate the use of mechanisms available under the RMA to involve tangata whenua in the management of, and decision-making about, indigenous biodiversity (eg, transferring or delegating power, setting up joint management agreements or mana whakahono a rohe). The NPSIB provisions will also require local authorities to take reasonable steps to incorporate mātauranga Māori when giving effect to the NPSIB. As such, the NPSIB has had particular regard, and will give effect, to section 7(a) of the RMA.</p>
Section 7(aa)	<p><i>“The ethic of stewardship”</i></p> <p>Comment: The ethic of stewardship is a key concept in the NPSIB to recognise the important role of landowners and the wider community in protecting, maintaining and restoring indigenous biodiversity. The NPSIB aims to protect, maintain and restore indigenous biodiversity in a way that recognises people and communities as stewards of indigenous biodiversity. This objective is supported by the policies and implementation requirements which seek to encourage restoration and allow for appropriate subdivision, use and development while protecting and maintaining indigenous biodiversity. This recognises that without strong stewardship and buy-in from landowners there is likely to be ongoing resistance to protecting indigenous biodiversity on private land and it will not be possible to reverse the loss of indigenous biodiversity. As such, the NPSIB has had particular regard, and will give effect, to section 7(aa) of the RMA.</p>



Section	Relevance
Section 7(d)	<p><i>“The intrinsic values<sup>25</sup> of ecosystems”</i></p> <p>Comment: The overarching objective of the NPSIB to protect, maintain, and restore indigenous biodiversity, helping to protect preserve and enhance the intrinsic values of indigenous ecosystems in their own right. The concept of protecting the intrinsic values of ecosystems with respect to section 7(d) has been considered in case law<sup>26</sup> and explained as follows:</p> <p><i>“If an ecosystem or part of an ecosystem (being in either case an area of indigenous vegetation or a habitat of indigenous fauna) is found to be significant then that ecosystem is to be protected in itself, not merely to have its life-supporting capacity protected.”</i></p> <p>The NPSIB seeks to protect all components of ecosystem function, extent and representation and this is reflected through key definitions and provisions relating to managing and avoiding adverse effects on SNAs and indigenous biodiversity. This approach is also reflected in the criteria used to identify SNAs in Appendix 1, which focus on key ecological attributes (ie, representativeness, diversity and pattern, rarity and distinctiveness and ecological context) to determine whether an ecosystem or wider area qualifies as a SNA. This ensures the intrinsic values of ecosystems are recognised and given appropriate protection. As such, the NPSIB has had particular regard, and will give effect, to section 7(d) of the RMA.</p>
Section 7(i)	<p><i>“The effects of climate change”</i></p> <p>Comment: The NPSIB will require local authorities to promote the resilience of indigenous biodiversity to climate change by providing for the maintenance of ecological integrity through natural adjustments of habitats and ecosystems. Local authorities must promote the resilience of indigenous biodiversity to climate change:</p> <ul style="list-style-type: none"> <li>• when making decisions on restoration proposals</li> <li>• when managing and reducing new and existing biosecurity risks</li> <li>• by maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.</li> </ul> <p>The NPSIB will also require regional biodiversity strategies to provide for resilience to biological and environmental changes, including those associated with climate change. As such, the NPSIB has had particular regard, and will give effect, to section 7(i) of the RMA.</p>

The Environment Court explained (in summary) the scheme of Part 2 of the RMA with respect to indigenous biodiversity in *Director-General of Conservation v Invercargill City Council*.<sup>27</sup> Some key extracts from that Environment Court decision are provided below.

<sup>25</sup> Defined in the RMA as intrinsic values, *“in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including— (a) their biological and genetic diversity; and (b) the essential characteristics that determine an ecosystem’s integrity, form, functioning, and resilience”*.

<sup>26</sup> *Director-General of Conservation v Invercargill City Council* [2018] NZEnvC 84.

<sup>27</sup> *Director-General of Conservation v Invercargill City Council* [2018] NZEnvC 84.



*[44] In part 2 of the RMA there are three provisions that are particularly important and relevant to biodiversity issues. They are the obligations:*

*“...safeguard ... the life-supporting capacity of ... ecosystems’ (section 5(2)(b) RMA);*

*... protect ... areas of significant indigenous vegetation and significant habitats of indigenous fauna’ (section 6(c)); and*

*...to have particular regard to the ‘intrinsic values of ecosystems’ (section 7(d) recalling that is a defined term)”.*

*[45] Five points should be made here about the scheme of the RMA in relation to indigenous biodiversity. First, the primary responsibility of local authorities when exercising their functions in respect of indigenous biodiversity is part of the very definition of ‘sustainable management’: to safeguard the life-supporting capacity of ecosystems.*

*[46] Second, the recognition and protection of areas of significant indigenous vegetation, nationally important as it is, is an extension of that primary obligation. If an ecosystem or part of an ecosystem (being in either case an area of indigenous vegetation or a habitat of indigenous fauna) is found to be significant then that ecosystem is to be protected in itself, not merely to have its life-supporting capacity protected.*

*[47] Third, safeguarding (or protecting) the life-supporting capacity of ecosystems includes in each case having particular regard to each of its components including – as the definition of ‘intrinsic values’ 6 implies...*

## **Section 8**

Section 8 of the RMA is also relevant for managing indigenous biodiversity. Section 8 requires all persons exercising functions and powers under the RMA to take into account the principles of the Treaty of Waitangi in achieving the purpose of the RMA. The principles of the Treaty of Waitangi have been taken into account in developing the NPSIB and this is reflected throughout the NPSIB provisions, in particular:

- Policy 1 which requires indigenous biodiversity to be managed in a way that takes into account the principles of the Treaty of Waitangi
- Policy 2 and Clause 3.3 which set out a range of requirements for tangata whenua to exercise kaitiakitanga and be involved in the management of indigenous biodiversity as partners
- Clause 3.18 which enables local authorities and tangata whenua to develop a bespoke approach to manage and protect indigenous biodiversity on Māori lands while enabling new occupation, use and development
- Clause 3.19 which seeks to identify and protect taonga species, populations and ecosystems (in agreement with tangata whenua).

The effectiveness of the NPSIB in providing for the relationship of tangata whenua with indigenous biodiversity and taking into account the principles of the Treaty of Waitangi is discussed in more detail in Part 3 of this report in relation to the provisions above.

## Functions of regional councils and territorial authorities

Sections 30 and 31 of the RMA set out the functions of regional councils and territorial authorities for the purpose of giving effect to the RMA.

### Regional council functions

The functions of regional councils under section 30 include:

- “(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region.*
  - (ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity”.*

Regional councils are required to prepare regional policy statements and section 62 of the RMA sets out what regional policy statements must contain. This section states:

- “(1) A regional policy statement must state—*
  - (i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land—*
    - (iii) to maintain indigenous biological diversity; and...”*

This requirement is intended to ensure there are clear allocation of roles and responsibilities for the control of land to maintain indigenous biodiversity between regional councils and territorial authorities. Regional and district plans must give effect to the regional policy statement.

### Territorial authority functions

Section 31 of the RMA sets out the functions of territorial authorities and this includes:

*“(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*

- (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
  - (iii) the maintenance of indigenous biological diversity”.*

Territorial authorities must prepare their district plans to achieve the purpose of the RMA. District plans must give effect to national and regional policy statements.

# Reform of the resource management system

The Government is undertaking a comprehensive reform of the resource management system. Consistent with the recommendations of the Resource Management Review Panel in '*New Direction for Resource Management in Aotearoa New Zealand*',<sup>28</sup> the Government plans to repeal the RMA and replace with three new pieces of legislation.

The proposed Natural and Built Environments Act (NBA) is the main legislation to replace the RMA. An exposure draft of the NBA with key sections was released for public feedback in 2021 to test key elements of the draft bill. The NBA Bill was introduced into the House in November 2022 and is intended to be enacted in 2023. It is proposed that the NBA will set environmental limits to protect ecological integrity and the protection of indigenous biodiversity is an environmental outcome that must be provided for in the new Resource Management system.

The NBA will require preparation of a National Planning Framework (NPF) which will play a similar role to national direction under the RMA but as part of a more comprehensive and coherent planning framework. It will be the bridge between the NBA, regional spatial strategies under the Spatial Planning Act and Natural and Built Environment plans and will provide critical support for regions in resolving conflicts between environmental outcomes. The NPF must provide for the environmental outcomes in the NBA to ensure they are implemented throughout the planning system and will have specific functions to set strategic direction and prescribe environmental limits for certain matters. It is expected that the intent of existing national direction, including the NPSIB, will be incorporated into the NPF with some refinement and repurposing to align with the purpose of the NBA and the function of the NPF.

The proposed Spatial Planning Act (SPA) will mandate strategic spatial planning and facilitate the integration of legislative functions across the resource management system. The current proposal is that the SPA will require development of regional spatial strategies (RSS) to identify how each region will grow and change over a 30-year period by:

- setting long-term objectives for urban growth and land-use change
- ensuring development and infrastructure is provided in the right places and in a coordinated way
- identifying areas to be protected from inappropriate development or change, including significant natural areas
- supporting development capacity and infrastructure provision, including by identifying indicative future infrastructure corridors, or sites to improve housing supply, affordability and choice
- supporting climate change mitigation and adaptation, and natural hazard risk reduction.

RSS will need to translate the NPF's national direction into a regional context.

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<sup>28</sup> *New Direction for Resource Management in New Zealand, 2020*

## Other relevant legislation

### The Conservation Act 1987

The Conservation Act 1987 (Conservation Act) is the key piece of legislation guiding indigenous biodiversity management on public conservation land. It is administered by DOC, the lead central government agency for conservation.

The Conservation Act protects in perpetuity approximately a third of the land area of Aotearoa. It grants DOC several responsibilities, including management of public conservation land, preservation of indigenous freshwater fisheries and a conservation advocacy role. Section 4 of the Conservation Act requires DOC to give effect to the principles of the Treaty of Waitangi. A range of statutory plans and strategies prepared under the Conservation Act set out how DOC intends to manage public conservation land. Other pieces of legislation which influence biodiversity management on public conservation land include the Reserves Act 1977 (discussed below), the National Parks Act 1980 and the RMA.

How land is administered under the Conservation Act needs to be considered when applying provisions relating to SNAs (particularly those relating to identification and protection of SNA), given there are already protections in place for indigenous biodiversity. This is discussed in more detail in the evaluation of provisions in Part 3 of this report.

### The Reserves Act 1977

The Reserves Act 1977 (Reserves Act) was established to acquire, preserve and manage areas for their conservation values or public recreational and educational values. The Reserves Act has three main functions:

- To provide for the preservation and management for the benefit and enjoyment of the public, areas possessing some special feature or values such as recreational use, wildlife, landscape amenity or scenic value.
- To ensure, as far as practicable, the preservation of representative natural ecosystems or landscapes and the survival of indigenous species of flora and fauna, both rare and commonplace.
- To ensure, as far as practicable, the preservation of access for the public to the coastline, islands, lakeshore, and riverbanks and to encourage the protection and preservation of the natural character of these areas.

Reserves may be administered by DOC or by other Ministers, boards, trustees, local authorities, societies and other organisations appointed to control and manage the reserve, or in whom reserves are vested. There are eight categories of reserves under the Reserves Act including:

- Scenic Reserves (Section 19): These reserves are established to protect and preserve in perpetuity, for their intrinsic worth and for the public benefit, enjoyment and use, such qualities of scenic interest or beauty or natural features worthy of protection in the public interest.
- Nature Reserves (Section 20): These reserves are established primarily to protect and preserve in perpetuity indigenous flora or fauna or natural features of rarity, scientific interest or importance so unique that their preservation is in the public interest.

- Wilderness Areas (Section 47): Reserves or parts of reserves may be set apart as Wilderness Areas. They are maintained in a natural state. Similar to the Conservation Act, the Reserves Act provides for a category of conservation land. It is relevant for the NPSIB in terms of how it applies to this land given there are already protections in place for indigenous biodiversity.

## National strategies and guidance

### **Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020**

*Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy (ANZBS)*<sup>29</sup> sets the strategic direction for the protection, restoration and sustainable use of indigenous biodiversity nationally from 2020 until 2050. The ANZBS is an outcome focused strategy that aims to improve biodiversity outcomes and puts the Treaty of Waitangi at the forefront of its overall approach. The strategy highlights that one in 14 indigenous species assessed in Aotearoa is threatened with extinction and draws attention to key pressures that are contributing to the decline of indigenous species.

The ANZBS identifies opportunities to shift the way organisations and people work and then outlines a framework for action with guiding principles. The strategy includes an overall vision – *The mauri of nature is vibrant and vigorous* – with five key outcomes to achieve by 2050:

- Ecosystems, from mountain tops to ocean depths, are thriving.
- Indigenous species and their habitats across Aotearoa and beyond are thriving.
- People’s lives are enriched through their connection with nature.
- Treaty partners, whānau, hapū and iwi are exercising their full role as rangatira and kaitiaki.
- Prosperity is intrinsically linked with a thriving biodiversity.

The ANZBS is supported by an implementation plan developed collaboratively with central and local government, Treaty partners and stakeholders to set out key actions and responsibilities to improve the management of indigenous biodiversity in Aotearoa.<sup>30</sup> This plan will be used over the next 30 years to set out a pathway for achieving the ANZBS. The NPSIB forms a key part of the delivery of the outcomes sought through the ANZBS.

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<sup>29</sup> *Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy, 2020.*

<sup>30</sup> *Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy Implementation Plan, 2020.*

# Resource management issues

## Current state

### State of terrestrial indigenous biodiversity in Aotearoa, pressures and threats

The indigenous biodiversity of Aotearoa has been experiencing ongoing decline which is largely the result of the substantial reduction in the extent and quality of natural habitats. Indigenous vegetation continues to be lost with land use change and intensification. While rates of loss have slowed in recent times, less than half of the land area of Aotearoa now remains in indigenous vegetation cover.

Of the nearly 11,000 terrestrial species assessed using the Aotearoa New Zealand Threat Classification System (NZTCS), 811 (7 per cent) are ranked as 'Threatened' and 2416 (22 per cent) as 'At Risk'. Between 2012 and 2017, population declines were recorded for 61 vascular plant species. However, positive changes have been recorded for other species. For example, the conservation status of 23 bird species improved between 2008 and 2019 as a result of population increases resulting mainly from conservation management.<sup>31</sup>

There are four direct pressures responsible for the decline of indigenous species and ecosystems, all of which are related to human actions or activities. These are:

- introduced invasive species
- changes in land and sea use
- direct exploitation and harvesting (including water extraction)
- pollution and the increasing threat of climate change.<sup>32</sup>

Of particular concern is the loss of remaining indigenous habitats and ecosystems on private land that are representative of lowland and coastal environments (and which differ from the significantly more extensive indigenous habitats and ecosystems, often on hilly or alpine terrain, typically protected on public land).<sup>33</sup>

### Spatial analysis of SNA coverage

The requirement in the NPSIB to assess and spatially map SNAs is fundamental to the achievement of its objective and also accounts for a significant portion of the likely benefits and costs associated with the NPSIB. Understanding the extent of indigenous biodiversity cover and existing SNA coverage is therefore important in understanding likely impacts, benefits and costs. Section 3 of the CBA presents a detailed spatial analysis of SNA (actual and indicative) both through a high-level national analysis and more detailed analysis for the six case study areas used in the indicative SNA.

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<sup>31</sup> Department of Conservation (2020), *Biodiversity in Aotearoa — an overview of state, trends and pressures*.

<sup>32</sup> Ibid.

<sup>33</sup> New Zealand's Environmental Reporting Series: *Our land 2018*. Retrieved from [www.mfe.govt.nz](http://www.mfe.govt.nz) and [www.stats.govt.nz](http://www.stats.govt.nz)

## *Mapped SNAs*

The status and quality of SNA mapping is highly variable across Aotearoa, and this is one of the key issues and inconsistencies in the status quo the NPSIB seeks to address. The status of existing SNA coverage can be categorised as district plans that:

- have SNAs (or similar) mapped and scheduled in their operative plan
- have not mapped SNA but have provided criteria in their plans for how they should be defined or contain a schedule describing their location and attributes
- are currently undertaking mapping SNAs which are to form part of the future proposed plan or plan change. These processes may have begun prior to the draft NPSIB being notified, or more recently in response to the draft NPSIB
- have not mapped SNA and have no processes underway to progress this.

Analysis undertaken by M.E in 2021 indicated that 33 district plans have SNA mapped in district plans which were accessible in GIS format. Importantly, existing SNAs do not necessarily meet the requirements for identifying and mapping SNAs set out in Appendix 1 of the NPSIB. A recent evaluation by the Ministry determined that only 44 per cent of district plans have already mapped and scheduled SNAs in a manner moderately or completely aligned with NPSIB requirements. That leaves 56 per cent of districts with no or only limited SNA schedules (by NPSIB standards).<sup>34</sup>

## *National spatial analysis indicative SNAs*

The NPSIB CBA provides a national level spatial analysis of indicative SNA using categories in the Land Cover Database (LCDB)<sup>35</sup>. In terms of land tenure, this spatial analysis found that at a national level, 65 per cent of indicative SNAs are located in the DOC estate, 19 per cent on general land, 8 per cent on other Crown land, 5 per cent on Māori Land Court, and 3 per cent (the balance) in Treaty Settlement Land. In terms of indicative SNA coverage on private land, the spatial analysis found:

- General tenure land — on average across Aotearoa, 92.5 per cent of these land parcels of any size contain no indicative SNA coverage, including 79 per cent of all general parcels less than 1 hectare in size (which will be dominated by urban parcels). This means that the clear majority of general parcel owners will not face any direct costs under the NPSIB specifically related to protecting SNAs. Of those that do contain indicative SNAs, 2.8 per cent of all general land parcels contain indicative total SNA coverage of between 1-20 per cent, and only an estimated 1.2 per cent of all general land parcels contain indicative total SNA coverage of greater than or equal to 90 per cent.
- Māori Land Court tenure land — on average across Aotearoa, 66.1 per cent of these parcels of any size contain no indicative SNA coverage, including 37.6 per cent of all Māori Land Court parcels less than 1 hectare in size. This means that two thirds of Māori Land Court parcel owners will not face costs under the NPSIB specifically related to protecting SNAs. Of those parcels that do contain indicative SNAs, 9.1 per cent of all Māori Land Court land parcels contain indicative total SNA coverage of between 1-20. An estimated

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<sup>34</sup> Sharpe, H. September 2021. *Completeness of Council SNA Schedules* (updated from Myers, S. May 2019), MfE. Note, in some locations, SNA schedules were being dealt with by the Regional Council, or in combination across neighbouring territorial authorities, hence the number of district plans assessed is less than the number of territorial/unitary authorities.

<sup>35</sup> Refer to section 3.3 of the NPSIB CBA for more detailed overview of methodology and results.

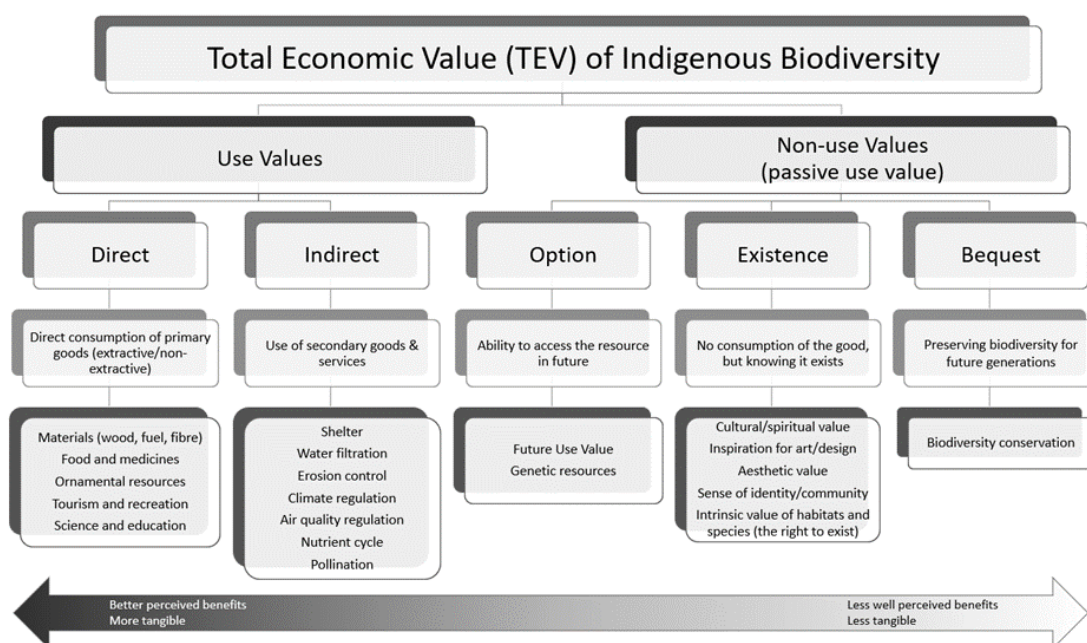
8.1 per cent of all Māori Land Court land parcels contain indicative total SNA coverage of greater than or equal to 90 per cent.

- Treaty Settlement tenure land — on average across Aotearoa, 63.8 per cent of these parcels of any size contain no indicative SNA coverage, including 41.1 per cent of parcels than 1 hectare in size. This means that nearly two-thirds of Treaty Settlement parcel owners will not face costs under the NPSIB specifically related to protecting SNAs. Of those that do contain SNAs, 5.7 per cent of all land parcels contain indicative total SNA coverage of between 1-20 per cent. An estimated 6.1 per cent of all Treaty Settlement land parcels contain indicative total SNA coverage of greater than or equal to 90 per cent.

## The opportunity – the values and benefits associated indigenous biodiversity

The benefits of indigenous biodiversity are discussed in detail in the CBA for the NPSIB prepared by Market Economics. The CBA uses a Total Economic Value (TEV) approach to identify the range of values associated with indigenous biodiversity which is shown in Figure 1 below. Classifying ecosystem services within this framework provides additional context on how each ecosystem service is valued by people and communities, over time, and spatially (ie, local versus or wider benefits).

**Figure 1: Total Economic Value of indigenous biodiversity using ecosystem services (Source: CBA for NPSIB)**



In summary, the CBA identifies that indigenous biodiversity in Aotearoa delivers a wide range of ecosystem services that collectively provide a significant contribution to the wellbeing of people and communities. These services span direct and indirect use values and non-use values. Indigenous biodiversity provides a mix of services that can be measured through market transaction and through other services for which no market exists. Ecosystems services are benefits that are received at a property level, through to a community, catchment, regional and national level. Key ecosystem services from indigenous biodiversity that provide significant values and benefits to Aotearoa include:

- preventing erosion and filtering wastes



- carbon sequestration
- recreational, human-health and social cohesion benefits
- supporting tourism, including being central to the ‘clean green image’ of Aotearoa, primary production and other export industries
- contributing to the identity and wellbeing of the people of Aotearoa.

Protecting and maintaining indigenous biodiversity helps to protect and maintain ecosystem services and has significant benefits for current and future generations which are generally undervalued (or not valued at all) in decision-making. Restoration of indigenous biodiversity can help increase the locations where ecosystem services are delivered and increase the scale and effectiveness of ecosystem services delivered in aggregate. Protecting and enhancing terrestrial indigenous biodiversity therefore benefits all and is central to the economic, social and cultural wellbeing of people and communities.

For a more detailed overview of the values and benefits of indigenous biodiversity, including key research with quantified and monetised benefits, refer to the NPSIB CBA.

## **Problem statement – protecting and maintaining indigenous biodiversity under the RMA**

This section outlines the problems for managing terrestrial indigenous biodiversity under the RMA. It is largely based on the problem statements in the regulatory impact statement (RIS) for the NPSIB prior to public consultation<sup>36</sup> and information provided by DOC officials. The updated RIS for the NPSIB should be referred to in addition to this section for a more detailed understanding of the problems the NPSIB seeks to address.

### **The core problem**

The core problem the NPSIB seeks to address is ongoing decline of indigenous biodiversity under the RMA. This is a systemic issue that cannot be addressed through one action alone. It has been described as a ‘wicked problem’<sup>37</sup> that:

- is complex, poorly understood and resists clear definition
- has many causes (ie, multiple threats) meaning there is no single solution but rather, multiple types of intervention are required
- is unlikely to be addressed by existing means, meaning that new tools are required
- is challenging because it requires changes in behaviour and attitudes across a range of agencies and individuals
- requires regulatory and non-regulatory interventions with potential unwanted outcomes.

Addressing this core problem is a complex task and will require a toolkit of regulatory and complementary measures, implemented over a number of years. ANZBS discussed above seeks

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<sup>36</sup> Department of Conservation and Ministry for the Environment. *Impact Statement: Improving indigenous biodiversity management under the Resource Management Act (1991)*.

<sup>37</sup> Enfocus (2017). *Addressing New Zealand’s Biodiversity Challenge: A Regional Council think-piece on the future of biodiversity management in New Zealand*.

to implement a range of initiatives and actions to address the ongoing decline in indigenous biodiversity.

This section focuses the regulatory regime for indigenous biodiversity under the RMA. Analysis by officials has identified that RMA provisions relating to indigenous biodiversity are unclear and this is contributing to the ongoing loss of the indigenous biodiversity of Aotearoa. This lack of clarity in the issues it is causing in terms of variable practices and poor ecological outcomes is discussed further below.

### **Lack of clarity on how to maintain indigenous biodiversity**

Local authorities have obligations to maintain indigenous biodiversity as part of their functions under sections 30(1)(ga) and 31(1)(b)(iii) of the RMA respectively. There are differing views about the extent to which indigenous biodiversity can be adequately maintained by focusing on protecting SNAs in accordance with section 6(c) of the RMA or whether a wider approach with a range of protection and restoration efforts is required. Some RMA plans only contain provisions in relation to SNAs, but it is now increasingly recognised that the protection afforded by these areas is not sufficient to maintain indigenous biodiversity.

The lack of clarity around what maintaining indigenous biodiversity requires has resulted in variable approaches to management and protection as well as uncertainty, debate and costly litigation. This has resulted in inadequate regulatory protection in some areas, contributing to the continued loss of indigenous biodiversity.

The responsibilities of regional councils and territorial authorities under the RMA in relation to the maintenance of indigenous biodiversity overlap and would benefit from further clarity. Amendments to the RMA in 2003 sought to address this by requiring regional policy statements to specify which local authority is responsible for controlling the use of land to maintain indigenous biodiversity (section 62(1)(i)(iii)). Variable approaches have been adopted in allocating indigenous biodiversity responsibilities between local authorities and anecdotal evidence suggests there is still a lack of clarity and inaction in some areas.

### **Lack of clarity on the protection of areas of significant indigenous vegetation and significant habitat of indigenous fauna**

Section 6(c) of the RMA requires that all persons exercising functions and powers under the RMA recognise and provide for the “...protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna...” as a matter of national importance. These areas are often referred to as Significant Natural Areas (SNAs).

Meeting obligations under section 6(c) of the RMA requires an understanding of which areas of indigenous vegetation and habitats of indigenous fauna are significant within a district or region. ‘Significant’ is not defined in the RMA but most regional policy statements include ecological significance criteria to assist in identifying SNAs both at the plan-making and consenting level. Common criteria used to assess ecological significance include rarity, distinctiveness, uniqueness and diversity, although a range of other criteria have also been used<sup>38</sup>.

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<sup>38</sup> Beca and Wildlands (2016) *Biodiversity Planning and Management Research*, prepared for Ministry for the Environment.

Despite growing consensus in the use of ecological significance criteria, there is still inconsistency and uncertainty as to how ecological 'significance' should be assessed in the context of section 6(c) of the RMA. Variation in criteria and the methodology used to assess ecological significance has implications for the subsequent protection of areas with significant ecological values. Ambiguity around what ecological areas are "significant" can favour development over environmental interests and result in an underestimation of indigenous biodiversity values<sup>39</sup>. It has also resulted in a large amount of debate and litigation, with considerable cost, time and effort incurred for those involved.

There have also been a variety of methodologies and approaches used to spatially identify SNAs, ranging from no spatial identification through to clear spatial mapping and scheduling that articulates the ecological attributes of the ecological area which make it significant. A review of district plans in late 2018 found that 61 per cent of them have SNA schedules<sup>40</sup> and that the extent and quality of these schedules varies significantly. A subsequent assessment of district plan SNA schedules found that 11 (19 per cent) were 'very complete' with the remainder assessed as being 'moderately complete' (15 schedules, or 25 per cent) or 'limited in completeness' (10 schedules, or 17 per cent).<sup>41</sup> There are also 39 per cent of district plans that have not scheduled/mapped any SNAs. In the absence of SNA mapping, the general approach is to assess ecological significance in an ad hoc manner through the resource consent process. This approach also often relies on general indigenous vegetation clearance rules to impose consent requirements and requires an ecological assessment to be done through the consent process. This often leads to compliance monitoring issues and can create uncertainty for applicants and lead to additional work, costs and time delays through the resource consent process.

The spatial identification of SNAs can be very contentious among landowners and the community. Landowners are often concerned that identification of an SNA will constrain their ability to use and develop their land. They are often also concerned about the accuracy of the data/mapping on their property and making this information publicly available. Some local authorities have chosen to focus on identification of SNAs on public land in response to opposition from landowners. A district-wide exercise to identify SNAs also takes considerable time, requires a high level of expert input and landowner engagement, and is resource-intensive. These are all key reasons while many districts have not identified/mapped SNAs despite earlier intentions to do so (as highlighted in the Westland and Southland case studies in the CBA).

## **Lack of clarity and consistency in managing effects on indigenous biodiversity**

Section 5(2)(c) of the RMA requires that adverse effects of activities on the environment must be avoided, remedied or mitigated. Section 104(1)(ab) requires consent authorities to have regard to:

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<sup>39</sup> Brown, M (2016) *Pathways to prosperity: safeguarding biodiversity in development*, Environmental Defence Society Incorporated. Wellington, New Zealand.

<sup>40</sup> Myers, S C (2018). *A Biodiversity Planning Snapshot — How Well Are Councils Protecting Biodiversity?*, NZ Ecological Society Conference, Wellington 2018.

<sup>41</sup> Analysis from officials and their advisors.

*“...any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity”.*

International and national best practice promotes an ‘effects management hierarchy’ to manage effects on indigenous biodiversity — avoid, remedy, mitigate adverse effects (in that order) before offsetting and compensation can be considered (in that order). Stepping through this hierarchy in a robust manner is important because the risk of loss increases the further down the hierarchy. Some local authorities provide for effects management hierarchy in their plans and have defined key terms such as ‘biodiversity offsetting’. However, both the approach and the use of biodiversity offsetting and compensation to address residual adverse effects on indigenous biodiversity are applied inconsistently across the country. These inconsistent approaches to effects management are leading to inconsistent outcomes and are contributing to the loss of indigenous biodiversity.

### **Lack of clarity on providing for the relationship of tangata whenua with indigenous biodiversity**

There are a range of provisions in the RMA that recognise and give effect to relationships of tangata whenua with the environment and their taonga (in particular sections 6(e), 7(a) and 8 as discussed above). Implementation of these provisions has been inconsistent, including in relation to the management of indigenous biodiversity. These outcomes were documented by the Waitangi Tribunal in their report on the Wai 262 claim on indigenous flora and fauna and Māori cultural and intellectual property rights. This report found that current laws:

*..... sideline Māori and Māori cultural values from decisions of vital importance to their culture – for example, decisions about the flora, fauna and wider environment that created Māori culture, and decisions about how education, culture and heritage agencies support the transmission of Māori culture and identity. Iwi and hapū are therefore unable to fulfil their obligations as kaitiaki (cultural guardians) towards their taonga – yet these kaitiaki obligations are central to the survival of Māori culture.<sup>42</sup>*

The Biodiversity Collaborative Group also recognised a number of barriers to incorporating mātauranga Māori into legislation and to ensuring effective and meaningful engagement identified in Wai 262 and others reports. The identified barriers include:

- mātauranga and tikanga Māori are not a defined part of the foundation of legislation, but rather additional considerations within the legislative framework
- decision-makers, including the judiciary, have struggled with understanding the meaning and importance of Māori interests, and also how to interpret evidence focused on Māori considerations
- no process to identify and manage taonga has been developed
- existing mechanisms for Māori influence in environmental management and partnerships between kaitiaki and the Crown are underused
- a failure to recognise the unique limitations that apply to Māori land.<sup>43</sup>

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<sup>42</sup> Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released | Waitangi Tribunal

<sup>43</sup> Report of Biodiversity Collaborative Group, 2018 pg.18.

## **Market failure in relation to the protection of indigenous biodiversity**

In light of the evidence of ongoing decline in indigenous biodiversity and current costs of the status quo, the CBA considers whether there is 'market failure', ie, where the outcomes sought through the NPSIB are unable or unlikely to be achieved through the operation of commercial markets (in combination with current regulation). M.E concludes that there is clear evidence of market failure:

- There is evidence of continuing decline in indigenous biodiversity under current market and planning conditions.
- There are no mechanisms in commercial markets through which the outcomes and benefits sought from the NPSIB would be protected and preserved for current and future generations. This is because the value of indigenous biodiversity to the community at large is not captured in price signals in the commercial market. Commercial markets do not place a high enough value on the indigenous biodiversity resource to influence land use or land development decisions.
- Negative outcomes (adverse effects) from reduction or loss of terrestrial indigenous biodiversity arise largely at the macro-level as a consequence of changes in land use patterns, whereas the commercial market functions primarily at the micro-level (individual land holdings).

As such, there is a need for intervention at the individual land holding level to influence indigenous biodiversity outcomes at the district, regional and national level and address the current market failure.

## **The need for national direction**

The problems outlined above highlight the need for national direction and an improved national policy framework under the RMA for the protection, management and restoration of indigenous biodiversity. RMA national direction on indigenous biodiversity is warranted as:

- the indigenous biodiversity of Aotearoa continues to decline
- a recognised market failure in that the wider public benefits of indigenous biodiversity are not adequately recognised in the commercial markets to influence land use decisions
- being of national significance
- poor practice in some areas which is compromising indigenous biodiversity outcomes
- there is likely to be inconsistency, debate and litigation costs in the absence of national direction
- it is a technically complex issue requiring clear, effective policy direction, resourcing and support from central government to address it.

# Part 3 — Evaluation of the proposal

## Introduction

This section of the report evaluates the proposal to determine whether the NPSIB objective is the most appropriate way to achieve the purpose of the RMA, and whether the provisions are most appropriate to achieve the NPSIB objective. The NPSIB should be read in full along with this evaluation report.

In summary, the NPSIB includes:

- an overarching objective to maintain indigenous biodiversity across Aotearoa so that there is at least no overall loss in indigenous biodiversity after the commencement date and achieve this:
  - through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity
  - by recognising people and communities as stewards of indigenous biodiversity
  - by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity
  - while providing for the social, economic and cultural wellbeing of people and communities now and in the future
- seventeen policies which seek to achieve a range of outcomes and actions to achieve the NPSIB objective
- implementation requirements setting out what local authorities must do to give effect to the NPSIB objective and policies set out as:
  - Subpart 1 – approaches to implementing this National Policy Statement
  - Subpart 2 – significant natural areas
  - Subpart 3 – specific requirements.
- Part 4 (timing) which sets out the timeframes to give effect to the NPSIB
- Six appendices setting out more detailed requirements for implementing certain NPSIB provisions:
  - Appendix 1 – criteria for identifying areas that qualify as SNAs
  - Appendix 2 – specified highly mobile fauna
  - Appendix 3 – principles for biodiversity offsetting
  - Appendix 4 – principles for biodiversity compensation
  - Appendix 5 – regional biodiversity strategies
  - Appendix 6 – glossary of ecological terms used in appendices.

# Evaluation of NPSIB objective

## NPSIB objective

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The NPSIB includes one overarching objective as follows:

### 2.1 Objective

*(1) The objective of this National Policy Statement is:*

- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*
- (b) to achieve this:*
  - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
  - (ii) by recognising people and communities as stewards of indigenous biodiversity; and*
  - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*
  - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

The NPSIB objective is supported by a more detailed explanation in Clause 1.7 of what maintaining indigenous biodiversity requires. This states that maintaining indigenous biodiversity requires:

- (a) the maintenance and at least no reduction of all the following:*
  - (i) the size of populations of indigenous species:*
  - (ii) indigenous species occupancy across their natural range:*
  - (iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:*
  - (iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:*
  - (v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:*
  - (vi) the resilience and adaptability of ecosystems; and*
- (b) where necessary, the restoration and enhancement of ecosystems and habitats.*

The assessment of the NPSIB objective has been done against the criteria in Table 5 which are based on existing guidance and are intended to test different aspects of the appropriateness of proposed objectives to achieve the purpose of the RMA.<sup>44</sup>

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<sup>44</sup> These criteria are derived from the Ministry for the Environment (2017) *A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017*, Wellington: Ministry for the Environment.

**Table 5: Criteria to assess the appropriateness of the NPSIB objective to achieve the purpose of the RMA**

Criteria	Assessment
Relevance	Is the objective directed to addressing a resource management issue(s)?  Will it achieve one or more aspects of the purpose and principles of the Resource Management Act 1991 (RMA)?
Usefulness	Will it help local authorities to carry out their RMA functions?  Is the intent of the objective clearly expressed?  Does it offer sufficient direction to guide decision-making?
Reasonableness	Will the objective result in unjustifiably high costs being imposed on the public at large, specific areas of interest or discrete parts of the community?  Is it consistent with identified outcomes sought by iwi/Māori and/or the wider public?
Achievability	Can the objective be achieved with the tools and resources available, or likely to be available, to those charged with implementing the proposal?

## Assessment of NPSIB objective

Table 6 below provides an assessment of whether the NPSIB objective is the most appropriate way to achieve the purpose of the RMA against the above criteria.

**Table 6: Assessment of NPSIB objective**

Criteria and assessment	
<b>Relevance</b>	<p><i>Is the objective directed to addressing a resource management issue/s?</i></p> <p>The NPSIB objective is directed to address a nationally significant resource management issue — the ongoing decline of the indigenous biodiversity of Aotearoa. Currently, the RMA provides no clear direction on how regional councils and territorial authorities should maintain indigenous biodiversity despite this being one of their core functions. A lack of policy direction from central government on how to maintain indigenous biodiversity and protect SNAs is a key driver of this lack of clarity and ongoing decline of indigenous biodiversity.</p> <p>The NPSIB objective, supported by a suite of policies and implementation requirements, seeks to resolve this issue by setting out how regional councils and territorial authorities shall maintain indigenous biodiversity to ensure there is at least no overall loss in indigenous biodiversity after the commencement date (when the NPSIB comes into force). Key provisions supporting the achievement of the NPSIB objective will require a precautionary approach when considering and managing adverse effects on indigenous biodiversity and include a comprehensive framework to identify map and protect SNAs.</p> <p>The NPSIB objective clarifies the importance of <b>protecting and restoring</b> indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity and at least no overall loss. This recognises that a range of protection, maintenance and restoration actions are required to enable indigenous biodiversity to thrive. Implementation provisions for the NPSIB outline requirements to promote restoration and develop regional strategies to achieve landscape-scale restoration of indigenous biodiversity.</p> <p>The NPSIB objective seeks to address the inconsistent recognition and provision of tangata whenua values and interests in managing indigenous biodiversity, along with the mana of tangata whenua as kaitiaki of indigenous biodiversity. This is supported by a range of policies and implementation requirements for local authorities to provide for the kaitiaki role of tangata whenua and partner with tangata whenua when implementing the NPSIB. This will ensure local authorities take a more consistent approach to considering tangata whenua</p>



## Criteria and assessment

	<p>values and interests and more actively involve tangata whenua in the management of indigenous biodiversity as partners.</p> <p>The NPSIB objective also seeks to protect, maintain and restore indigenous biodiversity in a way that provides for the social, economic and cultural wellbeing of people and communities. This is intended to address widespread perceptions that maintaining indigenous biodiversity will simply result in unnecessary regulations/restrictions and a lack of recognition of the significant values and benefits that indigenous biodiversity provides to social, economic and cultural wellbeing. The implementation requirements set out how this is to be achieved by providing for subdivision, use and development in appropriate places and within appropriate limits. This includes specific consenting pathways for activities recognised as being important to the social, economic, cultural and environmental wellbeing of Aotearoa, such as specified infrastructure that provides significant public benefits. Implementation provisions also make it clear that maintaining indigenous biodiversity contributes to social, economic and cultural wellbeing and does not preclude subdivision, use and development in appropriate locations and forms.</p> <p><i>Is the objective focused on achieving the purpose of the RMA?</i></p> <p>The NPSIB objective is directly focused on achieving the purpose of the RMA – the sustainable management of natural and physical resources. It aims to maintain indigenous biodiversity and achieve at least no overall loss in a way that enables people and communities to provide for their social, economic and cultural wellbeing now and in the future. This direction is strongly aligned with the purpose of the RMA defined in section 5(2), which seeks to achieve an appropriate balance between the protection of the environment and enabling people and communities to provide for their social, economic and cultural wellbeing.</p> <p>The NPSIB objective is also highly relevant to several matters in sections 6 and 7 of the RMA as discussed in Part 2 of this report (Statutory and Policy Context). Key matters in sections 6 and 7 of the RMA that the NPSIB objective recognises and provides for, and has particular regard to:</p> <ul style="list-style-type: none"> <li>• Section 6(a) – preservation of natural character of coastal environment, wetlands, lakes rivers and their margins</li> <li>• Section 6(c) – the protection of areas of significant of indigenous vegetation and significant habitats of indigenous fauna</li> <li>• Section 6 (e) – the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga</li> <li>• Section 7(a) – kaitiakitanga</li> <li>• Section 7(aa) – the ethic of stewardship</li> <li>• Section 7(d) – the intrinsic value of ecosystems</li> <li>• Section 7(i) – the effects of climate change.</li> </ul>
<b>Usefulness</b>	<p><i>Will the objective assist local authorities to carry out their RMA statutory functions?</i></p> <p>The NPSIB objective and implementing provisions are highly effective in assisting local authorities to carry out the following RMA statutory functions:</p> <ul style="list-style-type: none"> <li>• protection of SNAs under section 6(c) of the RMA</li> <li>• recognising tangata whenua values and interests, having particular regard to kaitiakitanga and taking into account the principles of the Treaty of Waitangi under sections 6(e), 7(a) and 8</li> <li>• regional councils establishing, implementing and reviewing objectives, policies, and methods for maintaining indigenous biodiversity under section 30(1)(ga) for the purposes of giving effect to the RMA in its region</li> </ul>

## Criteria and assessment

- territorial authorities controlling any actual or potential effects of the use, development, or protection of land for the maintenance of indigenous biodiversity under section 31(1)(b)(iii) for the purposes of giving effect to the RMA in its district.

In terms of protecting SNAs, the implementing provisions for the NPSIB objective will require a nationally consistent approach to identifying and mapping SNAs in district plans which will address key inconsistencies under the status quo. These provisions also set out a nationally consistent approach to avoiding and managing adverse effects on SNAs based on current best practice nationally and internally. This provides clear and comprehensive direction to local authorities on how to protect SNAs under section 6(c) of the RMA to assist in carrying out this statutory function.

The NPSIB objective clarifies the role of tangata whenua as kaitiaki of indigenous biodiversity. This part of the NPSIB objective is supported by a range of policies and implementation requirements that will help local authorities meet their obligations under sections 6(e), 7(a) and 8 in relation to indigenous biodiversity. These implementing provisions will also assist local authorities carry out their statutory functions to consult with tangata whenua when preparing policy statements and plans under Schedule 1 of the RMA to give effect to the NPSIB by setting out specific requirements to involve tangata whenua as partners in the management of indigenous biodiversity.

The core focus of the NPSIB objective is on maintaining indigenous biodiversity consistent with the statutory functions of all local authorities and the implementation provisions provide a comprehensive framework to assist local authorities carry out this function in practice. This includes an explanation of what is required to maintain indigenous biodiversity as a fundamental concept in Part 1.5 of the NPSIB and a range of provisions all aimed at assisting local authorities to carrying out their statutory function to maintain indigenous biodiversity. Collectively the NPSIB objective and implementation requirements provide clear, useful and comprehensive national direction on what is required to maintain indigenous biodiversity, removing current debate and uncertainty over what maintenance means, which will help to improve practice and outcomes nationally.

*Is the intent of the objective clearly expressed?*

The NPSIB objective is clear, focused and provides certainty to all parties on the outcome sought from its implementation. The NPSIB seeks to achieve national consistency in the maintenance of indigenous biodiversity and ensure this is achieved in a manner that delivers some key outcomes:

- (i) recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity
- (ii) recognising people and communities as stewards of indigenous biodiversity
- (iii) protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity
- (iv) providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

The overall intent is clear – to address the ongoing decline of the indigenous biodiversity of Aotearoa by maintaining indigenous biodiversity to ensure there is at least no overall loss after the commencement date (when NPSIB comes into force). It also recognises the important role of tangata whenua as kaitiaki and landowners as stewards in achieving this outcome and the need to ensure indigenous biodiversity is maintained, protected and restored in a way that provides for social, economic and cultural wellbeing of people and communities. This direction in the NPSIB objective is given effect through provisions that seek to achieve the right balance between avoiding certain adverse effects that are necessary to protect SNAs and maintain indigenous biodiversity while also providing consenting pathways for certain activities subject to a robust effects management regime (generally applying the effects management hierarchy).

## Criteria and assessment

	<p><i>Does the objective provide sufficient direction for decision-making?</i></p> <p>The NPSIB objective provides overarching direction on the outcomes sought from its implementation, but it is the NPSIB policies and implementation requirements that provide the detailed policy direction and implementation requirements for decision-making. The effectiveness of those provisions to provide clear, useful direction to decision-makers is evaluated in detail below in assessing the effectiveness and efficiency of the provisions (policies and implementation requirements).</p> <p>The clear direction from the NPSIB objective is the need to maintain indigenous biodiversity in a considered, balanced and collaborative manner with tangata whenua and landowners to provide for the social, economic and cultural wellbeing of people and communities. It also provides clear direction that protection and restoration of indigenous biodiversity will be required to achieve the objective of maintaining indigenous biodiversity and at least no overall loss. The NPSIB objective aligns with key requirements in Part 2 for decision-makers carrying out functions under the RMA to ensure the purpose of the RMA is achieved. In particular, the NPSIB objective provides direction for decision-makers to:</p> <ul style="list-style-type: none"> <li>• manage and protect indigenous biodiversity in a way that enables people and communities to provide for their social, economic and cultural wellbeing consistent with section 5(2)</li> <li>• consider and provide for the needs and wellbeing of current and future generations in accordance with section 5(2)(a) of the RMA</li> <li>• protect, maintain and restore indigenous biodiversity in a way that recognises tangata whenua as kaitiaki and people and communities as stewards consistent with sections 6(c), 6(e), 7(a) and 7(aa) of the RMA.</li> </ul> <p>The NPSIB objective, therefore, provides clear direction to decision-makers, which is supported by detailed policies and implementation requirements on how to achieve that objective when developing plan provisions and considering resource consent applications in relation to indigenous biodiversity.</p>
<b>Reasonableness</b>	<p>Will the objective result in unjustifiably high costs on the public, specific areas of interest or discrete parts of the community?</p> <p>As discussed throughout this report, local authorities are already required to protect SNA and maintain indigenous biodiversity as part of their core RMA functions. The NPSIB objective, therefore, does not introduce completely new obligations or costs; rather it provides direction on how existing statutory obligations are to be met based on current best practice. This is generally not expected to result in unjustifiably high costs on the community compared to the status quo.</p> <p>However, it is important to acknowledge that the NPSIB objective and implementation provisions will require substantial change and improvement in practice in some regions/districts. This may result in high costs to the community through rate increases for district-wide SNA mapping. These costs will be comparably higher for local authorities that have not mapped SNAs yet and districts with small populations and large areas of indigenous biodiversity.</p> <p>The NPSIB objective and implementation provisions will also result in costs to the community, including private landowners, with indigenous biodiversity on their land. This will happen through increased protection of areas identified as SNA which may restrict future subdivision, use and development opportunities. Actual costs will depend on a range of factors, including existing plan provisions, extent of SNA coverage, landowner intentions to develop their land, and the type of activity being proposed (eg, subdivision, primary production, regionally significant infrastructure).</p> <p>The potential costs of the NPSIB on the public, private landowners and parts of the community are evaluated in more detail below in the assessment of effectiveness and efficiency of the NPSIB provisions and in the CBA prepared by M.E. This evaluation identifies the potential for significant costs for certain landowners but only in very limited</p>

circumstances with most landowners and most parts of the community incurring no or only minor costs from the implementation of the NPSIB objective over and above the status quo.

Overall, these costs are not considered to be unjustifiably high as some level of transaction, compliance and opportunity costs are necessary to achieve the significant, ongoing benefits to current and future generations associated with improved protection, maintenance and restoration of indigenous biodiversity.

*Is the objective consistent with identified outcomes sought by iwi/Māori?*

As part of the development of the NPSIB and public consultation phase, the Ministry held 13 hui with iwi/Māori across the country with approximately 200 hapū and iwi participants. The summary of submissions for the NPSIB identified some of the key themes and outcomes sought by iwi/Māori through this engagement. Some of the key issues and concerns raised through this process are below:

- Treaty of Waitangi — the Treaty has been compartmentalised in this and other national policy statements. It should be referred to throughout the NPSIB and not limited to a few provisions.
- Involving tangata whenua — effective consultation, including with iwi/hapū and ‘on-the-ground people’ and community-led decision-making processes are important. Māori should be included at the beginning of the plan development process. Funding and resource support is required from local authorities and Government to involve tangata whenua in the NPSIB.
- Māori land — there are concerns about the impacts of the proposals on the future development of Māori land. Economic compensation and incentives are required for Māori to protect biodiversity within their land.<sup>45</sup>

The NPSIB objective and implementing provisions are considered to be consistent with these outcomes as these seek to better recognise the kaitiaki role of tangata whenua and involve tangata whenua as partners in the management of indigenous biodiversity and these provisions are embedded throughout the NPSIB. The NPSIB also provides a bespoke approach to manage indigenous biodiversity on Māori lands while enabling appropriate use and development (which is discussed in detail in relation to Policy 2 below).

*Is the objective consistent with identified outcomes sought by stakeholders and the wider public?*

The summary of submissions on the NPSIB provides a clear understanding of key outcomes sought by stakeholders and the public, highlighting a range of issues and outcomes, both in support and opposition. Key outcomes identified include:

- support for the implementation of the NPSIB to address the decline of indigenous biodiversity and clarify local authorities’ responsibility for maintaining indigenous biodiversity
- concern that the NPSIB will prevent important activities, including farming, forestry, infrastructure and energy generation
- concern that the NPSIB may result in significant restrictions on private land and breach private property rights.

The NPSIB objective is considered to be consistent with these outcomes and balances the range of views provided in the submissions as it seeks to ensure the maintenance of indigenous biodiversity is done in way that provides for the social, economic and cultural and wellbeing of people communities. This will be achieved through the implementing provisions which seek to achieve the appropriate balance between avoiding certain adverse effects on SNAs while providing consenting pathways for activities recognised as being important to the social, economic, cultural and environmental wellbeing of Aotearoa.

<sup>45</sup> *He Kura Koiora i hokia: A proposed National Policy Statement for Indigenous Biodiversity: Summary of submissions, 2020.*

## Criteria and assessment

<b>Achievability</b>	<p>Is the objective able to be achieved with the tools and resources available to those responsible for implementing the proposal?</p> <p>Regional councils and territorial authorities are primarily responsible for implementing the NPSIB. As discussed above and throughout this report, local authorities are already required to protect SNAs and maintain indigenous biodiversity as part of their core RMA functions. The NPSIB objective can, therefore, be achieved through tools available to local authorities, including the preparation of policy statements and plan provisions to give effect to national direction and achieve the purpose of the RMA and through decision-making on resource consents.</p> <p>The most resource intensive requirement to achieve the NPSIB objective will be district-wide SNA mapping and these costs are discussed in detail in relation to Policy 6 of the NPSIB below. Local authorities will also be required to implement a comprehensive effects management regime to protect SNAs and maintain indigenous biodiversity through developing targeted plan provisions and applying the effects management hierarchy through consenting processes. The capacity and capability of local authorities to implement this comprehensive SNA mapping and effects management approach varies significantly across the country. Some local authorities have already implemented similar SNA mapping and effects management approaches to those required by the NPSIB and already have in-house ecological expertise and are well placed to implement new NPSIB requirements effectively. Conversely, smaller local authorities with a low population and rating base are less likely to have in-house biodiversity expertise to assist in implementing the NPSIB or the budgets to justify this resource.</p> <p>There is a risk that some tangata whenua groups may lack the necessary capacity and resources to proactively exercise their kaitiaki role as anticipated by the NPSIB objective and implementing provisions. Addressing this risk will require effective relationships and partnerships to be formed to maximise the input of tangata whenua in the implementation of the relevant NPSIB provisions. It may also require targeted support from central government and local authorities (eg, resourcing to help identify taonga species) and capacity building of tangata whenua in some areas. Central government is proposing targeted support to enable tangata whenua to be proactively involved in the implementation of the NPSIB as partners to mitigate this risk.</p> <p>The Government has recognised these challenges to implementing the NPSIB and have a dedicated implementation plan to support local authorities, tangata whenua, landowners and other stakeholders with the implementation process. This includes \$19 million of dedicated funding for NPSIB implementation in the Budget 2022. This is expected to significantly assist in making the implementation of the NPSIB more achievable for all parties.</p> <p>Overall, implementation of the NPSIB objective is generally considered to be achievable with the tools and resources of those responsible for implementing it – primarily local authorities, tangata whenua as kaitiaki and landowners as stewards. However, implementation will be challenging in those areas with limited resources and less in-house technical capability. Targeted central government support is therefore essential to ensure effective implementation of the NPSIB is achievable across Aotearoa given the significant variability in resources, existing practices and capability of all key parties responsible for implementation.</p>
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# Evaluation of reasonably practicable options

## Overview of options

Section 32(1)(b)(i) of the RMA requires reasonably practicable options to achieve the objectives to be identified as part of assessing whether the proposed provisions are the most appropriate way to achieve the objectives. 'Reasonably practicable' is not defined in the RMA, but can include options that:

- are both regulatory and non-regulatory
- are targeted towards achieving the stated objectives
- are within the Ministry's resources, duties and powers
- represent a reasonable range of possible alternatives.

Case law has interpreted that the 'appropriate' option means a suitable but not necessarily superior method.<sup>46</sup> This means the most appropriate option does not need to be the optimal or best option, but the section 32 evaluation must demonstrate that it will meet the objectives of the proposal efficiently and effectively.<sup>47</sup> Case law has also confirmed the requirement to identify reasonably practicable options will always involve at least two options as there is always a choice to be made between doing nothing (status quo) and doing something.<sup>48</sup>

In relation to the objective of maintaining indigenous biodiversity, four options were identified in the draft section 32 evaluation for the NPSIB:

1. increased guidance, funding and targeted support
2. National Environmental Standards for indigenous biodiversity
3. a National Policy Statement focused on terrestrial indigenous biodiversity
4. a National Policy Statement that comprehensively addresses indigenous biodiversity in all environments (terrestrial, freshwater, coastal marine area).

The last three options are still considered to be reasonably practicable options for achieving the NPSIB objective. As such, this evaluation of reasonably practicable options largely follows the same approach adopted for the draft section 32 evaluation. However, this assessment also includes an additional option to develop national direction on indigenous biodiversity through the National Planning Framework (NPF) in the new resource management system. This recognises the intent of the Government to notify the first NPF shortly after the Natural and Built Environment Act is enacted (around mid-2023).

Additionally, increased guidance, funding and support has not been evaluated as a separate option in this evaluation as it is considered that a non-regulatory approach alone will be insufficient to achieve the NPSIB objective. Rather, increased guidance, funding and support is critical for the effective and efficient implementation of all regulatory options. This is recognised in the implementation plan for the NPSIB which includes a range of actions support

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<sup>46</sup> *Rational Transport Soc Inc v New Zealand Transport Agency HC Wellington CIV-2011-485-2259*, 15 December 2011.

<sup>47</sup> As noted in section 3.2 of Ministry for the Environment. 2017. *A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017*. Wellington: Ministry for the Environment.

<sup>48</sup> *Whakatane District Council v Bay of Plenty Regional Council*, CIV-2007-463-000606 (HC), para 40(iii).

local authorities, tangata whenua, landowners and other stakeholders implement the NPSIB. This includes \$19m of dedicated funding for NPSIB implementation through Budget 2022. This is in addition to baseline Ministry for the Environment funding which has always been anticipated as necessary to support the implementation of national direction on indigenous biodiversity (options 2–4 above).

## **Option 1: National Environment Standards on Indigenous Biodiversity**

National environmental standards (NES) are regulations made under section 43 of the RMA. These standards prescribe environmental matters and can effectively operate as plan rules to provide greater consistency and certainty in resource consent requirements nationally. NES prevail over plan rules, except where NES expressly states that plan rules can be more stringent or lenient. For example, NES for indigenous biodiversity could:

- set out nationally consistent requirements and methods to identify SNAs (section 43(2)(c))
- provide a nationally consistency set of resource consent requirements and standard for proposed activities within SNAs and for managing indigenous biodiversity outside SNA (section 43A)
- set out requirements for monitoring indigenous biodiversity (section 43(1)(c)).

NES for indigenous biodiversity could, therefore, potentially provide an effective regulatory framework for the protection of SNAs using a stringent activity status and conditions for activities that typically have adverse effects on SNAs (eg, earthworks and vegetation clearance above a certain threshold). A key benefit of a NES is that it can have immediate effect once gazetted and prevail over rules in regional and district plans to provide immediate benefits and a high level of certainty and consistency in implementation. This would deliver immediate improvements for managing indigenous biodiversity, particularly where existing practices and plan provisions are ineffective. Up-front implementation costs for local authorities are also likely to be lower for NES (compared to a NPS) as there is no requirement for them to go through a Schedule 1 plan change process to implement NES (although the NPS can direct objective and policies to be directly inserted into plans without a Schedule 1 plan change process).

A key recognised limitation of NES is that they provide limited flexibility to respond to local issues, priorities and circumstances. While there is the ability for NES to allow plan rules to be more stringent or lenient and target requirements to certain locations, this needs to be finely balanced if the national consistency and certainty benefits of NES are still to be achieved. Other limitations and potential risks associated with NES for indigenous biodiversity include:

- no clear guidance on the outcomes sought for the indigenous biodiversity of Aotearoa as NES cannot include objectives and policies
- risk of backlash from landowners due to the regulatory focus of the NES which may undermine the goodwill of landowners and existing relationships and initiatives relating to indigenous biodiversity that are more voluntary/non-regulatory in nature
- transaction, compliance and opportunity costs for landowners associated with nationwide regulatory protection of SNAs could be significant depending on how stringent the regulations are. This could mean that the protection of SNAs is too absolute and does not adequately provide for the social, economic and cultural wellbeing of people and communities

- there are likely to be significant complexities, long timeframes and extensive costs to develop a NES that is fit for purpose with sufficient certainty it will not result in (potentially significant) unintended outcomes. This would result in further delay to the introduction of a national direction, posing further risk to, and loss of, declining indigenous biodiversity in Aotearoa.

For these reasons, NES for indigenous biodiversity is not considered to be the most appropriate option to achieve the NPSIB objective.

## **Option 2: National policy statement on territorial indigenous biodiversity**

This option is an NPS focused on the protection, maintenance, restoration and enhancement of terrestrial biodiversity. It would not extend to indigenous biodiversity in the coastal marine area or indigenous biodiversity in waterbodies and freshwater ecosystems. However, certain provisions in the NPS relating to restoration and enhancement and the preparation of a regional biodiversity strategy would extend into these environments to some extent.

Limiting the scope of the NPS to terrestrial biodiversity recognises the following:

- The methods to manage terrestrial biodiversity are better established, particularly in relation to the identification and protection of SNAs, which is a key issue that the NPSIB objective seeks to address.
- There is a greater urgency to protect indigenous biodiversity on private land because the presumption in the RMA is that land uses are permitted unless otherwise restricted by a rule in a district plan. This contrasts to activities in beds of lakes and rivers and in the coastal marine area, which are restricted under the RMA unless expressly authorised by a regional rule.
- There is already directive, effective national policy direction for freshwater ecosystems in the NPS-FM and effective national direction for indigenous biodiversity in the coastal environment in the NZCPS.

The key benefits of this option are:

- it can build on the extensive work and consensus achieved by the Biodiversity Collaborative Group
- it can address key gaps and inconsistencies in the current management system for indigenous biodiversity in Aotearoa, in particular the identification, mapping and protection of SNA protection and the management and maintenance of indigenous biodiversity on private land
- it enables national direction for indigenous biodiversity to be in place in a relatively short timeframe with immediate influence on planning processes and consent decision-making.

The main limitation of this option is that it does not integrate the management of the indigenous biodiversity of Aotearoa under the RMA across the terrestrial environment, freshwater, and coastal marine area within one national instrument. This option is also inconsistent with the holistic view of the environment held by tangata whenua and may not meet their aspirations for fully integrated management of indigenous biodiversity management within their rohe.



These risks can be mitigated through policy direction in the NPS relating to integrated management and recognising the interactions and relationships between indigenous biodiversity across the terrestrial environment, freshwater, and coastal marine area and ensuring there is close alignment between this NPS, the NPS-FM and the National Environmental Standards-Freshwater (NES-F), and the NZCPS. It is also important to note the current RM reforms which will eventually integrate all national direction into one instrument through the NPF.

### **Option 3: National policy statement that addresses all environments (terrestrial, freshwater, coastal)**

This option is an NPS that would address indigenous biodiversity across terrestrial, freshwater and coastal marine area environments in an integrated and comprehensive manner. It would adopt an approach to manage terrestrial biodiversity consistent with the NPS option above and extend this to cover freshwater and coastal marine area, providing a comprehensive approach to managing indigenous biodiversity in these environments. This would include a requirement to identify and protect SNAs in all environments supported by an appropriate effects management framework.

The key benefit of this option is that it has the potential to provide for the fully integrated management of the indigenous biodiversity of Aotearoa under one national instrument in a way that recognises the connections within and between ecosystems across all environments. It is also more consistent with Te Ao Māori and the view of tangata whenua that the environment is intrinsically linked, and indigenous biodiversity should be managed in an integrated and holistic manner across all domains.

The key limitation of this option is that it would take considerable time to develop the provisions in the NPS for the freshwater and coastal marine domains to ensure they are fit for purpose and to provide sufficient certainty that they would not result in any unintended consequences. Considerable work would be required to ensure the freshwater provisions align with the NPS-FM and do not result in any conflict or unnecessary duplication. Similarly, extensive work and technical input would be required to comprehensively address coastal indigenous biodiversity in the NPS and ensure it aligns with, and does not duplicate, requirements in the NZCPS.

Other key limitations of this NPS include the following:

- The (potentially significant) risks of acting under this option with insufficient information or certainty on the effectiveness of the provisions to manage freshwater and coastal marine indigenous biodiversity.
- There is likely to be considerable interest and contention with a wider range of stakeholders and agencies (resulting in further delays in development and enactment).
- Potential inconsistencies and conflict with existing approaches in policy statements and plans to give effect to the NPS-FM and Policy 11 of the NZCPS (although this could be managed through careful design of the NPS provisions).

## **Option 4: Develop national direction on indigenous biodiversity through the National Planning Framework in the new resource management system**

This option would involve development of national direction on indigenous biodiversity through the National Planning Framework (NPF) in the new resource management system. This recognises the intent of the Government to notify the first NPF shortly after the Natural and Built Environment Act is enacted (around mid-2023). The benefit of this option is that it would allow more comprehensive national direction on indigenous biodiversity to be developed across all environments (terrestrial, freshwater, coastal) and also allow for better integration with other system outcomes, including helping to resolve conflicts between outcomes and better achieve co-benefits (eg, restoring indigenous biodiversity and climate change mitigation). It could also help reduce inefficiencies associated with developing national direction on indigenous biodiversity under the RMA, then redrafting this to align with the NPF and new resource management system.

However, this option has significant limitations in that it would result in further delay in national direction on indigenous biodiversity coming into effect. The intent is that the first NPF largely focuses on redrafting existing RMA national direction with limited new content, and later versions of the NPF addressing other matters. The NPF will also be primarily directed at regional spatial strategies and then Natural and Built Environment Act plans, so it will be at least 7-10 years before national direction in the NPF would start to influence consenting decisions in the new resource management system. Further, without an existing RMA national direction on indigenous biodiversity it may be longer as it would come in later revisions of the NPF. This creates a significant risk of further decline of the indigenous biodiversity in Aotearoa.

Therefore, this option is not considered the most appropriate option to achieve the overall NPSIB objective with at least no overall loss of indigenous biodiversity. Rather, it is considered more effective to develop national direction on indigenous biodiversity under the RMA so it can immediately start to influence planning and consenting decisions with the intent of this RMA national direction then being carried through to the NPF. The work that local authorities do now to map SNAs will also be of value in informing regional spatial strategies then Natural and Built Environment Act plans in the new resource management system.

## **Summary**

Based on the assessment outlined above, an NPS focused on terrestrial indigenous biodiversity (option 2) is considered to be the most appropriate option to achieve the NPSIB objective and address the identified problems. This option has the potential to provide considerable improvements in protecting, maintaining and restoring indigenous biodiversity. An NPS can also provide a higher degree of flexibility for local authorities to consider and respond to local circumstances.

# Evaluation of the effectiveness and efficiency of the provisions

Section 32(1)(b)(ii) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by “*assessing the efficiency and effectiveness of the provisions in achieving the objectives*”. For the purposes of this assessment:

- effectiveness assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issue
- efficiency measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

When assessing the efficiency and effectiveness of the provisions in achieving the objectives of the proposal in accordance with section 32(1)(b)(ii), section 32(2) of the RMA requires that the assessment:

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
  - (i) *economic growth that are anticipated to be provided or reduced; and*
  - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section assesses the efficiency and effectiveness of the NPSIB provisions in accordance with these requirements. This assessment has been grouped around each of the 17 NPSIB policies and the associated implementation requirements in Part 3 of the NPSIB. For each policy area, this section provides:

- overview of provisions and policy intent
- other options considered (where applicable)
- assessment of the environmental, economic, social, and cultural benefits and costs of the provisions
- risks of not acting or acting when information is uncertain or insufficient
- assessment of efficiency and effectiveness of the provisions in achieving the NPSIB objective.

As discussed in the ‘approach to evaluation’ section above and detailed in the CBA for the NPSIB prepared by M.E, it has not been practicable to quantify all the costs and benefits associated with the NPSIB. This is due to a number of factors, including the significant variability in the expected impacts of the NPSIB on different regions and districts, land uses, agencies and stakeholders. It also relates to the challenges quantifying the significant benefits associated with indigenous biodiversity which is discussed in detail in the NPSIB CBA. As such, this evaluation is primarily based on a qualitative assessment of benefits and costs (environmental, economic, social, cultural) with some monetised and quantified costs for certain NPSIB provisions drawing on the NPSIB CBA.

Table 7 below lists the NPSIB policies and the implementation clauses that have been grouped for the purposes of assessing the effectiveness and efficiency of the provisions in achieving the NPSIB objective. However, it is important to note that many implementation clauses in Part 3 of the NPSIB apply to more than one policy and as such have been assessed in relation to the most relevant policy where appropriate.

**Table 7: NPSIB policies and implementation clauses assessed in this section 32 evaluation**

Part 2 — Policies	Part 3 — Implementation
<b>Policy 1:</b> Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi.	Clause 3.2: Role of decision-making principles
<b>Policy 2:</b> Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through: <ul style="list-style-type: none"> <li>(a) managing indigenous biodiversity on their land</li> <li>(b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and</li> <li>(c) actively participating in other decision-making about indigenous biodiversity.</li> </ul>	Clause 3.3: Tangata whenua as partners Clause 3.12: SNAs on Māori lands Clause 3.18: Māori lands Clause 3.19: Identified taonga
<b>Policy 3:</b> A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.	Clause 3.7: Precautionary approach
<b>Policy 4:</b> Indigenous biodiversity is managed to promote resilience to the effects of climate change.	Clause 3.6: Resilience to climate change
<b>Policy 5:</b> Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.	Clause 3.4: Integrated approach
<b>Policy 6:</b> Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach.	Clause 3.8: Assessing areas that qualify as SNAs Clause 3.9: Identifying SNAs in district plans
<b>Policy 7:</b> SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.	Clause 3.10: Managing adverse effects on SNAs of new subdivision, use, and development Clause 3.11: Exceptions to clause 3.10(2)
<b>Policy 8:</b> The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.	Clause 3.16: Indigenous biodiversity outside SNAs
<b>Policy 9:</b> Certain established activities are provided for within and outside SNAs.	Clause 3.15: Managing adverse effects of other activities affecting SNAs Clause 3.17: Maintenance of improved pasture
<b>Policy 10:</b> Activities that contribute to Aotearoa New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.	Clause 3.5: Social, economic, and cultural wellbeing NB: this policy has strong overlap with Policy 7 and those linkages are considered in the assessment below.
<b>Policy 11:</b> Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing underlying geothermal system classification.	Clause 3.13: Geothermal SNAs
<b>Policy 12:</b> Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities.	Clause 3.14: Plantation forests activities
<b>Policy 13:</b> Restoration of indigenous biodiversity is promoted and provided for.	Clause 3.21: Restoration

Part 2 — Policies	Part 3 — Implementation
<b>Policy 14:</b> Increased indigenous vegetation cover is promoted in both urban and non-urban environments.	Clause 3.22: Increasing indigenous vegetation cover
<b>Policy 15:</b> Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.	Clause 3.20: Specified highly mobile fauna
<b>Policy 16:</b> Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale.	Clause 3.23: Regional biodiversity strategies Clause 4.3: Timing for regional biodiversity strategies
<b>Policy 17:</b> There is improved information and regular monitoring of indigenous biodiversity.	Clause 3.24: Information requirements Clause 3.25: Monitoring by regional councils

# Policy 1: Decision-making principles

## Overview of provisions

Policy 1 of the NPSIB:

**Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi.**

Policy 1 is delivered through:

- Clause 1.5 which sets out the decision-making principles that inform all aspects of the NPSIB, and
- Clause 3.2 which sets out the role of the decision-making principles when giving effect to the NPSIB.

## Policy intent

These provisions aim to set out clear principles that inform all decision-making under the NPSIB and are used by local authorities when making decisions about indigenous biodiversity in their regions/districts.

Clause 1.5(1) makes it clear that the NPSIB prioritises the mauri and intrinsic value of indigenous biodiversity and recognises people's connection and relationships with indigenous biodiversity. Clause 1.5(2) states that the NPSIB recognises the interrelationship between the health of people and communities and the health of indigenous biodiversity. More specifically, the principles recognise that the health and wellbeing of people and communities is dependent on the health and wellbeing of indigenous biodiversity and, therefore, people have an obligation to care for and nurture indigenous biodiversity.

Clause 1.5 then lists the decision-making principles to inform the implementation of the NPSIB as follows:

- (a) *prioritise the mauri and wellbeing of indigenous biodiversity:*
- (b) *protect the intrinsic value and mauri of indigenous biodiversity:*
- (c) *recognise the bond between tangata whenua and indigenous biodiversity based on whakapapa relationships:*
- (d) *recognise the obligation and responsibility of care that tangata whenua have as kaitiaki of indigenous biodiversity:*
- (e) *recognise the role of people and communities as stewards of indigenous biodiversity:*
- (f) *recognise and incorporate te ao Māori, and mātauranga Māori at place:*
- (g) *form strong and effective partnerships with tangata whenua.*

Clause 3.2(1) of the NPSIB makes it clear that it is essential that local authorities engage with communities and tangata whenua to ensure that the decision-making principles inform all decision-making under the NPSIB when managing and making decisions relating to indigenous biodiversity in their regions and districts.

## Other options considered

A number of other options were considered as alternatives to the decision-making principles, including:

- Te Rito o Harakeke: this whakatauki was included in the NPSIB consulted on and was a fundamental concept in the NPSIB as it progressed through the exposure draft process. However, after discussions with iwi, it was determined that iwi and hapū had not had sufficient input into the design of the concept for it to be included in the NPSIB. There was also some concern that the concept may be inconsistent with Te Oranga o te Taiao. This is an overarching concept in the Natural and Built Environments Bill (currently being through Select Committee), which the implementation of the NPSIB will eventually give effect to.
- Using the concept of Te Mauri Hikahika o te Taiao used in Te Mana o te Taiao: this would ensure consistency between NPSIB and the *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy*. However, it was decided that Te Mauri Hikahika o te Taiao is appropriate for the strategy but not for the more detailed implementation of the NPSIB.

As such, including a more generic set decision-making principles was seen as the most appropriate option for achieving the NPSIB objective at this time rather than introducing a Māori concept that may be inappropriate or soon superseded.

## Evaluation of efficiency and effectiveness – Policy 1

Table 8 provides an assessment of the efficiency and effectiveness of Policy 1 and associated implementation requirements in Clause 3.2.

**Table 8: Evaluation of Policy 1 and associated implementation requirements**

Policy 1: Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions make it clear that the NPSIB prioritises the mauri and intrinsic value of indigenous biodiversity which will ensure these values are improved over time.</li> <li>The provisions require local authorities to take proactive steps to maintain and restore indigenous biodiversity which should help to improve outcomes for indigenous biodiversity over time.</li> <li>The provisions seek to ensure that the connections between the health of people, indigenous biodiversity, taonga and the wider environment are at the forefront of decision-making under the NPSIB. If properly understood and implemented effectively, this is likely to lead to improved outcomes for indigenous biodiversity over time.</li> <li>The introduction of decision-making principles emphasise the need for local authorities, tangata whenua and wider communities to care for, and provide for the health of, indigenous biodiversity.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions may help to improve how local authorities, tangata whenua and the wider community work together to improve the health of indigenous biodiversity. This may lead to efficiency gains over time as relationships, processes and systems develop and the health of indigenous biodiversity improves.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no specific environmental costs are anticipated from the implementation of the provisions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>There is some uncertainty in how the decision-making principles will be used at regional and district level. This could result in increased implementation costs for all parties. These costs and potential risks may be mitigated through guidance and support from central government on how to understand and implement the decision-making principles through engagement with tangata whenua and communities.</li> <li>Time and costs for local authorities, tangata whenua and the wider community to work together to understand the decision-making principles in Clause 1.5 and use them in accordance with the direction in Clause 3.2. Actual costs are uncertain as it is not known how local authorities will respond to the direction. Costs are likely to vary significantly based on existing relationships, implementation, and the level of tangata whenua and community buy-in to both the process and the principles.</li> </ul>	<p>There is limited information and a moderate degree of uncertainty about how the decision-making principles will be used to inform decisions at regional and district level and to what extent tangata whenua and communities will engage with local authorities on the use of the principles. As such, it is considered that there is a moderate risk in acting through the proposed provisions. The uncertainty associated with the decision-making principles presents some implementation risks when local authorities, tangata whenua and the wider community work together to understand what these principles mean in practice. These costs and potential risks may be mitigated through guidance and support from central government on how to understand and use the decision-making principles to achieve better indigenous biodiversity outcomes.</p> <p>It is also noted that regional councils are already engaging with tangata whenua and communities to understand and implement concepts that have similar principles eg, implementing Te Mana o te Wai under the NPS-FM. The proposed Natural and Built Environments Act also includes a concept of Te Oranga o te Taiao which has similar principles to those included in Clause 1.5. This may assist in broader understanding of the principles and more efficient implementation over time.</p>
<p><b>Social</b></p> <ul style="list-style-type: none"> <li>The provisions recognise the interrelationship between the health of people and the health of indigenous biodiversity.</li> </ul>	<p><b>Social</b></p> <ul style="list-style-type: none"> <li>The provisions will require resourcing from local authorities and the wider community to understand and give effect to the decision-making</li> </ul>	



**Policy 1: Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi**

Benefits	Costs	Risk of acting/not acting
<p>This may lead to social benefits over time through improved connections between people and indigenous biodiversity.</p> <ul style="list-style-type: none"> <li>The provisions recognise the importance of stewardship and the connections between the health of people, the health of indigenous biodiversity, and the wider environment. This may help increase landowner and community efforts to improve the health of indigenous biodiversity with associated social benefits.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions make it clear that the NPSIB prioritises the mauri of indigenous biodiversity which will help ensure this value is improved over time.</li> <li>The provisions recognise the importance of engaging with tangata whenua and providing for the kaitiaki role of tangata whenua when giving effect to the NPSIB.</li> </ul> <p>The provisions seek to ensure tangata whenua values and decision-making principles are central to the implementation of the NPSIB and the management of indigenous biodiversity. This will have wider benefits for tangata whenua and help address key inconsistencies under the status quo.</p>	<p>principles in each region and district. Actual costs are not known as it is unclear how local authorities will engage with their communities to understand and use the decision-making principles.</p> <p><b>Cultural</b></p> <p>Time, resourcing and costs for tangata whenua to implement the provisions. Actual costs are not known as it is unclear how local authorities will engage with tangata whenua to understand and use the decision-making principles.</p>	
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 1 and Clause 3.2 are considered to be an effective means to achieve the NPSIB objective because of the following:</p> <ul style="list-style-type: none"> <li>The decision-making principles put the health of indigenous biodiversity at the forefront of decision-making under the NPSIB which will assist in ensuring effective implementation approaches to maintain indigenous biodiversity to achieve at least no overall loss.</li> <li>The provisions recognise the important role of tangata whenua as kaitiaki and people and communities as stewards in the maintenance of indigenous biodiversity to achieve at least no overall loss, which is central to the NPSIB objective.</li> </ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 1 and Clause 3.2 are considered to be an efficient means to achieve the NPSIB objective as:</p> <ul style="list-style-type: none"> <li>Clause 3.2 is supported by a list of decision-making principles in Clause 1.5, which seeks to provide more clarity on which principles should be guiding both engagement with tangata whenua and communities and regional/district decisions on matters impacting indigenous biodiversity.</li> <li>The provisions provide a high-level of flexibility in how the decision-making principles are used at the regional and district level. This allows for cost-effective implementation approaches to be undertaken, particularly where this is supported by existing relationships, arrangements and processes.</li> </ul>	

**Policy 1: Indigenous biodiversity is managed in a way that gives effect to the decision-making principles and takes into account the principles of the Treaty of Waitangi**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"> <li>The provisions recognise and provide for the interrelationship between the health of indigenous biodiversity and the health of people. This is likely to lead to improved, more effective management of indigenous biodiversity over time.</li> </ul>		<ul style="list-style-type: none"> <li>The provisions are based on existing best practice to improve relationships between people, the environment and indigenous biodiversity. This may lead to efficiency gains over time.</li> <li>The decision-making principles contain similar concepts to those used in other national direction (Te Mana o Te Wai in NPS-FM) and the concept of Te Oranga o te Taiao proposed for the Natural and Built Environments Act. This may assist in more efficient understanding and implementation of the principles and assist with a more efficient transition to the new Resource Management system.</li> </ul>

**Overall evaluation**

On balance, Policy 1 and Clause 3.2 are considered to be an appropriate way to achieve the NPSIB, as the decision-making principles put the health of indigenous biodiversity at the forefront of decision-making. The provisions also seek to recognise and provide for the interrelationship between the health of indigenous biodiversity and the health of people. This will help to ensure indigenous biodiversity is managed in a way that provides for the social, economic and cultural wellbeing of people and communities.

## **Policy 2: Tangata whenua as kaitiaki and partners**

### **Overview of provisions**

Policy 2 of the NPSIB:

**Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:**

- (a) managing indigenous biodiversity on their land; and**
- (b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and**
- (c) actively participating in other decision-making about indigenous biodiversity.**

Policy 2 is to primarily be implemented through the following closely related clauses in the NPSIB:

- Clause 3.3 (tangata whenua as partners) which sets out requirements for local authorities to actively involve tangata whenua (to the extent that they wish to be involved) as partners in the management of indigenous biodiversity.
- Clause 3.12 (SNAs on Māori land) and Clause 3.18 (Māori lands) which set out requirements to manage SNAs and indigenous biodiversity on Māori lands.
- Clause 3.19 (identified taonga) which sets out requirements for local authorities to work with tangata whenua to identify and protect taonga species, populations, and ecosystems.

These clauses each have a different focus and are evaluated separately in the sections below.

### **Policy intent – Clause 3.3 (tangata whenua as kaitiaki)**

Clause 3.3 of the NPSIB sets out detailed requirements for local authorities to actively involve tangata whenua as partners in managing indigenous biodiversity under the NPSIB. These requirements build on the statutory requirements in the RMA to engage with tangata whenua when developing and changing policy statements and plans to:

- recognise and provide for the relationship of tangata whenua with their taonga (section 6(e))
- have particular regard to kaitiakitanga (section 7(a))
- take into account the principles of the Treaty of Waitangi (section 8).

However, the implementation requirements in Clause 3.3 are intentionally more specific and directive and aim to move tangata whenua to a partnership role with the goal of significant improvement in practices where these are poor.

Clause 3.3 includes Clause 3.3(1) which directs that all local authorities must actively involve tangata whenua as partners and in particular:

- when identifying the local approach to give effect to the decision-making principles
- in the planning processes to implement the NPSIB
- when making changes to 'policy statement and plans to give effect to the NPSIB

- when developing regional biodiversity strategies
- in determining how to identify indigenous species, populations and ecosystems that are taonga
- in enabling mātauranga Māori to be applied at all stages of the management of indigenous biodiversity.

While many local authorities are already engaging with tangata whenua in this manner, the intent of Clause 3.3(2) goes further, including:

- engagement that is early and meaningful, in accordance with tikanga Māori, accommodating the different levels of whānau, hapu, and iwi decision-making structures
- recognising and valuing the mana of tangata whenua as kaitiaki of indigenous biodiversity
- providing opportunities for tangata whenua to exercise kaitiaki in accordance with tikanga Māori
- allowing for the sustainable customary use of indigenous biodiversity in accordance with tikanga.

Clause 3.3(3)-(4) relates to use of underused mechanisms under the RMA to involve tangata whenua in management and decision-making, including transfer or delegations of powers, joint management agreements, and mana whakahono a rohe (iwi participation arrangements). This requires local authorities to investigate the use of these mechanisms, record and then publish the reasons reached as soon as practicable.

Clause 3.3(5) requires local authorities, with the consent of tangata whenua, to enable the application of mātauranga Māori<sup>49</sup> so that its value is recognised and incorporated into the implementation of the NPSIB where tangata whenua agree.

Clause 3.3(6) requires local authorities to develop processes to manage information provided by tangata whenua, including processes for confidentiality if required by tangata whenua. This responds to concerns from tangata whenua about how confidential information may be used by local authorities. This is particularly important for the identification of taonga species, populations, and ecosystems and their subsequent management (in accordance with Clause 3.19).

Collectively, Clause 3.3 provides both a high level of direction and specific requirements on how local authorities will work with tangata whenua in implementing the NPSIB as partners. It will require a significant improvement in some areas, particularly where existing relationships between local authorities and tangata whenua are poor and/or there is a lack of processes and arrangements in place for tangata whenua to actively exercise their kaitiakitanga role. These requirements will provide new opportunities for tangata whenua to be involved more actively in decision-making and management which may require capacity and capability building to enable these opportunities to be effectively taken up. The provisions are also intended to give tangata whenua greater confidence in engaging with local authorities in the implementation of the NPSIB through clear and specific requirements.

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<sup>49</sup> The NPSIB defines mātauranga Māori as “*mātauranga Māori means Māori customary knowledge, traditional knowledge, or intergenerational knowledge*”.

### **Other options considered — Clause 3.3 (tangata whenua as partners)**

N/A – no other options were considered. Recognising and providing for the role of tangata whenua is central to the purpose and principles of the RMA (section 6(c), 7(a) and 8) and is part of the NPSIB objective. The improved management of indigenous biodiversity is a key issue for tangata whenua as discussed in Part 2 of this evaluation report. Specific implementation provisions in the NPSIB to recognise the role of tangata whenua as both kaitiaki and partner in managing indigenous biodiversity are assessed as being the only reasonably practicable option to achieve the NPSIB objective.

## Evaluation of efficiency and effectiveness – Policy 2 and Clause 3.3

Table 9 provides an assessment of the efficiency and effectiveness of Policy 2 and associated implementation requirements in Clause 3.3.

**Table 9: Evaluation of Policy 2 and Clause 3.3**

Policy 2 and Clause 3.3 – tangata whenua exercise kaitiakitanga for indigenous biodiversity within their rohe		
Benefits	Costs	Risk of acting / not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>More informed decisions through better incorporation of mātauranga Māori and tikanga Māori into managing indigenous biodiversity alongside western approaches. This may result in improved outcomes for indigenous biodiversity.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions provide greater specificity on how the provisions in Part 2 of the RMA relating to the relationship of tangata whenua with their taonga, kaitiakitanga and Te Tiriti o Waitangi/Treaty of Waitangi principles are to be met in relation to indigenous biodiversity. This may lead to increased certainty and efficiency gains over time.</li> <li>More effective, early engagement with tangata whenua in managing indigenous biodiversity has the potential to reduce more costly opposition and contention in the latter stages of plan preparation. This may lead to efficiency gains over time.</li> <li>The provisions seek to improve relationships and partnerships between local authorities and tangata whenua through clearer guidance on roles and how to work together to better manage and protect indigenous biodiversity. This may help to streamline processes and lead to efficiency gains over time.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social benefits are anticipated from the implementation of the provisions.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no specific environmental costs are anticipated from the implementation of the provisions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Costs for local authorities and tangata whenua to work together to implement the provisions. The actual costs will vary significantly based on the existing relationships and arrangements and how they choose to work together to implement the provisions.</li> <li>Costs for local authorities to investigate and potentially implement mechanisms to enable tangata whenua to become partners in managing indigenous biodiversity, including co-management and decision-making through transfers and joint management agreements. These initial costs are potentially significant for some local authorities depending on the approach taken and existing arrangements.</li> <li>Potential risk of debate and litigation between local authorities and tangata whenua where there is disagreement about the use of mechanisms for tangata whenua management of, and decision-making on, indigenous biodiversity.</li> <li>Reporting costs for local authorities investigating mechanisms to enable tangata whenua to exercise their partnership role.</li> </ul>	<p>At a general level, it is considered that there is sufficient information and certainty in acting through the provisions because of the following:</p> <ul style="list-style-type: none"> <li>Local authorities already have obligations under the RMA to recognise and provide for the relationship of tangata whenua with their taonga, have regard to kaitiakitanga, recognise partnership with tangata whenua as one of the Te Tiriti o Waitangi principles and engage with tangata whenua when preparing policy statements and plans. The provisions build on these existing statutory obligations but are more specific to the management of indigenous biodiversity.</li> <li>The provisions build on current good practice in terms of providing for the partnership role of tangata whenua under the section 8 of the RMA and allowing them to fulfil their role as kaitiaki of indigenous biodiversity.</li> <li>The provisions are consistent with provisions in the NZCPS and NPSFM that encourage a greater role for tangata whenua in the management of freshwater and the coastal environment.</li> </ul> <p>However, there are also some uncertainties and implementation risks associated with the provisions, including:</p> <ul style="list-style-type: none"> <li>Tangata whenua may lack the necessary capacity and resources to become partners in managing indigenous biodiversity and proactively exercise their kaitiaki role as anticipated through the provisions. This is likely to</li> </ul>

**Policy 2 and Clause 3.3 – tangata whenua exercise kaitiakitanga for indigenous biodiversity within their rohe**

Benefits	Costs	Risk of acting / not acting
<p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions encourage use of more proactive mechanisms for tangata whenua to exercise their partnership role, including co-management and decision-making through transfers and joint management agreements. This will help enhance cultural wellbeing over time if successfully implemented.</li> <li>The provisions provide greater specificity and certainty on how the provisions in Part 2 of the RMA relating to the relationship of tangata whenua with their taonga, kaitiakitanga and Te Tiriti o Waitangi/Treaty of Waitangi principles such as partnership are to be met. This will help to improve practice nationally on how these obligations are met under the RMA with associated benefits to tangata whenua.</li> <li>The provisions encourage local authorities to provide opportunities for tangata whenua to exercise kaitiakitanga over their taonga. This will contribute to the cultural wellbeing of tangata whenua.</li> </ul>	<ul style="list-style-type: none"> <li>The NPSIB CBA assesses the potential participation for costs for tangata whenua from the NPSIB.<sup>50</sup> This notes that greatest uncertainty relates to the costs of their participation, and it is not practicable to quantify these costs for a range of reasons. However, the NPSIB CBA notes there will be both costs and benefits from participation, with benefits including capacity building with wider flow-on benefits.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific costs are anticipated from implementing the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Time, resourcing and costs for tangata whenua to implement the provisions may impact their cultural wellbeing. However, as noted above, actual time and costs will depend on many factors, including existing relationships and the use of more formal mechanisms for exercising management and decision-making roles.</li> </ul>	<p>require effective relationships and partnerships to maximise their input cost-effectively. It may also require capacity building for both tangata whenua and local authorities in some areas.</p> <ul style="list-style-type: none"> <li>There is a risk of disagreement and debate between local authorities on the investigation, use and reporting on mechanisms to enable tangata exercise their kaitiaki role, including decision-making through transfers and joint management agreements. This could lead to substantial implementation costs for both parties, potential litigation, and impacts on existing relationships and arrangements.</li> </ul> <p>These risks will be mitigated to some extent through the NPSIB implementation plan which includes specific actions to improve the capacity and capability of tangata whenua, including:</p> <ul style="list-style-type: none"> <li>providing training and upskilling to enhance tangata whenua capacity to be involved in NPSIB processes</li> <li>providing financial support for tangata whenua to gain technical expertise to fully engage in NPSIB processes</li> <li>setting up Māori biodiversity wananga to help tangata whenua to fully participate in implementing the NPSIB and any complementary and supporting measures that are developed.</li> </ul> <p>Overall, there is considered to be less risk in acting though the provisions than not acting. Not acting would also be contrary to the purpose and principles of the RMA and the outcomes sought by tangata whenua.</p>

<sup>50</sup> Refer section 5 of the NPSIB.

**Policy 2 and Clause 3.3 – tangata whenua exercise kaitiakitanga for indigenous biodiversity within their rohe**

Benefits	Costs	Risk of acting / not acting
<b>Effectiveness</b>  Based on the above examination of costs, benefits and risks, Policy 2 and Clause 3.3 are considered to be an effective means to achieve the NPSIB objective because the provisions: <ul style="list-style-type: none"><li>are focused on recognising and providing the role of tangata whenua as kaitiaki and as partners with local authorities in managing indigenous biodiversity</li><li>will also help ensure indigenous biodiversity is maintained for the cultural wellbeing of tangata whenua through their active involvement in all aspects of the NPSIB.</li></ul>	<b>Efficiency</b>  Based on the above examination of costs, benefits and risks, Policy 2 and Clause 3.3 are considered to be an efficient means to achieve the NPSIB objective because the provisions: <ul style="list-style-type: none"><li>build on existing RMA obligations and current best practice to provide for the roles of tangata whenua as kaitiaki and as partners in managing indigenous biodiversity, rather than introduce fundamental new requirements</li><li>are reasonable specific and directive, but still with a degree of flexibility in how they are implemented by local authorities and tangata whenua. This will enable cost-effective approaches to be adopted along with existing engagement processes and management arrangements which are refined where appropriate</li><li>seek to ensure improved relationships between local authorities and tangata whenua in managing indigenous biodiversity as partners which may lead to some efficiency gains over time</li><li>will be supported by capacity and capability building initiatives for tangata whenua to assist with implementation.</li></ul>	
<b>Overall evaluation</b>  On balance, Policy 2 and Clause 3.3 are considered to be an appropriate way to achieve the NPSIB objective, as the provisions are focused on recognising and providing the role of tangata whenua as kaitiaki which is a key part of the NPSIB objective. The provisions also build on current best practice and provide greater specificity and certainty on how the provisions in Part 2 of the RMA relating to the relationship of tangata whenua with their taonga, kaitiakitanga and Te Tiriti o Waitangi/Treaty of Waitangi principles such as partnership are to be met. If implemented effectively and as intended, this may lead to improved outcomes for indigenous biodiversity, improved relationships between tangata whenua and local authorities as they develop partnerships, and efficiency gains over time.		



## Policy intent – 3.12 (SNAs on Māori land) and Clause 3.18 (Māori lands)

Providing for appropriate use and development on Māori lands is important for cultural reasons and because of the historical barriers to the full and optimal use of Māori land for economic development. It is also important in providing for the social and cultural wellbeing of tangata whenua. These historical barriers mean that Māori land is often less developed and more likely to have retained its indigenous cover. This is demonstrated in the spatial analysis of mapped and indicative SNAs in the NPSIB CBA (refer section 3). This found that:

- **Māori Land Court land** — 9.1 per cent of all these parcels contain indicative total SNA coverage of between 1–20. An estimated 8.1 per cent of all these parcels contain indicative total SNA coverage of greater than or equal to 90 per cent.
- **Treaty Settlement Land** — 15.7 per cent of all these parcels contain indicative total SNA coverage of between 1–20 per cent. An estimated 6.1 per cent of all these parcels contain indicative total SNA coverage of greater than or equal to 90 per cent.

With general tenure land parcels, only 2.8 per cent contain indicative total SNA coverage of between 1–20 per cent and only 1.2 per cent contain indicative total SNA coverage of greater than or equal to 90 per cent. This indicates that indigenous biodiversity and SNAs are disproportionality located on Māori lands. As such, there is the potential for the NPSIB to disproportionality affect the use and development of Māori lands if these are applied to all land tenures.

Accordingly, the NPSIB provides a different, more enabling regime to manage SNAs and indigenous biodiversity on Māori lands. This provided for in Policy 2(a), Clause 3.12 and Clause 3.18 in a bespoke management approach for Māori lands that provides additional flexibility for appropriate use and development to support the social, economic and cultural wellbeing of tangata whenua while maintaining and protecting indigenous biodiversity.

Clause 3.12 firstly clarifies that SNAs on Māori lands are managed under Clause 3.18, except for:

- geothermal SNAs on Māori lands which must be managed in accordance with Clause 3.13
- SNAs within plantation forests which must be managed in accordance with Clause 3.14.<sup>51</sup>

Clause 3.18 then sets out the requirements to manage indigenous biodiversity on Māori land. Essentially, it requires local authorities to partner with tangata whenua and the owners of Māori lands to develop provisions in policy statements and policies that achieve the outcomes outlined in Clause 3.18(1) and 3.18(2). At a broad level:

- Clause 3.18(1) seeks to ensure policy statement and plans include objectives, policies and methods that, to the extent practicable:
  - maintain and restore indigenous biodiversity on Māori lands
  - protect SNAs and identified taonga on Māori lands.
- Clause 3.18(2) is a more enabling clause which seeks to ensure objectives, and policies and methods in policy statements and plans enable appropriate use and development of

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<sup>51</sup> Clause 3.12(2) states that, to avoid doubt, if Māori lands ceases to be a plantation forest, then the land is to be managed under Clause 3.18.

Māori lands while achieving the outcomes specified in Clause 3.18(1). The provisions under this clause must, to the extent practicable:

- a) *enable new occupation, use, and development of Māori lands to support the social, cultural, and economic wellbeing of tangata whenua; and*
- b) *enable the provision of new papakāinga, marae and ancillary community facilities, dwellings, and associated infrastructure; and*
- c) *enable alternative approaches to, or locations for, new occupation, use, and development that avoid, minimise, or remedy adverse effects on SNAs and identified taonga on Māori lands, and apply options for offsetting and compensation; and*
- d) *recognise and be responsive to the fact that there may be no or limited alternative locations for tangata whenua to occupy, use, and develop their lands; and*
- e) *recognise that there are circumstances where development may prevail over indigenous biodiversity; and*
- f) *recognise and be responsive to historical barriers tangata whenua have faced in occupying, using and developing their ancestral lands.*

The words ‘to the extent practicable’ at the end of Clause 3.18(1) and Clause 3.18(2) recognise that these two clauses seek to achieve outcomes which will be competing at times, and it will not always be practicable to achieve both outcomes to the same extent. This will require a targeted, balancing approach, working closely with owners of Māori lands and tangata whenua at the local level.

Clause 3.18(3) requires decision-makers on any resource consent application affecting Māori lands to take into account the matters in Clause 3.18(2).

Clause 3.18(4) clarifies that the management approach required under Clause 3.18(1) and Clause 3.18(2) does not apply to Māori lands with full or partial legal protection for indigenous biodiversity. Legal protection under this clause includes covenants and land classifications such as those available under Reserves Act 1977, Conservation Act 1987, National Parks Act 1980 (or equivalent).

To further help reduce potential negative impact, Clause 3.18(5) requires local authorities to ‘consider and realise’ opportunities to provide incentives for protecting and maintaining indigenous biodiversity, and the protection of SNAs and identified taonga on Māori lands.

Clause 3.18(6) clarifies that provisions in policy statements and plans developed to give effect to Clause 3.18 do not prevail over any management strategies or plans developed in the legislation referred to in in paragraph (h) and (i) of the definition of Māori lands.

### **Other options considered — 3.12 (SNAs on Māori land) and Clause 3.18 (Māori lands)**

N/A – no other options were considered. The potential for the NPSIB to disproportionately impact Māori lands has been recognised by the BCG and in the development of the NPSIB. A different management regime for Māori lands is, therefore considered to be the only reasonably practicable option to achieve the NPSIB objective and ensure the provisions do not significantly impact on the social, economic and cultural wellbeing of tangata whenua.

## Evaluation of efficiency and effectiveness – Policy 2 and Clause 3.12 and 3.18

Table 10 provides an assessment of the efficiency and effectiveness of Policy 2(a) and associated implementation requirements in Clause 3.12 and 3.18.

**Table 10: Evaluation of Policy 2 and Clause 3.12 and 3.18**

Policy 2(a) and Clauses 3.12 and 3.18 – tangata whenua managing indigenous biodiversity on their land		
Benefits	Costs	Risk of acting / not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions seek to develop a management regime for Māori lands to maintain and restore indigenous biodiversity and protect SNAs and identified taonga to the extent practicable. This may help to improve outcomes for indigenous biodiversity on Māori lands, particularly where existing provisions are limited/practice is poor.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions provide considerable flexibility in the management regime for indigenous biodiversity on Māori lands and seek to ensure that appropriate use and development on these lands is not constrained. This will help ensure appropriate use and development on Māori lands is enabled through provisions that support the economic wellbeing of tangata whenua.</li> <li>The provisions require local authorities to ‘consider and realise’ opportunities for incentives for protecting indigenous biodiversity on Māori lands. Where such opportunities are implemented by local authorities, this may provide economic benefits to Māori landowners.</li> <li>The provisions are likely to result in a more enabling framework for management of indigenous biodiversity on Māori lands compared to the status quo framework. This may have flow on benefits in</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The use of the qualifier ‘to the extent practicable’ provides limited certainty that plan provisions will maintain and restore indigenous biodiversity and protect SNAs and identified taonga on Māori lands.</li> <li>The provisions provide considerable flexibility for managing indigenous biodiversity on Māori lands and have a strong enabling focus. This provides limited certainty that there will be improved outcomes for indigenous biodiversity as the provisions are implemented by local authorities and tangata whenua.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Local authorities, tangata whenua and owners of Māori lands will incur time, costs and resourcing to develop bespoke management approaches for Māori lands while also enabling development. These costs are potentially significant for local authorities with a high portion of Māori lands and/or multiple Māori landowners and iwi/hapu groups who require engagement. Participation costs for tangata whenua are discussed further in relation to Clause 3.3 of the NPSIB above.</li> <li>Potential opportunity costs for new use and development on Māori lands through provisions that protect indigenous biodiversity. However, actual opportunities are expected to be very limited due to the flexible nature of the provisions. The same</li> </ul>	<p>There is some uncertainty about the provisions and how they will be implemented. As such, it is considered that there is a moderate risk in acting through the provisions because of the following:</p> <ul style="list-style-type: none"> <li>The provisions provide considerable flexibility in the management approach and plan provisions developed by local authorities, tangata whenua and owners of Māori lands for indigenous biodiversity on Māori lands. This risks creating management regimes and plans that are either too enabling or too restrictive and potentially contrary to the intent of the NPSIB.</li> <li>The development of bespoke management regimes for indigenous biodiversity on Māori lands may result in significant implementation costs for local authorities, tangata whenua and Māori landowners.</li> <li>There is a risk of disagreement and debate between local authorities and tangata whenua about the appropriate management regime for Māori lands that gives effect to the provisions, particularly where existing relationships are poor. This could result in significant implementation costs and potential challenge and litigation through the formal planning processes.</li> </ul> <p>However, it is considered that there are greater risks in not acting through the provisions as the NPSIB would then disproportionality and significantly impact the use and development of Māori lands and the social, economic and cultural wellbeing of tangata whenua.</p>

**Policy 2(a) and Clauses 3.12 and 3.18 – tangata whenua managing indigenous biodiversity on their land**

Benefits	Costs	Risk of acting / not acting
<p>terms of enabling the use of Māori lands to provide for economic wellbeing.</p> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social benefits are anticipated from the implementation of the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions require local authorities to ‘consider and realise’ opportunities for incentives for protecting indigenous biodiversity on Māori lands. Where such opportunities are implemented by local authorities, this may provide cultural benefits to Māori landowners.</li> <li>Cultural benefits associated with the requirements to enable the provision of papakāinga, marae, ancillary community activities, dwellings and associated infrastructure on Māori lands.</li> <li>Better protection of taonga species, populations and ecosystems on Māori land with associated cultural benefits to tangata whenua.</li> </ul>	<p>conclusion was reached in the NPSIB CBA which noted that the higher coverage of SNAs on Māori lands is unlikely to generate any material opportunity costs relative to status quo due to the enabling and flexible nature of the provisions.<sup>52</sup></p> <ul style="list-style-type: none"> <li>Costs for local authorities to consider (and potentially realise) opportunities for incentives for protecting indigenous biodiversity on Māori lands.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social costs are anticipated from the implementation of the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Potential impacts on cultural wellbeing if local authorities develop plan provisions that prioritise the outcomes in Clause 3.18(1) over the enabling outcomes in Clause 3.18(2). However, this risk is considered to be low and would likely be challenged by tangata whenua and Māori landowners through the plan development process.</li> <li>Time, resourcing and costs for tangata whenua and owners of Māori lands to implement the provisions. Participation costs for tangata whenua are discussed further in relation to Clause 3.3 of the NPSIB above.</li> <li>Increased demand on tangata whenua may impact on their cultural wellbeing. However, this potential cost</li> </ul>	

<sup>52</sup> More specifically, M.E concludes in the NPSIB CBA that “Overall, M.E consider that there is limited scope for the NPSIB to result in opportunity costs<sup>52</sup> — significant or otherwise — on Māori Land. This position is reached through a combination of: (a) provisions that are very enabling (potentially more enabling than the status quo regulatory framework in some districts and relatively more enabling than for general land that may have the same or similar indigenous biodiversity and zoning); and (b) protecting indigenous biodiversity on Māori land is embedded in iwi’s role as kaitiakitanga (guardians) ... It is M.E’s view that the changes made to the NPSIB provisions for Māori Land will be effective in largely avoiding opportunity costs for new occupation, use and development (whether culturally focussed or targeted at the wider property market). It may even lead to opportunity benefits, particularly on fee-simple Treaty Settlement land”. Refer section 6.4 of the NPSIB CBA.

Policy 2(a) and Clauses 3.12 and 3.18 – tangata whenua managing indigenous biodiversity on their land		
Benefits	Costs	Risk of acting / not acting
	will be reduced and mitigated through the proposed capability and capacity building for tangata whenua in the NPSIB implementation plan.	
<b>Effectiveness</b>  Based on the above examination of costs, benefits and risks, Policy 2(a) and Clause 3.18 are considered to be an effective means to achieve the NPSIB objective because the provisions seek to maintain and protect indigenous biodiversity on Māori lands while enabling appropriate use and development. If implemented effectively and as intended, this provides for the role of tangata whenua as kaitiaki and enables owners of Māori lands to provide for their social, economic and cultural wellbeing.		<b>Efficiency</b>  Based on the above examination of costs, benefits and risks, Policy 2(a) and Clause 3.18 are considered to be an efficient means to achieve the NPSIB objective because the provisions provide considerable flexibility in the management regime for indigenous biodiversity on Māori lands. If implemented effectively and as intended, this will enable development of cost-effective management approaches and provisions that also enable appropriate use and development to support the economic wellbeing of tangata whenua.
<b>Overall evaluation</b>  On balance, Policy 2(a) and Clauses 3.18 are considered to be an appropriate way to achieve the NPSIB objective as provisions seek to maintain and restore indigenous biodiversity on Māori lands and protect SNAs and identified taonga on Māori lands while enabling appropriate use and development. If implemented effectively and as intended, this will help to protect and maintain indigenous biodiversity on Māori lands in a way that provides for the role of tangata whenua as kaitiaki and enables owners of Māori lands to provide for their social, economic and cultural wellbeing. The provisions will also ensure that the NPSIB does not disproportionality impact use, development or wellbeing.		

## Policy intent – Policy 2(b) and Clause 3.19 (identified taonga)

Policy 2(b) and Clause 3.19(1) requires every territorial authority to work with tangata whenua (using an agreed process) to determine the indigenous species, populations, and ecosystems in the district that are acknowledged taonga. Clause 3.19(2) then provides direction to all local authorities to recognise that tangata whenua have the right **not to determine** the indigenous species, populations and ecosystems that are taonga, and to choose the level of detail at which any ‘acknowledged taonga’, or their location and values, are described.

Where tangata whenua agree, Clause 3.19(3) provides direction for territorial authorities to identify acknowledged taonga in their district plans (and these are identified taonga) by:

- describing the taonga and, to the extent agreed with tangata whenua, mapping their location and describing their values
- describing, to the extent agreed by tangata whenua, the historical, cultural, and spiritual relationship of tangata whenua with the taonga.

Once taonga have been identified, Clause 3.19(4) requires local authorities to work together with tangata whenua to protect both ‘acknowledged taonga’ and ‘identified taonga’<sup>53</sup> as far as practicable and involve tangata whenua (to the extent that they wish to be involved) in managing identified taonga. Clause 3.19(4A) applies when an identified taonga is located within a SNA (except on Māori lands) and requires the values of the taonga species to be taken into account in managing the SNA.

Clause 3.19(5) states that identified taonga on Māori lands should be managed under Clause 3.18, but if identified taonga within SNA are not on Māori lands then:

- (a) *the identified taonga must be managed in a manner consistent with the management approach applying to the SNA; and*
- (b) *the matters listed in subclause (6) must be taken into account in managing the SNA.*

Clause 3.19(6) provides further direction on the possible adverse effects on taonga that must be considered and managed by local authorities, specifically:

- (a) *the mauri of the taonga;*
- (b) *the values of the taonga as identified by tangata whenua;*
- (c) *the historical, cultural, and spiritual relationship of tangata whenua with the taonga, as identified by tangata whenua.*

Policy 2(b) and Clause 3.19 are consistent with the requirements in sections 6(e) of the RMA to recognise and provide for the relationship of tangata whenua with their taonga. The provisions require local authorities to work with tangata whenua to agree on, and implement, a process to identify, describe and protect indigenous species, populations and ecosystems that are taonga to tangata whenua. Importantly, the provisions make it clear it is up to tangata whenua to determine whether they identify ‘acknowledged taonga’ and, if so, the level of detail and approach to do this. However, once taonga have been acknowledged and/or identified, Clause 3.19(4) provides clear direction to protect taonga *as far as practicable* and manage certain adverse effects of cultural significance to tangata whenua.

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<sup>53</sup> Defined in NPSIB as “*identified taonga means acknowledged taonga that are identified in a district plan (as provided for in clause 3.19)*”.

### **Other options considered — Clause 3.19 (identified taonga)**

N/A – no other reasonably practicable options were considered as specific provisions relating to the identification and protection of indigenous species, populations and ecosystems that are taonga to tangata whenua are considered necessary in meeting obligations under section 6(c) of the RMA. Providing for the kaitiaki role and cultural wellbeing of tangata whenua when maintaining indigenous biodiversity is also central to achieving the NPSIB objective.

## Evaluation of efficiency and effectiveness – Policy 2 and Clause 3.19

Table 11 provides an assessment of the efficiency and effectiveness of Policy 2(b) and associated implementation requirements in Clause 3.19.

**Table 11: Evaluation of Policy 2 and Clause 3.19**

Policy 2 and Clause 3.19 – identifying and protecting indigenous species, populations and ecosystems that are taonga		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Taonga species, populations and ecosystems are more consistently identified and protected leading to improved indigenous biodiversity outcomes.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Improved relationships and partnerships between local authorities and tangata whenua through clearer guidance on roles and requirements for identifying and protecting taonga species, populations and ecosystems. This may lead to efficiency gains over time.</li> <li>Greater certainty about the location of taonga and their values and how these are to be protected, if tangata whenua choose to identify their taonga. This may lead to efficiency gains in the design of proposals and through the resource consent process.</li> <li>The provisions enable local authorities and tangata whenua to draw and build on existing work and information on taonga within their rohe and provide some flexibility in the overall implementation approach. This will allow tangata whenua and local authorities to work together to implement Clause 3.19 in a cost-effective way that best meets their needs and preferences.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no specific environmental costs are anticipated from implementing the provisions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Internal and external resourcing costs for local authorities to work with tangata whenua to identify and map taonga species, populations and ecosystems. This is where they are not already mapped and where tangata whenua choose to identify taonga. This could be a significant task and cost for some local authorities and tangata whenua depending on what has also been identified, the methods used to identify taonga, and the extent of taonga within their rohe.</li> <li>The NPSIB CBA considers the implementation costs associated with Clause 3.19, while emphasising that this is based on very limited feedback from four local authorities and assumes no existing information/identification of taonga species, populations and species exists.<sup>54</sup> The cost to identify taonga in accordance with Clause 3.19 is estimated at \$120,000 - \$150,000 with the upper cost including some allowance for a dedicated iwi advisor. M.E assumed this will be spread evenly over four years to be timed with SNA plan change in year five. In present value terms, this expenditure equates to a total cost</li> </ul>	<p>It is considered that there is sufficient information and certainty in acting through the provisions as they:</p> <ul style="list-style-type: none"> <li>are consistent with existing obligations in section 6(e) of the RMA to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga as a matter of national importance</li> <li>enable local authorities and tangata whenua to draw and build on existing work and information on taonga within their rohe. The provisions also provide flexibility for tangata whenua to determine if and how to identify taonga within their rohe. This will allow tangata whenua and local authorities to work together to implement Policy 2(b) and Clause 3.19 in the most efficient way and take into account their needs and preferences.</li> </ul> <p>However, the provisions also impose new, more directive requirements on local authorities to work with tangata whenua to identify taonga species, populations and ecosystems. This presents some uncertainties and implementation risks and could be a significant task with substantial costs for local authorities, particularly where they need to engage with a large number of iwi/hapu groups. These risks will be mitigated to some extent through the NPSIB implementation plan which includes</p>

<sup>54</sup> Refer section 4.2 of the NPSIB CBA for further details.



**Policy 2 and Clause 3.19 – identifying and protecting indigenous species, populations and ecosystems that are taonga**

Benefits	Costs	Risk of acting/not acting
<p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social benefits are anticipated from the implementation of the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Taonga species are better protected for current and future generations with associated cultural benefits to tangata whenua.</li> <li>Tangata whenua are able to exercise their kaitiakitanga role through enabling them to identify and protect their taonga species, populations and ecosystems in accordance with their preferred methods and processes.</li> </ul>	<p>of between \$106,000-\$133,000 (5 per cent discount rate).</p> <ul style="list-style-type: none"> <li>Potential opportunity costs for landowners when taonga species, populations and ecosystems are located on their land and are to be protected.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social benefits are anticipated from the implementation of the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Time, resourcing and costs for tangata whenua to identify and protect taonga. Actual costs are likely to vary significantly based on sites already identified, the methods used to identify taonga, and the extent of taonga within their rohe. Participation costs for tangata whenua are discussed further in relation to Clause 3.3 of the NPSIB above.</li> <li>Increased demand on tangata whenua capacity and resourcing may impact on their cultural wellbeing. However, this potential cost will be reduced and mitigated through the proposed capability and capacity building in the NPSIB implementation plan.</li> </ul>	<p>dedicated funding, training and actions for tangata whenua.</p>
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 2(b) and Clause 3.19 are considered to be an effective means to achieve the NPSIB objective because the provisions will help tangata whenua to exercise their kaitiaki role and lead to improved protection of taonga species, populations and ecosystems. This will be effective in achieving the overall NPSIB objective to indigenous biodiversity and achieve at least no overall loss in a manner that provides for the role of kaitiaki and the cultural wellbeing of tangata whenua.</p>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 2(b) and Clause 3.19 are considered to be an efficient means to achieve the NPSIB objective because the provisions:</p> <ul style="list-style-type: none"> <li>build on existing RMA obligations in section 6(e) and current best practice rather than introduce fundamentally new requirements.</li> <li>allow for some flexibility in if and how tangata whenua chose to identify taonga and the overall management approach. This will potentially enable cost-effective approaches to be developed and implemented.</li> </ul>	

**Policy 2 and Clause 3.19 – identifying and protecting indigenous species, populations and ecosystems that are taonga****Benefits****Costs****Risk of acting/not acting****Overall evaluation**

On balance, Policy 2(b) and Clauses 3.19 are considered to be an appropriate way to achieve the NPSIB objective and the provisions will help tangata whenua to exercise their kaitiaki role and lead to improved protection of taonga species, populations and ecosystems. It will also contribute to the cultural wellbeing of tangata whenua. The provisions also provide some flexibility to enable cost-effective approaches to be developed and implemented by local authorities and tangata whenua.

## Policy 3: Precautionary approach

### Overview of provisions

Policy 3 of the NPSIB:

**A precautionary approach is adopted when considering adverse effects on indigenous biodiversity**

Policy 3 is delivered through Clause 3.7. This states that local authorities must take a precautionary approach towards proposed activities where:

- (a) *the effects on indigenous biodiversity are uncertain, unknown or little understood; but*
- (b) *those effects could cause significant or irreversible damage.*

### Policy intent

The intent of Policy 3 and Clause 3.7 is to ensure local authorities take a precautionary approach to avoid the risk of significant adverse effects on indigenous biodiversity. This approach is used in other RMA national direction (the NZCPS<sup>55</sup>), is implicit in the RMA definition of 'effect',<sup>56</sup> and is a well-established concept in resource management practice and case law. It acknowledges the vulnerability and irreplaceability of indigenous species.

While some concerns have been raised that this approach can result in an overly conservative approach to decision-making, and may act as a barrier to appropriate development, Clause 3.7 is intended to ensure it is only used in limited circumstances. It is only to be adopted where there is uncertainty about effects of a proposal **and** where those effects could cause significant or irreversible damage to indigenous biodiversity.

As such, there needs to be uncertainty about effects on indigenous biodiversity **and** the potential for adverse effects to result in significant or irreversible damage before the precautionary approach is applied.

In practice, this may lead to adaptive management approaches, such as those commonly applied to geothermal fields. Implementation guidance will need to be developed to guide the appropriate use of the precautionary approach under the NPSIB, including situations where effects of activities on indigenous biodiversity are "*uncertain, unknown or little understood*" and what level of effects could cause significant or irreversible damage to indigenous biodiversity.

### Other options considered

The other option considered was that there be no specific reference to the precautionary approach in the NPSIB. This approach can be favoured on the basis that the precautionary approach:

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<sup>55</sup> Policy 3 of the NZCPS — Precautionary approach.

<sup>56</sup> Which includes "*any potential effect of low probability which has a high potential impact*".

- is already inherent in the NPSIB and the RMA
- can lead to excessive information requirements in a consenting context and potentially act as a barrier to appropriate development.

However, explicit recognition of the precautionary approach in the NPSIB is the preferred option to:

- ensure the use of the precautionary approach is applied in appropriate circumstances; and
- recognise that proposals with uncertain effects warrant a more precautionary approach and that indigenous species are vulnerable and irreplaceable.

## Evaluation of efficiency and effectiveness – Policy 3

Table 12 provides an assessment of the efficiency and effectiveness of Policy 3 and associated implementation requirements.

**Table 12: Evaluation of Policy 3 and associated implementation requirements**

Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity		
Benefits	Costs	Risk of acting / not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Encourages councils to take a precautionary approach when the effects of a proposed activity on indigenous biodiversity are uncertain. This reduces the risk of unexpected and potentially significant or irreversible adverse effects on indigenous biodiversity.</li> <li>Will help ensure a robust consideration of applications that could cause significant or irreversible damage to indigenous biodiversity and minimise the risk of significant adverse effects occurring through decisions and consent conditions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Limits the precautionary approach to specified circumstances to help reduce the risk of local authorities applying this concept too widely with associated costs to applicants.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social benefits are anticipated from the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Requires local authorities to take a precautionary approach when the effects of a proposed activity on indigenous biodiversity are uncertain, including taonga species and ecosystems. This reduces the risk of unexpected adverse effects on taonga species or ecosystems with associated cultural benefits to tangata whenua.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no specific environmental costs are anticipated from the provisions.</li> </ul> <p><b>Economic</b></p> <p>Risk that the precautionary approach:</p> <ul style="list-style-type: none"> <li>leads to onerous information requirements and assessments</li> <li>results in stringent consent conditions and monitoring requirements</li> <li>acts as a barrier to development by precluding or limiting the extent of proposed subdivision, use and development, or by deterring investment due to perceived uncertainties in consenting process/conditions.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social costs are anticipated from the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Adoption of the precautionary approach to managing adverse effects on indigenous biodiversity on Māori lands could result in opportunity costs for the development and use of Māori lands. However, this risk is limited by the approach to managing indigenous biodiversity discussed under Policy 7 and Clause 3.18.</li> </ul>	<p>It is considered that there is sufficient information to support acting through the provisions as:</p> <ul style="list-style-type: none"> <li>The precautionary approach is a well-established concept within resource management in Aotearoa, including other national directions such as the NZCPS and ANZBS. This same approach is also used internationally.</li> <li>Implementation guidance will be provided on precautionary approaches under the NPSIB, including when and how it should be applied such as through adaptive management approaches.</li> </ul> <p>As such, there is sufficient information and the risk of acting is low.</p>

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**Effectiveness**

Based on the above examination of costs, benefits and risks, Policy 3 and Clause 3.7 are considered to be an effective means to achieve the NPSIB objective:

- The provisions require local authorities to adopt a precautionary approach where the adverse effects of a proposed activity on indigenous biodiversity are uncertain but where they could potentially cause significant or irreversible damage. This will help reduce the likelihood of proposed activities having significant adverse effects on indigenous biodiversity where the effects of the activity were uncertain at the time the application was assessed and consented. This will contribute to the overall NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss.
- Clause 3.7 sets out when the precautionary approach is to be adopted – ie, where the effects on indigenous biodiversity are uncertain **and** those effects could potentially cause significant or irreversible damage. This helps ensure the precautionary approach is not applied in an overly conservative or onerous manner, thereby helping to provide for the social, economic, and cultural wellbeing of people and communities.

**Efficiency**

Based on the above examination of costs, benefits and risks, Policy 3 and Clause 3.7 are considered to be an efficient means to achieve the NPSIB objective because:

- the provisions seek to limit the use of the precautionary approach to appropriate circumstances
- the provisions are consistent with established practice on use of the precautionary approach
- implementation guidance will be developed to help ensure the precautionary approach is appropriately applied without imposing unnecessary constraints and costs on subdivision, use and development.

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**Overall evaluation**

On balance, Policy 3 and Clause 3.7 are considered to be the most appropriate way to achieve the NPSIB objective, as they will contribute to the maintenance of indigenous biodiversity by reducing the risk of significant adverse effects. The provisions also limit the use of the precautionary approach to appropriate circumstances, helping to ensure indigenous biodiversity is protected and managed in a way that provides for the social, economic, and cultural wellbeing of people and communities.

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## Policy 4: Climate change resilience

### Overview of provisions

Policy 4 of the NPSIB:

**Indigenous biodiversity is managed to promote resilience to the effects of climate change.**

Policy 4 will be delivered through Clause 3.6 which sets out what local authorities must do to promote the resilience of indigenous biodiversity to climate change.

### Policy intent

The intent of Policy 4 and Clause 3.6 is to ensure local authorities manage indigenous biodiversity to promote its resilience to the effects of climate change through planning instruments and decision-making when implementing the NPSIB. This includes specific direction to:

- a) allow and support natural adjustments of habitats and ecosystems to the changing climate
- b) consider climate change when making decisions on proposals for restoration of indigenous biodiversity and decisions relating to managing and reducing new and existing biodiversity risks.

Clause 3.6(1)(c) requires local authorities to maintain and promote enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes. Clause 3.6(2) requires local authorities to recognise the role of indigenous biodiversity in mitigating the effects of climate change.

These requirements aim to help ensure the ecological integrity of indigenous habitats and ecosystems is maintained over time and is not adversely affected by the effects of climate change. Importantly, the implementation requirements in Clause 3.6 set out the **minimum requirements** to implement Policy 4 with local authorities expected to take additional actions where necessary to promote the resilience of indigenous biodiversity to climate change within their region/district. This direction seeks to strike an appropriate balance between setting nationally consistent minimum requirements and providing some flexibility for local authorities while considering cross-boundary issues (as required under Policy 5).

Currently, there is no clear nationally consistent policy framework requiring local authorities to promote the resilience of indigenous biodiversity to the effects of climate change. This has resulted in a lack of strategic direction and targeted plan provisions responsive to the challenges in each region/district. This has made it difficult to promote the resilience of indigenous biodiversity to adverse effects of climate change through the resource consent process.

Policy 4 and Clause 3.6 aim to address this issue by encouraging local authorities to take a strategic, long-term approach to promoting the resilience of indigenous biodiversity within their region/district, supported by nationally clear and consistent implementation requirements. This will encourage local authorities to consider the cumulative impacts of

climate change on indigenous biodiversity across their region/district and strategically plan actions to promote ecological resilience specific in their region/district.

Clause 3.6(2) provides direction for local authorities to consider the important role of indigenous biodiversity in mitigating the effects of climate change. This is important in the context of the emission reduction targets of Aotearoa in the Climate Change Response Act 2002 and the actions in the first New Zealand Emissions Reduction Plan. It will help ensure local authorities recognise the role of indigenous biodiversity in mitigating climate change and provide further support for actions to protect and restore indigenous biodiversity and increase indigenous vegetation cover in urban environments and non-urban environments.

## Other options considered

Climate change is a significant issue and is expected to have long-term impacts on the environment, ecosystems, and the economy,<sup>57</sup> and include potential extinction of native species.<sup>58</sup> Excluding policy direction in the NPSIB relating to the effects and mitigations of climate change on indigenous biodiversity was not considered a reasonably practicable option to achieve the objective of the NPSIB. However, some variations were considered:

- Include a reference to precautionary approach within the climate change provisions as recommended by the BCG. The preferred approach is to have a separate precautionary approach policy and implementation clause to avoid duplication.
- Whether the provisions should be targeted at consent decision-making or strategic plan-making. Strategic-plan making is the preferred option, recognising that it is challenging to consider and requires a degree of flexibility to respond to local circumstances and promote resilience to climate change effects through individual resource consents.

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<sup>57</sup> Ministry for the Environment & Stats NZ (2020), *New Zealand's Environmental Reporting Series: Our Atmosphere and Climate 2020*.

<sup>58</sup> Ministry for the Environment (2020), *'National Climate Change Risk Assessment for Aotearoa New Zealand: Main report – Arotakenga Tūraru mō te Huringa Āhuarangi o Āotearoa: Pūrongo whakatōpū*.



## Evaluation of efficiency and effectiveness – Policy 4

Table 13 provides an assessment of the efficiency and effectiveness of Policy 4 and associated implementation requirements in Clause 3.6.

**Table 13: Evaluation of Policy 4 and associated implementation requirements**

Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions will ensure local authorities take a long-term strategic approach to develop plan provisions to promote the overall resilience of indigenous ecosystems, species and habitats to climate change effects.</li> <li>Ensures decision-making on proposals relating to restoration and biosecurity risks explicitly consider the effects of climate change.</li> <li>The resilience of indigenous biodiversity to climate change and biosecurity threats will be improved over time, including through increased connectivity between ecosystems and habitats. This will help to maintain and enhance indigenous biodiversity and the ecosystem services it provides.</li> <li>The role of indigenous biodiversity in mitigating climate change is better recognised and provided for.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions enable local authorities to decide how they will promote resilience to climate change that is responsive to anticipated effects within their boundaries, while</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Policy 4 and Clause 3.6 recognises that there will be natural adjustments to habitats and ecosystems over time because of climate change. This means that localised extinctions and losses of indigenous biodiversity are possible. The cumulative effect of this may also have aggregate effects on indigenous biodiversity if the rate of decline exceeds the rate or ability of indigenous biodiversity to adapt.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Most local authorities do not explicitly address climate change effects on indigenous biodiversity through their plans.<sup>59</sup> As such, there will be administrative effort and costs to local authorities to understand how to promote the resilience of indigenous biodiversity to climate change effects within their region/district, and to develop new plan provisions to respond to these potential effects. Actual costs are expected to vary based on the size of the district/region, in-house expertise in</li> </ul>	<p>The is some uncertainty in acting through the provisions, as most RMA plans do not currently explicitly address climate change effects on indigenous biodiversity. There is also a degree of uncertainty about the scale and rate of adverse effects on indigenous biodiversity caused by climate change nationally.<sup>60</sup> However, evidence suggests that climate change is already starting to impact native species.<sup>61</sup> As such, it considered that there are more risks in not acting through the provisions than there are in acting.</p> <p>Further, section 7(i) of the RMA requires particular regard to be given to the effects of climate change when exercising functions and powers under the RMA. This means local authorities already have a legal obligation to take climate change effects into account in their planning and decision-making. The provisions provide more clear direction on how they meet this obligation in relation to indigenous biodiversity and provide some flexibility for local authorities to implement the requirements in a way that is tailored</p>

<sup>59</sup> Advice and analysis from officials.

<sup>60</sup> Some researchers have predicted that there will be major losses of terrestrial biodiversity as a result of climate change (Halloy & Mark 2003), while others have predicted that few impacts will be seen in the short-term, such as over the next few decades (McGlone & Walker 2011), but that “a more obvious response to climate change from biodiversity seems likely in the long run” (Christie 2014). Department of Conservation. 2020. *Department of Conservation climate change adaption action plan 2020/21-2024/25*. P.11. Wellington: Department of Conservation.

<sup>61</sup> Increasing temperatures have shifted the distribution of some species and increased the numbers of invasive pests in some areas of New Zealand. Ministry for the Environment and Stats New Zealand. 2019. *New Zealand’s Environmental Reporting Series: Environment Aotearoa 2019*. Retrieved from [www.mfe.govt.nz](http://www.mfe.govt.nz).

**Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change**

Benefits	Costs	Risk of acting/not acting
<p>considering cross-boundary issues (Policy 5). This flexibility enables local authorities to implement the requirements in the most cost-effective manner and should help reduce the administrative burden required to implement them.</p> <ul style="list-style-type: none"> <li>• The provisions will help ensure a long-term strategic plan is in place to promote resilience to future climate change effects. This is expected to be much more efficient and less costly than mitigating the impacts of climate change in the future when habitat and species loss has occurred.</li> <li>• The provisions will help ensure indigenous biodiversity is resilient and will help mitigate the loss of unique species and habitats. This is expected to help Aotearoa retain its unique natural habitats and species that attract international visitors, and to help support the significant economic benefits to the tourism industry.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• Policy 4 and Clause 3.6 will help mitigate the loss of indigenous species and habitats from the effects of climate change. This will help provide social benefits for current and future communities to access the recreational, research and educational opportunities that diverse and thriving indigenous biodiversity provides.</li> <li>• The provisions recognise the importance of restoration initiatives to improve the resilience of indigenous biodiversity to the effects of climate change. This may result in more support for community activities that seek to achieve these outcomes. This has the potential to positively contribute to social wellbeing in these communities and help to educate communities on the state of indigenous biodiversity and the challenges climate change effects pose.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• Indigenous biodiversity maintenance and restoration initiatives developed to improve resilience to climate change and mitigate the effects of climate change may include</li> </ul>	<p>biodiversity and climate change and existing plan provisions.</p> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• N/A – no social costs anticipated from the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• N/A — no cultural costs anticipated from the provisions.</li> </ul>	<p>to their local context. This helps to minimise any potential implementation issues and risks.</p> <p>Overall, based on the available information, it is considered that there is a low risk in acting through the provisions and a high risk in not acting. The most significant risk is the loss of species and habitats due to the effects of climate change.</p>

**Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change**

Benefits	Costs	Risk of acting/not acting
initiatives targeted at maintaining and restoring taonga species and ecosystems, to help improve their health and resilience. This has potential cultural benefits for tangata whenua.		
<b>Effectiveness</b>  Based on the above examination of costs, benefits and risks, Policy 4 and Clause 3.6 are considered to be an effective way to achieve the NPSIB objective: <ul style="list-style-type: none"><li>• The provisions provide direction to local authorities on the steps they must take to promote the resilience of indigenous biodiversity to climate change effects. This will be supported by guidance and examples of what this means in practice such as inland migration, larger setbacks, additional corridors/buffer zones, specific breeding programmes or translocations and developing networks. This will contribute to the overall objective of maintaining indigenous biodiversity to achieve at least no overall loss.</li><li>• The provisions give local authorities some flexibility to determine how to best promote the resilience of indigenous biodiversity to climate change based on the anticipated climate change effects within their boundaries while setting minimum requirements they must all meet. This will help contribute to the overall objective of maintaining indigenous biodiversity within each region/district and help to reverse the current trend of ongoing decline.</li><li>• The provisions will help ensure that local authorities better recognise and provide the important role of indigenous biodiversity in mitigating climate change, providing greater support for actions to protect, restore and increase indigenous biodiversity within districts and regions.</li></ul>		<b>Efficiency</b>  Based on the above examination of costs, benefits and risks, Policy 4 and Clause 3.6 are considered an efficient way to achieve the NPSIB objective: <ul style="list-style-type: none"><li>• The provisions ensure local authorities plan strategically for the long-term effects of climate change on indigenous biodiversity while providing flexibility to respond to their local context, and the current and long-term challenges climate change poses within each region/district.</li><li>• Ensuring these requirements are in place now will limit the costs associated with inaction and the resources needed to mitigate adverse climate change effects on indigenous biodiversity in the long-term should no strategic plan be in place. This will contribute to achieving the overall objective of maintaining indigenous biodiversity in a manner that achieves at least no overall loss.</li><li>• Implementation guidance and examples will be developed to provide clarity to local authorities on what promoting the resilience of indigenous biodiversity to climate change effects means in practice. This will assist in achieving implementation certainty and efficiencies.</li></ul>
<b>Overall evaluation</b>  On balance, Policy 4 and Clause 3.6 are considered to be an appropriate way to achieve the NPSIB objective as they will contribute to maintaining indigenous biodiversity despite the adverse effects of climate change, by ensuring species, ecosystems and habitats are resilient to current and future effects from climate change.		

## Policy 5: Integrated approach

### Overview of provisions

Policy 5 of the NPSIB:

**Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.**

Policy 5 is delivered through Clause 3.4 which sets out how local authorities must manage indigenous biodiversity and the effects on it in an integrated way under the NPSIB.

### Policy intent

Policy 5 aims to improve the integrated management of indigenous biodiversity across physical and administration boundaries and with other strategies and planning tools relevant to indigenous biodiversity. It does this by recognising that decision-making on indigenous biodiversity can be disconnected, siloed or overlapping. This approach is supported by a number of other provisions in the NPSIB, including the requirement to prepare regional biodiversity strategies and regional monitoring plans, and is consistent with integrated management provisions in other national direction instruments (eg, NZCPS, NPS-FM).

Clause 3.4 implements Policy 5 and requires local authorities to manage indigenous biodiversity in an integrated way, which is defined as meaning:

- recognising the interconnectedness of the whole environment and the interactions between the terrestrial environment, freshwater, and the coastal marine area
- providing for the co-ordinated management and control of subdivision, use and development as it affects indigenous biodiversity across administrative boundaries
- working towards aligning strategies and planning tools in other legislation relevant to indigenous biodiversity.

The intent of Clause 3.4 is to set out the key concepts to be used to achieve integrated management of indigenous biodiversity without being overly prescriptive. This recognises that integrated management is already a core function of local authorities under the RMA and there are already a range of processes and planning approaches in place to achieve this under the RMA. Clause 3.4 also recognises the importance of other strategies and planning tools relevant to indigenous biodiversity, helping to ensure NPSIB implementation is aligned with wider work through *Te Mana o Te Taiao - Aotearoa New Zealand Biodiversity Strategy 2020*.

Additional policy direction on integrated management in the NPSIB is important as:

- anecdotal evidence shows that decision-making on indigenous biodiversity under the RMA can be disconnected, siloed or overlapping
- regional councils and territorial authorities have a range of distinct and overlapping functions under the NPSIB and it is important that they work together in an integrated manner for effective implementation.

Guidance will also be developed to clarify the respective roles of regional councils and territorial authorities under the NPSIB and how they can work together to achieve integrated management of indigenous biodiversity.

### *Relationship between NPSIB, NZCPS and NPS-FM*

Clause 1.4(1) and (2) of the NPSIB clarifies the relationship of the NPSIB with the NZCPS. This states that the NZCPS prevails over the NPSIB in the event of conflict between the provisions in each instrument. This recognises the overlap and potential conflict between the NPSIB and Policy 11 of the NZCPS (indigenous biological diversity). These overlaps mainly relate to the SNA criteria in Appendix 1 of the NPSIB and how adverse effects on indigenous biodiversity are to be managed or avoided. The SNA criteria in Appendix 1 of the NPSIB address a wider range of attributes which may result in additional SNAs being identified in the coastal environment compared to under Policy 11 of the NZCPS. It is important that the NPSIB does not conflict with the existing effects management framework under Policy 11 of the NZCPS which sets a hierarchy to “avoid adverse effects” or “avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities” for indigenous species, ecosystems, and habitats in the coastal environment based on their ecological significance. Accordingly, the preferred approach is for the NPSIB to sit alongside and complement NZCPS Policy 11 with the NZCPS prevailing in the event of any conflict.

Clause 1.4(3) similarly states that the NPS-FM prevails over the NPSIB where there is conflict which is most relevant in relation to natural inland wetlands. The NPS-FM and NES-F already provide well developed national direction in relation to managing natural inland wetlands and are more prescriptive than the NPSIB. Therefore, Clause 1.4(3) clarifies that where terrestrial wetlands form part of an SNA, then the more prescriptive provisions in the NPS-FM and NES-F for natural inland wetlands prevail over the NPSIB provisions.

### **Other options considered**

Integrated management of natural and physical resources is a core function of local authorities under the RMA and critical to maintaining indigenous biodiversity. An alternative option would be to rely on sections 30 and 31 of the RMA that relate to the functions of local authorities. However, a specific policy on an integrated approach under the NPSIB was identified as the most effective option for achieving the NPSIB objective, and to:

- Avoid issues under the status quo associated with disconnected, siloed, or overlapping planning and decision-making on indigenous biodiversity.
- Recognise that indigenous biodiversity has strong interactions across terrestrial, freshwater, and coastal environments.
- Be consistent with other national direction (eg, NZCPS, NPS-FM) and help ensure integration across these instruments.

## Evaluation of efficiency and effectiveness – Policy 5

Table 14 provides an assessment of the efficiency and effectiveness of Policy 5 and associated implementation requirements in Clause 3.4.

**Table 14: Evaluation of Policy 5 and associated implementation requirements**

Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.		
Benefits	Costs	Risk of acting / not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions will promote integrated decision-making across domains and jurisdictional boundaries, reducing disjointed planning and decision-making which can have adverse effects on indigenous biodiversity<sup>62</sup>.</li> <li>The provisions will help to reduce conflicts and inconsistencies across regional council and territorial authority boundaries when assessing proposals for subdivision, use and development, and their associated impacts on indigenous biodiversity.</li> <li>Requiring local authorities to recognise interactions between terrestrial, freshwater and coastal marine environments when assessing the effects of land use and development will help ensure cumulative effects on these ecosystems are better considered in decision-making, helping to achieve improved outcomes for indigenous biodiversity over time.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Potential efficiency gains through local authorities and other agencies working together more cost-effectively to manage subdivision, use and development that affects indigenous biodiversity across administrative boundaries.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Policy 5 and Clause 3.4 do not specify how coordinated management and control of activities affecting indigenous biodiversity across administrative boundaries is to be achieved. As such, there is a risk that it will achieve limited improvements to protect and manage indigenous biodiversity over and above the status quo. It is understood that this risk will be mitigated through guidance on how to effectively achieve integrated management across administrative boundaries and how to recognise the interactions between different environments.</li> <li>The provisions in the NPSIB are primarily focused on achieving integrated management of indigenous biodiversity within the terrestrial environment, although Clause 3.4(1)(a) does seek to recognise the interactions between the terrestrial environment, freshwater and the coastal marine area. This may limit its effectiveness in achieving fully integrated management of indigenous species and ecosystems that span across terrestrial, freshwater and coastal environments.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Implementation costs are anticipated for local authorities to work together across jurisdictional boundaries to implement Clause 3.4. Actual</li> </ul>	<p>It is considered that there is sufficient information to act through the provisions because:</p> <ul style="list-style-type: none"> <li>integrated management is already a core function of local authorities under the RMA and is recognised as good practice</li> <li>the provisions are consistent with provisions in other national direction instruments such as NZCPS and NPS-FM on integrated management</li> <li>implementation guidance will be developed on how local authorities can effectively achieve integrated management of indigenous biodiversity under the NPSIB</li> <li>the provisions will reinforce existing good practice and will support those local authorities who currently do not have effective processes and cross boundary relationships in place to achieve improved integrated management of indigenous biodiversity.</li> </ul>

<sup>62</sup> For example, such as highlighted in Henley Hutchings (2018), *Mackenzie Basin: Opportunities for Agency Alignment*.

**Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.**

Benefits	Costs	Risk of acting / not acting
<ul style="list-style-type: none"><li>Promotes the sharing of resources and expertise between agencies which may help to achieve efficiency gains.</li></ul> <p><b>Social</b></p> <ul style="list-style-type: none"><li>The provisions provide a direct link to other enactments and strategies that relate to indigenous biodiversity. This may result in increased recognition and support for community driven strategies and associated benefits to those communities.</li><li>A more integrated management approach may help improve community understanding and support for indigenous biodiversity management strategies compared to more siloed approaches.</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>An integrated management approach is consistent with Te Ao Māori as tangata whenua view the environment in a holistic and integrated manner. The provisions are consistent with these cultural concepts.</li></ul>	<p>implementation costs will vary depending on the existing processes and systems to achieve integrated management. These costs are not expected to be significant, as integrated management is already a core function of local authorities under the RMA and is recognised as good practice.</p> <p><b>Social</b></p> <ul style="list-style-type: none"><li>N/A — no direct social costs anticipated from the provisions. However, there may be indirect costs in terms of resourcing new integrated initiatives and these costs may be passed onto the community.</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>The NPSIB provisions are primarily focused on achieving integrated management of indigenous biodiversity within the terrestrial environment, although Part 3.4(1)(a) does seek to recognise the interactions between the terrestrial environment, freshwater and the coastal marine area. This may be seen as being inconsistent with Te Ao Māori which recognises that all parts of the environment are intrinsically linked, and indigenous biodiversity should be managed in an integrated and holistic manner across the terrestrial environment, freshwater and the coastal marine area.</li></ul>	
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks Policy 5 and Clause 3.4 are considered to be an effective way to achieve the NPSIB objective.</p> <ul style="list-style-type: none"><li>The provisions ensure adverse effects from subdivision, use and development on indigenous biodiversity are managed in an integrated way across physical and administrative boundaries. This will help to ensure indigenous species and habitats are effectively protected and restored in a coordinated and consistent way.</li><li>The provisions set out the key concepts needed to achieve integrated management of indigenous biodiversity to help improve practice. Achieving integrated</li></ul>		<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 5 and Clause 3.4 are considered to be an efficient way to achieve the NPSIB objective.</p> <ul style="list-style-type: none"><li>The provisions will help support local authorities to manage the effects from subdivision, use and development on indigenous biodiversity across boundaries which may achieve efficiencies in practice.</li><li>The provisions do not impose new requirements on local authorities but rather build on existing good practice. As such, no significant implementation costs are anticipated over and above the status quo.</li></ul>

**Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.**

Benefits	Costs	Risk of acting / not acting
<p>management is recognised as being critical to protect, maintain, and restore indigenous biodiversity.</p> <ul style="list-style-type: none"> <li>The provisions recognise the importance of other strategies and planning tools relevant to indigenous biodiversity, helping to ensure NPSIB implementation is aligned with wider work through <i>Te Mana o Te Taiao - Aotearoa New Zealand Biodiversity Strategy 2020</i>.</li> </ul>		<ul style="list-style-type: none"> <li>The provisions will promote the sharing of resources and expertise, and better alignment with other strategies and planning tools relevant to indigenous biodiversity. This will help reduce the potential risk of duplication in effort/regulation and helping to protect, maintain and restore indigenous biodiversity in a more cost-effective manner.</li> </ul>

**Overall evaluation**

On balance, Policy 5 and Clause 3.4 are considered to be the most appropriate way to achieve the NPSIB objective as they will ensure local authorities manage the effects of subdivision, use and development on indigenous biodiversity in an integrated way across physical and administrative boundaries. The provisions will also help ensure NPSIB implementation is aligned with other relevant strategies and plans, including the wider work through *Te Mana o Te Taiao - Aotearoa New Zealand Biodiversity Strategy 2020*. This will assist in achieving a coordinated and integrated approach to maintain indigenous biodiversity and achieve at least no overall loss in an effective and efficient manner.



## Policy 6: Identification of significant natural areas

### Overview of provisions

Policy 6 of the NPSIB:

**Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs)<sup>63</sup> using a consistent approach.**

Policy 6 will be delivered through Clause 3.8, Clause 3.9 and Appendix 1 which set out the principles, criteria and the process to identify and map SNAs in district plans.

### Policy intent

Policy 6 is implemented through:

- Clause 3.8 which sets out requirements for territorial authorities to do a district-wide assessment to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that would qualify as a SNA
- Appendix 1 which sets out the assessment criteria to identify areas as SNAs
- Clause 3.9 which sets out the process to identify, map and include SNAs in district plans.

The requirement to identify and include SNAs in district plans forms a key part of the NPSIB and is an important precursor to NPSIB effects management provisions to protect SNAs. Identification of SNAs is a critical part of meeting obligations under section 6(c) of the RMA to protect significant indigenous vegetation and significant habitats of indigenous fauna and maintaining indigenous biodiversity. The identification and protection of SNAs has long been a challenging and contentious issue under the RMA and improving consistency in this area is one of the key drivers for the NPSIB.

### *Criteria for identifying areas that qualify as significant natural areas*

Clause 3.8 of the NPSIB requires territorial authorities to identify SNAs using the assessment criteria in Appendix 1 and this assessment must be conducted by a suitably qualified ecologist. Appendix 1 provides nationally consistent criteria to assess ecological significance based on current best practice to ensure that all assessments of SNAs are done in a nationally consistent, accurate and robust manner. Clause 3.8(2) requires the assessment of SNAs to be in accordance with six principles which are also based on best practice and some of the practicable challenges associated with identifying SNA. These principles focus on:

- partnership - engaging with tangata whenua and affected landowners
- transparency
- quality - physical inspection where practicable
- access

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<sup>63</sup> SNAs or significant natural areas are defined in the NPSIB as “(a) any area that, on the commencement date, is identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); and (b) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with appendix 1”.

- consistency
- boundaries – following the natural boundaries of SNA, not artificial margins like property boundaries.

While Clause 3.8(2)(c) encourages physical inspection of SNAs wherever practicable to verify values and extent of SNAs, it also recognises that this may not be practicable because the areas is inaccessible, or the landowner does not provide access. In these cases, Clause 3.8(2)(c) makes it clear that the assessment should be based on the best available information for the local authority at that particular time. This also applies where the landowner disputes the values and extent of a proposed SNA but physical inspection is not practicable. In that case the local authority is to use the best available information at the time.

Appendix 1 uses four ecological significance criteria to assess SNAs:

- Representativeness – the extent to which the indigenous vegetation or habitat of indigenous fauna in an area is typical or characteristic of the indigenous biodiversity of the relevant ecological district.
- Diversity and pattern – the extent to which the expected range of diversity and pattern of biological and physical components within the relevant ecological district is present in an area.
- Rarity and distinctiveness – the presence of rare or distinctive indigenous taxa, habitats of indigenous fauna, indigenous vegetation or ecosystems.
- Ecological context – the extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain indigenous biodiversity or affects the ability of the surrounding landscape to maintain its indigenous biodiversity.

Each criterion is supported by key assessment principles and a set of attributes. An area qualifies as a SNA if it meets one attribute for any of the four criteria.

However, Clause 1(2) and (3) of Appendix 1 set out some circumstances where an area that would otherwise qualify SNA does not qualify as SNA. This is to ensure the criteria are not too broad in their application in the extent of SNAs identified and mapped in each district. These clauses apply when:

- (a) *an area would qualify as an SNA solely on the grounds that it provides habitat for a single indigenous fauna species is At Risk (declining) but that species is widespread in at least 3 other regions; or*
- (b) *an area would qualify as an SNA solely on the grounds that it contains 1 or more indigenous flora species that are Threatened or At Risk (declining), but those species are widespread in at least 3 other regions.*

Clause 1(3) of Appendix 1 then states these areas do not qualify as a SNA unless:

- a) *the species are rare within the region or ecological district where the area is located; or*
- b) *the protection of the species at that location is important for the persistence of the species as a whole.*

Together Clause 1(2) and (3) of Appendix 1 are intended to ensure areas with Threatened or At Risk species are not identified as SNA if the species are widespread across regions or locally common in that ecological district.

The criteria and supporting guidance in Appendix 1 have been informed by a growing consensus from ecologists on the attributes that make an area ecologically significant and ongoing technical advice and feedback from them as part of the development of the NPSIB.<sup>64</sup> The criteria are also largely consistent with DOC's guidelines for assessing ecological values.<sup>65</sup>

Consistent with the recommendations of the BCG, the provisions in the NPSIB treat SNA identification and SNA protection as distinct steps. Identification of SNAs through Clauses 3.8 and 3.9 and Appendix 1 is a technical assessment by a suitably qualified ecologist to assess the ecological significance and attributes of an area. The next step is the protection of SNAs which is achieved through the other clauses in subpart 2, Part 2 of the NPSIB.

While the assessment criteria in Appendix 1 are supported by key assessment principles and attributes, there is always an element of subjectivity when assessing the ecological significance of a particular area and therefore potential inconsistencies. As such, guidance will be developed to help support suitable qualified ecologists assess and identify SNAs consistently in accordance with the NPSIB provisions and reduce the potential for implementation inconsistencies.

### *SNAs on public conservation land*

Clause 3.8(8) sets out a different process for assessing SNAs on any area of Crown land administered by DOC under the Conservation Act 1987 or any other Act specified in Schedule 1 for conservation purposes (public conservation land). This different process recognises that SNAs on public conservation land already have a level of protection and are not subject to the same risks as SNAs on private land. It is also intended to recognise the significant cost burden on local authorities if they were required to identify and map SNAs on public conservation land using the same principles, criteria and process as private land.

Clause 3.8(8) states that any area of Crown-owned land may qualify as an SNA without the need for an assessment under Clause 3.8(1) using Appendix 1 if:

- (a) *the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1;*
- (b) *the territorial authority is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as an SNA under Appendix 1; and*
- (c) *the area is:*
  - (i) *a large area and more-or-less contiguous area managed under single protection classification (such as a national park); or*
  - (ii) *a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park); or*
  - (iii) *a well-defined landscape or geographical feature (such as an island or mountain range); or*

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<sup>64</sup> This includes DOC (2016), *Department of Conservation guidelines for assessing significant ecological values*. Davis, N.J. Head, S.C. Myers and S.H. Moore 2016, and draft position of Environment Institute of Australia and New Zealand on assessing significant ecological values in New Zealand: <https://www.eianz.org/eianznews/assessing-significant-ecological-values-in-new-zealand>. The criteria prepared by Mike Harding for the BCG were also tested with other ecologists.

<sup>65</sup> [Department of Conservation guidelines for assessing significant ecological values, 2016](#).

- (iv) *a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.*

This is intended to allow territorial authorities and DOC to work together to take a pragmatic and cost-effective approach to identify large SNAs on public conservation land and help to significantly reduce the cost and time burden for some territorial authorities.

### *Timeframes and process to include significant natural areas in plans*

To ensure effective collaboration in identifying SNAs, Clause 3.8(4) requires the relevant regional council to assist the territorial authority with their assessment if requested by the territorial authority. Many regional councils and territorial authorities have already worked together to identify SNAs through sharing of resources and information, helping achieve efficiency gains.

Clause 4.2 covers timing for planning provisions for SNAs. It requires local authorities to notify plan changes to implement subpart 2 of Part 3 (Significant Natural Areas) within five years of the commencement date. Therefore, one of the first key implementation steps for the NPSIB is a district-wide assessment of SNAs under Clause 3.8.

As discussed in Part 2 of this report, many territorial authorities have already mapped their SNAs and more recent SNA mapping is often quite consistent with the NPSIB requirements and criteria. In recognition of this, Clause 3.8(5) states that territorial authorities do not need to reassess existing SNAs in accordance with the NPSIB if they engaged a suitably qualified ecologist who confirms the methodology used to identify the existing SNA, and its application, is consistent with the assessment approach in Appendix 1 of the NPSIB and this is confirmed within four years of commencement date.

Clause 3.8(6) states that where a territorial authority becomes aware of an area of significant indigenous vegetation or significant habitat of indigenous fauna that may qualify as an SNA, they must:

- assess the area in accordance with Clause 3.8(2) and Appendix 1 as soon as practicable; and
- where the area is identified as a SNA, include that SNA in the next appropriate plan or plan change notified by the territorial authority.

The requirements in Clause 3.8(6) are intended to ensure SNAs identified through consenting processes and other means are included in district plans in a timely manner.

Clause 3.9 sets out the process for including SNAs in district plans. This clause requires:

- territorial authorities to notify any plan or plan change to include each area identified as qualifying as a SNA
- notified plans or plan changes to include specific information on identified SNAs (location, description of attributes, map etc)
- territorial authorities to assess their districts in accordance with Clause 3.8 (1) and (2) to determine if any changes are needed (eg, whether additional areas need to be assessed and mapped as SNAs) when doing 10-yearly plan reviews.

## Other options considered

### *A classification system for SNAs*

The NPSIB released for public consultation proposed that territorial authorities would classify SNAs as 'high' or 'medium' value when managing adverse effects from new subdivision, use or development on SNAs. This high/medium SNA classification approach was strongly opposed by a large number of submitters, both on ecological grounds and because of the impact it may have, such as effectively precluding activities important to economic, social and cultural wellbeing.

Following analysis of submissions, this high/medium system has been removed from the NPSIB. Key reasons include:

- it is likely that most SNAs will meet the high category criteria
- using a classification system does not recognise changes in significance that can occur within a single SNA (ie, some areas of an SNA may meet the high criteria, while other may meet the medium criteria)
- local authorities do not classify SNAs using this approach, so this would result in further work and costs, particularly those local authorities that have recently identified and mapped SNAs
- the approach of managing to avoid effects for all new subdivision, use and development for high SNA could have significant impact and opportunity costs important to economic, social and cultural wellbeing.

Overall, it is considered that the risks and costs associated with a high/medium SNA classification system outweigh any perceived benefits and the preferred option is to identify SNA using consistent criteria and principles without any classification or ranking.

### *Set a minimum size for an SNA*

Feedback from submitters on the NPSIB suggested there should be minimum size threshold for an area to qualify as a SNA. This approach is not preferred for the following reasons:

- It would undermine the objective of the NPSIB to protect indigenous biodiversity, specifically threatened species that have been reduced to very small habitats.
- The ecological significance of an area is not determined by size. While larger sites are important for mobile species, this does not mean smaller habitats have less relative ecological value.
- Imposing an arbitrary size would omit habitats of some threatened plants and animals which would otherwise be assessed as SNA in accordance with Clause 3.8(2) and Appendix 1. This would lead to less protection in some instances and undermining achievement of the NPSIB objective.

## Evaluation of efficiency and effectiveness – Policy 6

Table 15 provides an assessment of the efficiency and effectiveness of Policy 6 and associated implementation requirements in Clause 3.8, Clause 3.9 and Appendix 1.

**Table 15: Evaluation of Policy 6 and associated implementation requirements**

Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Consistent mapping of SNAs will improve protection of these areas nationally to help protect and maintain indigenous biodiversity.</li> <li>Promotes a clear, nationally consistent methodology to identify SNAs which will result in improved awareness, understanding and protection of these areas.</li> <li>Reduces the risks of significant indigenous vegetation and significant habitats of indigenous fauna not being identified and properly protected, as currently occurs in approximately 56 per cent of districts with limited or no mapped SNAs.<sup>66</sup></li> <li>Enables greater strategic oversight and proactive protection and management of SNAs to help improve the protection of significant indigenous biodiversity locally, regionally and nationally.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The approach, principles and criteria build on current best practice to identify SNAs rather than introduce fundamentally new practices. This will help to reduce implementation costs where existing practice is good.</li> <li>The provisions specially recognise that many local authorities have already done a significant amount of</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The risk of landowners rushing to clear indigenous vegetation and habitats on their land, concerned it may be identified as a SNA through the mapping process, is considered to be relatively low. Many districts already have SNA schedules, existing obligations under section 6(c) and the NPSIB has been in development for some years.</li> <li>There is a low risk of the NPSIB criteria capturing fewer sites than currently scheduled in district plans when these sites are reassessed. The concern is this could result in less protection to these sites and some loss of indigenous biodiversity. However, the NPSIB principles and criteria to identify SNAs are based on existing good practice and provide a high level of assurance that all areas with ecological significance will be identified and subsequently protected as SNAs.</li> <li>Potential to undermine existing approaches to identify SNAs using criteria rather than mapping which has been found to be a valid method to support regulatory protection. However, the comprehensive SNA mapping approach required under NPSIB will ensure that all areas with ecological significance in these districts are identified and subsequently protected as SNAs.</li> </ul>	<p>The provisions are based on extensive information and established practices. It is considered that there is sufficient information to act through the provisions, in particular:</p> <ul style="list-style-type: none"> <li>SNA identification is already recognised as good practice to meet the statutory obligations of local authorities to protect SNAs under section 6(c) of the RMA</li> <li>the provisions are based on existing good practice and have had ongoing input from ecological experts. This provides a high level of assurance that the principles and criteria will result in all areas with ecological significance being identified as SNAs</li> <li>the criteria in Appendix A are supported by key assessment principles and attributes which help ensure the provisions are well understood and consistently interpreted and implemented</li> <li>implementation guidance will be developed to support ecologists undertaking assessments in accordance with Appendix 1 to provide a high-level of certainty on implementation requirements and reduce the potential for inconsistencies.</li> </ul>

<sup>66</sup> Ministry for the Environment (September 2021), *Completeness of Council SNA Schedules* (updated from Myers, S. May 2019).

**Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach**

Benefits	Costs	Risk of acting/not acting
<p>work to identify SNAs and build on this work. This is achieved through a more streamlined approach for ecologists to confirm that an existing mapped SNA qualifies under Appendix 1 rather than requiring completely new district-wide assessments and mapping. This will significantly benefit territorial authorities that have mapped SNAs consistent with the NPSIB. This applies to approximately 26 of 56 district plans based on an assessment of SNA completeness by the Ministry.<sup>67</sup></p> <ul style="list-style-type: none"> <li>The provisions provide a streamlined process for territorial authorities to work with DOC to identify SNAs on public conservation land through a more streamlined process. This will significantly reduce the work and cost burden to identify SNAs in many districts.</li> <li>The criteria in Appendix 1 to identify SNAs have been refined to ensure areas with threatened or at risk species are not identified as SNA if the species are widespread or local commonly. This will ensure the criteria are not too broad for the land identified as SNAs with associated constraints on subdivision, use and development.</li> </ul>	<p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The NPSIB CBA by M.E estimates SNA mapping costs drawing on information from the case study councils, further information on SNA costs from road testing the NPSIB with councils, and public submissions.<sup>68</sup> The NPSIB CBA notes there are several uncertainties and inconsistencies in the information provided and therefore it provides an estimate of the <b>indicative range of costs</b> to map SNAs where no SNA mapping has been done. Costs are expected to be significantly less where SNA mapping has been done or is underway). The indicative range of costs to map SNAs estimated in the NPSIB CBA is as follows:<sup>69</sup> <ul style="list-style-type: none"> <li>Lower end – \$250,000: this assumes a collaborative process with small amounts of indigenous land cover relative to the average size of all district/unitary authorities involved.</li> <li>Higher end – \$2,500,000: this assumes a non-collaborative process (ie, no resource/expert sharing or sharing of funding between councils within a region) with large amounts of indigenous land cover relative to the average size of all district/unitary authorities and including a large</li> </ul> </li> </ul>	

<sup>67</sup> Ministry for the Environment (September 2021), *Completeness of Council SNA Schedules* (updated from Myers, S. May 2019), Note, in some locations, SNA schedules were being compiled by the Regional Council, or through a combined process across neighbouring territorial authorities, hence the number of district plans assessed is less than the number of territorial/unitary authorities.

<sup>68</sup> Refer to section 4.2.1 of the CBA for a detailed overview of the approach to estimate SNA mapping costs.

<sup>69</sup> These one-off costs are to carry out SNA mapping when no SNA mapping has previously been completed (ie, they are gross costs to give effect to the NPSIB). The actual costs that will be incurred by councils to give effect to the NPSIB will vary significantly based on whether they have identified SNAs in the past, the completeness of their SNA schedule, and how aligned that SNA identification and mapping process is with the NPISB requirements. Estimated costs are assumed to be wholly borne by district councils/unitary authorities, although it is acknowledged that regional councils are likely to provide some support for this process (eg, technical input and/or assistance with funding if requested by the territorial authority as anticipated under clause 3.8(3)). The costs also do not consider any targeted support from central government which is being proposed through the NPSIB implementation plan with \$19 million of dedicated funding through Budget 2022.

**Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"> <li>Reduced debate and litigation about the approach, criteria and methodology used to assess ecological significance and identify SNAs.</li> <li>Reduced debate and litigation through consenting processes as to whether a site is a SNA or not. This is expected to reduce over time as territorial authorities complete their SNA mapping in accordance with the NPSIB.</li> <li>The provisions specifically recognise that physical inspections of SNAs may not be practicable in some circumstances, and this can then be based on best available information. This will reduce the cost burden on territorial authorities.</li> <li>SNAs are identified in a consistent manner at district scale rather than in an ad hoc manner through the resource consent process. This provides greater certainty to landowners and developers as to the location and extent of SNAs and may provide efficiencies over time and reduced costs/uncertainty for landowners and developers through the resource consent process.</li> <li>Nationally consistent criteria and requirements to identify SNA will depoliticise the process at the local level. This will help to reduce debate and litigation over time through planning processes.</li> <li><b>Social</b></li> <li>A clear, transparent process to work in partnership with landowners to identify SNAs may help to build or improve relationships and better enable landowners to exercise their stewardship role.</li> <li>Greater awareness in the community about the location and extent of SNA in their area and the ecological values of those SNAs.</li> </ul>	<p>number of private landowners with extensive ground-truthing required.</p> <ul style="list-style-type: none"> <li>The criteria for an area to be a SNA will capture most areas of indigenous vegetation and species habitats. This has flow-on opportunity costs under the NPSIB effects management provisions that apply to SNAs, assessed in relation to specific NPSIB provisions in subpart 2 of Part 2 evaluated below. However, the criteria in Appendix 1 have been refined following the exposure draft process to ensure areas with threatened or at risk species are not identified as SNA if the species are widespread across regions or local commonly in that ecological district. This will ensure the criteria are not too broad in terms of the land identified as SNAs.</li> <li>Time cost to landowners to respond to information on SNAs on their land and validate or debate the location and extent of the identified SNA.</li> <li>Time and costs for landowners to make submissions, participate in hearing processes, potential appeals etc where a SNA or its boundaries on their land is contested.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The costs to complete SNA mapping are likely to be largely funded through rates, potentially reducing the amount of funding for other community initiatives.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A – no direct cultural costs are anticipated from the provisions.</li> </ul>	



**Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"><li>The values of the indigenous biodiversity of Aotearoa are better understood. Improved levels of social responsibility towards indigenous biodiversity, including for future generations.</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>Some SNAs identified in accordance with Policy 6, Clause 3.8 and Appendix 1 will also be taonga to tangata whenua. Cultural benefits associated with improved identification and protection of SNAs of significance to tangata whenua.</li></ul>		
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 6, Clauses 3.8 and 3.9 and Appendix 1 are considered to be an effective means to achieve the NPSIB objective because:</p> <ul style="list-style-type: none"><li>the provisions promote a clear, nationally consistent methodology to identify SNAs which will lead to better protection of these areas over time</li><li>the provisions provide a high level of certainty and national consistency in identifying and mapping SNAs. This will substantially reduce the likelihood of significant indigenous vegetation and significant habitats of indigenous fauna not being identified in district plans and appropriately protected</li><li>the provisions are based on best practice and ongoing ecological advice and are supported by principles and guidance. This provides a high level of certainty that all areas with ecological significance will be consistently identified and mapped as SNAs</li><li>they enable greater strategic oversight and proactive protection and management of SNAs within districts and regions to help improve the protection of indigenous biodiversity locally, regionally and nationally.</li></ul>		<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 6 Clauses 3.8 and 3.9, and Appendix 1 are considered to be an efficient means to achieve the NPSIB objective because of the following:</p> <ul style="list-style-type: none"><li>The provisions will reduce debate and litigation about the criteria used to assess ecological significance and the methodology used to identify SNAs.</li><li>The provisions will help reduce debate and litigation through consenting processes as to whether a site is a SNA or not. This may provide efficiencies over time and reduced costs/uncertainty for landowners/applicants through the resource consent process.</li><li>The provisions will provide greater certainty to landowners and developers as to the location and extent of SNAs.</li><li>Nationally consistent criteria and requirements to identify SNAs will depoliticise the process at the local level. This will help to reduce debate and litigation over time.</li><li>The process to assess and map SNAs is supported by principles and guidance in the NPSIB. Implementation guidance will be developed to support ecologists doing assessments in accordance with Appendix 1. This will help ensure implementation requirements are clear and applied consistently and reduce the risk of uncertainties with associated efficiencies.</li><li>The provisions specifically recognise the existing work local authorities have done to identify SNAs by providing a more streamlined approach for ecologists to confirm that an existing mapped SNA qualifies under Appendix 1 rather than requiring</li></ul>

**Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach**

Benefits	Costs	Risk of acting/not acting
		<p>completely new district-wide assessments and mapping. This will lead to efficiency gains in these districts and significantly reduce SNA mapping costs.</p> <ul style="list-style-type: none"> <li>• The provisions provide a streamlined process for territorial authorities to work with DOC to identify SNAs on public conservation land through a more streamlined process. This will significantly reduce the work and cost burden to identify SNAs in many districts.</li> <li>• The criteria to identify SNA in Appendix 1 have been refined to ensure areas with Threatened or At Risk species are not identified as SNA if the species are widespread across regions or local commonly in that ecological district. This will ensure the criteria are not too broad in terms of the land identified as SNAs.</li> </ul>

**Overall evaluation**

On balance, Policy 6, Clauses 3.8 and 3.9, and Appendix 1 of the NPSIB are considered to be an appropriate way to achieve the NPSIB objective by setting a nationally consistent criteria to identify and map SNAs which will lead to the better protection of these ecologically significant areas.

# Policy 7: Managing adverse effects on SNAs

## Overview of provisions

Policy 7 of the NPSIB:

**SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.**

Policy 7 will be delivered through:

- Clause 3.10 which sets out requirements to manage adverse effects on SNAs from new subdivision, use and development; and
- Clause 3.11 which sets out exceptions for certain new subdivision, use and development activities to Clause 3.10(2).

The exceptions in Clause 3.10(6) and also in Clauses 3.11(1)-(5) to 3.10(2) relate to activities that contribute to social, economic and cultural wellbeing and/or have limited adverse effects on SNAs (eg, maintaining or restoring SNAs).

Clause 3.10(1) also clarifies where Clause 3.10(2) does not apply to specific types of subdivision, use and development where these are managed by other provisions in the NPSIB as follows:

- a) *Clause 3.10(6)*
- b) *SNAs on Māori lands, which are managed under Policy 2 and Clause 3.18*
- c) *Geothermal SNAs, which are managed under Policy 11 and Clause 3.13*
- d) *SNAs within plantation forests, which are managed under Policy 12 and Clause 3.14.*

## Policy intent

### Clause 3.10

The intent of Policy 7 and Clause 3.10 is to provide a nationally consistent requirement to avoid certain significant adverse effects on SNAs from new subdivision, use and development. Clause 3.10(2) identifies certain significant adverse effects on SNAs that must be avoided, except as provided for in Clause 3.11. Clause 3.10(3) provides direction to manage other adverse effects on SNAs not listed in Clause 3.10(2) by applying the 'effects management hierarchy' as defined in the NPSIB and discussed further below.

Clause 3.10(2) requires each of the following significant adverse effects on a SNA from any new subdivision, use or development to be avoided:

- (a) *loss of ecosystem representation and extent*
- (b) *disruption to sequences, mosaics,<sup>70</sup> or ecosystem function<sup>71</sup>*

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<sup>70</sup> Mosaic is defined in the NPSIB as: *mosaic means a pattern of two or more interspersed ecosystems, communities or habitats that contribute to the cumulative value of ecosystems in a landscape.*

<sup>71</sup> Ecosystem functions are defined in the NPSIB as: *ecosystem functions are the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.*

- (c) *fragmentation<sup>72</sup> of SNAs or the or loss of buffers<sup>73</sup> 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.<sup>74</sup>*

The significant adverse effects on SNAs above that must be avoided is a key provision in the NPSIB to maintain indigenous biodiversity and protect SNAs. The list of adverse effects in Clause 3.10(2) has been informed by advice from Manaaki Whenua<sup>75</sup> on the significant adverse effects that must be avoided to halt indigenous biodiversity decline, with some refinement as the NPSIB has been progressively developed to help ensure these requirements are clear and workable in practice.

This list provides a stringent management regime for new subdivision, use and development affecting SNAs. Ecological advice indicates that generally only small-scale subdivision, use and development can occur within SNAs while avoiding these adverse effects. For example, this may provide for activities such as low impact walking tracks and activities associated with ecological maintenance such as weed control. However, any new subdivision, use and development of scale managed under Clause 3.10(2) will generally be heavily restricted or effectively precluded to avoid the significant adverse effects listed. The expectation is that new subdivision, use and development will generally be designed and managed in way that ensures SNAs are not adversely affected to the extent that results in any of the significant adverse effects listed in Clause 3.10(2).

It is important to recognise that while the avoidance requirements in Clause 3.10(2) may constrain subdivision, use and development within SNAs, SNA coverage generally makes up a small portion of a given property, if at all. This means that most landowners will not be impacted by Clause 3.10(2) either because there is no SNA on their property or there are opportunities to develop their property while avoiding that part of their property with SNA coverage. For example, the spatial analysis in the NPSIB CBA found that on average across Aotearoa, 92.5 per cent of general tenure land parcels of any size contain no indicative SNA coverage, including 79 per cent of all general parcels that are less than 1 hectare in size which are dominated by urban parcels. This means that most landowners will not face any direct

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<sup>72</sup> Fragmentation is defined in the NPSIB as: *fragmentation, in relation to indigenous biodiversity, refers to the fragmentation of habitat that results in a loss of connectivity and an altered spatial configuration of habitat for a given amount of habitat loss.*

<sup>73</sup> Buffer is defined in the NSPIB as: *buffer refers to a defined space between core areas of ecological value and the wider landscape that helps to reduce external pressures; and buffering has a corresponding meaning.*

<sup>74</sup> Threatened or at risk species are defined in the NPSIB as: *Threatened, At Risk, and At Risk (Declining) have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008, Science & Technical Publishing, Department of Conservation, Wellington), available at: <https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>, or its current successor publication.*

<sup>75</sup> Walker, S., Lee, W., Bellingham, P., Kaine, G., Richardson, S., Brown, M., Greenhalgh S. and Simcock R. (2018), *Critical factors to maintain biodiversity: what effects must be avoided, remediated or mitigated to halt biodiversity loss?* Manaaki Whenua/Landcare Research Contract Report LC4001.

opportunity, transaction or compliance costs under Clause 3.10(2) of the NPSIB. This is discussed further in the NPSIB CBA.

#### *Clause 3.10(6) – covenants and kawenata*

Clause 3.10(5) is intended to recognise the existing protections for SNAs provided by a 'specified covenant or kawenata' which is defined in the NPSIB as:

- (a) *registered against the record of title or lease agreement (as relevant), under any of the following:*
  - (i) *section 22 of the Queen Elizabeth the National Trust Act 1977;*
  - (ii) *section 27 or section 27A of the Conservation Act 1987;*
  - (iii) *section 76 and 77 of the Reserves Act 1977; and*
- (b) *is identified, with the agreement of the relevant landholder or lessee and the prior written consent of the covenantee, by the relevant local authority as a specified covenant or kawenata.*

Where land in a SNA is covered by a specified covenant or kawenata, Clause 3.10(5) allows local authorities, at the request of the landowner or lessee, to permit certain specified activities within the SNA that are not necessarily consistent with policy statements and plans that give effect to Clause 3.10. However, this can only occur when the following conditions are all met:

- (a) *the local authority is satisfied that the specified activities:*
  - (i) *are consistent with the specified covenant or kawenata and any current management plan approved by the covenantee; and*
  - (ii) *are for the purpose of protecting, restoring or accessing the SNA's ecological values; and*
- (b) *the covenantee gives its prior written consent to the exemption for the specified activities; and*
- (c) *if the land is Crown owned, the appropriate Crown agency gives its prior written consent to the exemption for the specified activities.*

#### *Clause 3.10(6) – exceptions for certain activities and works*

Clause 3.10(6) lists particular uses, types of development and works that are exempt from all the requirements in Clause 3.10; in other words, there is no need to avoid adverse effects listed in Clause 3.10(2) or apply the effects management hierarchy. Clause 3.10(6) states nothing in Clause 3.10 applies to adverse effects on an SNA from any of the following:

- (a) *any use or development required to address a high risk to public health or safety; or*
- (b) *the sustainable customary use of indigenous biodiversity conducted in accordance with tikanga; or*
- (c) *work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) provided that the work or activity:*
  - (i) *is undertaken in a way that is consistent with any applicable conservation management strategy, conservation management plan, or management plan*

*established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and*

- (ii) does not have a significant adverse effect beyond the boundary of land.*
- (e) work within Te Urewera of Te Urewera Board, the chief executive of Tūhoe Te Uru Taumatua, or the Director-General of Conservation, provided that the work:*
  - (i) is for the purpose of managing Te Urewera under the Te Urewera Act 2014 and is consistent with the Te Urewera Act and the management plan under that Act; and*
  - (ii) does not have a significant adverse effect on the environment beyond the boundary of Te Urewera.*

### *Effects management hierarchy*

Clause 3.10(3) requires that any other adverse effects not referred to in Clause 3.10(2), or that occur as a result of the exceptions in Clause 3.11, are managed by applying the 'effects management hierarchy'.

Clause 3.10(4) requires that, where effects on a SNA are to be managed by applying the effects management hierarchy, a consent must not be granted unless:

- a) the decision-maker is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied; and*
- b) any consent is granted subject to conditions needed to apply the effects management hierarchy; and*
- c) if biodiversity offsetting or compensation is applied, the applicant has complied with principles 1 to 6 in Appendix 3 and 4 and has had regard to the remaining principles in Appendix 3 and 4, as appropriate.*

The effects management hierarchy is Clause 1.6 of the NPSIB as follows:

*The effects management hierarchy is an approach to managing the adverse effects of an activity on indigenous biodiversity (including cumulative effects and loss of potential value or extent) that requires the following:*

- (a) adverse effects are avoided where practicable; then*
- (b) where adverse effects cannot be avoided, they are minimised where practicable; then*
- (c) where adverse effects cannot be minimised, they are remedied where practicable; then*
- (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then*
- (e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then*
- (f) if biodiversity compensation is not appropriate, the activity itself is avoided.*

The definition of the effects management hierarchy was amended<sup>76</sup> following consultation on the NPSIB to follow the ‘avoid – minimise – remedy – offset – compensate’ hierarchy on the basis that this:

- aligns with international best practice, the New Zealand Government Guidance, and the Environment Institute of Australia and New Zealand (EIANZ) ecological impact assessment guidelines<sup>77</sup>
- provides the best ecological outcome by requiring minimisation of adverse effects before requiring remediation (rehabilitating, restoring, or reinstating something after the impact has occurred)
- reduces risk to indigenous biodiversity by reducing the severity of an adverse effect before considering actions to redress unavoidable adverse effects
- will ensure a more robust evaluation of each step in the hierarchy in resource management consent applications, decision-making and consent conditions
- is clearer for people to understand – minimise is a more straightforward and non-technical term than mitigate, and it is easier for people to understand moving from avoid (do no harm) to minimise (reduce the harm) to remedy (repair the harm)
- aligns with the NPSFM, which was changed following consultation to include a revised effects management hierarchy of ‘avoid – minimise – remedy – offset – compensate’.

Biodiversity offset is defined in the NPSIB as a measurable conservation outcome that complies with the principles in Appendix 3 and results from actions that:

- (a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and
- (b) achieve a measurable net gain in type, amount, and condition (structure and quality) of indigenous biodiversity compared to that lost.

Biodiversity compensation is defined in the NPSIB as a conservation outcome that complies with the principles in appendix 4. It results from actions intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offset measures have been sequentially applied.

Appendices 3 and 4 of the NPSIB also set out detailed principles for biodiversity offsetting and biodiversity compensation, some of which **must** be complied with for an action to qualify as a form of offsetting or compensation and other principles that must be considered. Of particular importance is the principle in appendices 3 and 4 that outlines when biodiversity offsetting or compensation **is not appropriate** and, therefore avoided. For example, principle 2 in appendix 3 states that biodiversity offsets are not appropriate in situations where biodiversity values cannot be offset to achieve a net gain. Examples include where:

- a) *residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected; or*

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<sup>76</sup> Key changes include including ‘minimise’ before ‘remedied’ and replacing ‘where possible’ with ‘where practicable’.

<sup>77</sup> Roper-Lindsay, J., Fuller, S.A., Hooson, S., Sanders, M.D., Ussher, G.T. 2018. Ecological impact assessment. *EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems*. 2nd edition. Melbourne: EIANZ. Retrieved from <https://www.eianz.org/document/item/4447>.

- b) *effects on indigenous biodiversity are uncertain, unknown, or poorly understood, but potential effects are significantly adverse or irreversible; or*
- c) *there are no technically feasible options by which to secure the proposed gains within acceptable timeframes.*

The effects management hierarchy is a key concept under the NPSIB and central to implementing several effects management provisions and the achievement of the NPSIB objective. It is intended to provide a consistent and robust approach to the management of adverse effects on SNAs. As noted above, the hierarchy is based on existing national guidance and international best practice<sup>78</sup> and can deliver positive ecological and economic outcomes when applied effectively. The definition in the NPSIB makes it clear that applicants must follow this hierarchy and demonstrate each step is not practicable or possible before moving to the next. This is because it becomes harder to address adverse effects moving down the hierarchy and the risks of indigenous biodiversity loss also increases. When applicants are at the bottom of the hierarchy and biodiversity compensation is not appropriate (eg, because the indigenous biodiversity affected is irreplaceable), then the NPSIB makes it clear the activity should be avoided (and the application declined).

Some local authorities already include a version of the effects management hierarchy in their plans and have defined key terms similar to those in the NPSIB, such as biodiversity offsetting. However, the hierarchy for SNAs is applied inconsistently across the country, as is the consideration and use of biodiversity offsetting and compensation to address residual adverse effects of proposed subdivision, use and development on indigenous biodiversity that cannot be avoided. Using the effects management hierarchy in key provisions in the NPSIB and the supporting definitions and principles for biodiversity offsetting and biodiversity compensation in Appendices 3 and 4 are intended to address these inconsistencies and ensure a more robust effects management approach for SNAs to better protect these areas nationally.

### *Clause 3.11*

Clause 3.11 sets exemptions for certain new subdivision, use and development from Clause 3.10(2). The relationship between Clause 3.10(2) and Clause 3.11 is central to the effects management approach for SNAs under the NPSIB. The fundamental premise of the NPSIB is that strong 'avoidance policies' or 'environmental bottom lines' are necessary to protect SNAs and maintain indigenous biodiversity. However, avoidance policies that are too absolute and too broadly applied risk unduly constraining viable economic opportunities and social benefits. The management approach also recognises that many activities that provide a public good benefit, such as regionally significant infrastructure and renewable energy generation, can have unavoidable adverse effects on SNAs through operational or functional needs and constraints of these activities.

The overarching intent of Clause 3.10 and Clause 3.11 is to 'strike the right balance' by providing clear national direction on the significant adverse effects on SNA that need to be avoided but also providing exemptions for certain types of subdivision, use and development where adverse effects on SNAs are generally managed by applying the effects management hierarchy. These exemptions to Clause 3.10(2) in Clause 3.11 have been carefully considered and are intended to recognise the operational and functional needs and constraints of specific

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<sup>78</sup> Refer Department of Conservation (2014), *Guidance on Good Practice Biodiversity Offsetting in New Zealand* and the Business and Biodiversity Offsets Programme (BBOP) which is a collaboration of more than 80 leading organisations and individuals who are testing and developing best practice on biodiversity offsets and conservation banking worldwide: [http://bbop.forest-trends.org/pages/about\\_bbop](http://bbop.forest-trends.org/pages/about_bbop).



subdivisions, uses and developments and the importance of these activities to the economic, social and cultural wellbeing of people and communities while ensuring SNAs are better protected nationally. Clause 3.11(1)-(5) sets out a range of specific subdivision, use and development activities that are exempt from the avoid policy in Clause 3.10(2) as follows.

Firstly, Clause 3.11(1) prescribes when adverse effects on SNAs from specified infrastructure, mineral extraction, aggregate extraction and coal mining must be managed in accordance with effects management hierarchy as follows:

- (a) *if a new use or development is required for the purposes of any of the following:*
  - (i) *specified infrastructure<sup>79</sup> that provides significant national or regional public benefit;*
  - (ii) *mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; but this subparagraph does not apply to any mineral extraction that is coal mining, and subparagraph (iv) applies instead:*
  - (iii) *aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand;*
  - (iv) *the operation or expansion of any coal mine that was lawfully established before 29 December 2022; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; and*
- (b) *there is a functional need<sup>80</sup> or operational<sup>81</sup> need for the new use or development to be in that particular location; and*
- (c) *there are no practicable alternative locations for the new use, or development.*

The tests in Clause 3.11(2) for specified infrastructure, mineral extraction and aggregate extraction are important and are consistent with current practice. The provisions require

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<sup>79</sup> Specified infrastructure is defined in the NPSIB as: *specified infrastructure means any of the following:*

- (a) *infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):*
- (b) *regionally significant infrastructure that is identified as such in a regional policy statement or regional plan:*
- (c) *infrastructure that is necessary to support housing development that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority in an urban environment (as defined in the National Policy Statement on Urban Development 2020):*
- (d) *any public flood control, flood protection, or drainage works carried out:*
  - (i) *by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or*
  - (ii) *for the purpose of drainage, by drainage districts under the Land Drainage Act 1908: (e) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.*

<sup>80</sup> Functional need is defined in the NPSIB, consistent with the national planning standards, as: *functional need means the need for a proposed activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.*

<sup>81</sup> Operational need is defined in the NPSIB, consistent with the national planning standards, as: *operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical, or operational characteristics or constraints.*

applicants to demonstrate that there is a functional or operational need to be at the particular location and that there are no practicable alternative locations before effects can be managed in accordance with the effects management hierarchy. This is intended to require activities to avoid SNAs in the first instance, before using the effects management hierarchy, and ensure they assess practicable alternative locations to ensure adverse effects on SNAs only occur where there are no practicable alternative locations.

Clause 3.11(2) states that adverse effects on SNAs should be managed in accordance with the effects management hierarchy if:

- (a) the new use or development is associated with a single dwelling on an allotment created before the commencement date; and*
- (b) there is no practicable location within the allotment where a single dwelling and essential associated on-site infrastructure can be constructed in a manner that avoids the adverse effects specified in clause 3.10(2).*

Similar to Clause 3.11(1), this clause is intended to place the onus on the applicant to demonstrate it is not practicable to construct the proposed dwelling and associated essential on-site infrastructure in a manner that can avoid the significant adverse effects on SNA specified in Clause 3.10(2) before any adverse effects can be managed in accordance with the effects management hierarchy.

Clause 3.11(3) states if a new use or development is for maintaining or restoring an SNA and does not involve the permanent destruction of significant habitat of indigenous biodiversity, Clause 3.10(2) does not apply and that adverse effects on SNAs should be managed:

- in accordance with the effects management hierarchy; or
- under any alternative management approach that is consistent with the objectives, policies and methods developed for the purpose of Clause 3.21.

Clause 3.11(4) states that Clause 3.10(2) does not apply and adverse effects on SNAs should be managed in accordance with the effects management hierarchy if the use or development:

- (a) is in an area of indigenous vegetation or habitat of indigenous fauna (other than an area managed under the Forests Act 1949) that was established and is managed primarily for a purpose other than the maintenance or restoration of indigenous biodiversity; and*
- (b) the loss of indigenous biodiversity values is necessary to meet that purpose.*

Clause 3.11(5) states Clause 3.10(2) does not apply to the harvest of indigenous tree species from an SNA if the harvest is carried out in accordance with a forest management plan or permit under Part IIIA of the Forests Act 1949; but all activities associated with that harvest, such as track clearance or timber storage, must be managed by applying the effects management hierarchy.

## **Other options considered**

### *Adopt an outcomes-based approach*

Several submitters on the NPSIB recommended an outcomes-based approach be adopted instead of an effects management hierarchy. The NPSIB seeks to achieve an outcomes-based approach and considers that an effects management hierarchy is an important part of

achieving this outcome and is necessary to set clear national direction on how adverse effects on SNAs should be managed.

While an outcomes-based approach has some benefits in being more flexible, it allows for negotiation and provides much less certainty and national consistency in managing adverse effect on SNAs. It would not guarantee that a step-by-step process be done to prioritise the avoidance and minimisation of adverse effects that can be achieved through a clear effects management hierarchy based on established best practice. Overall, it is considered that the proposed effects management hierarchy is the most appropriate option to effectively manage adverse effects on SNAs.

## Evaluation of efficiency and effectiveness – Policy 7

Table 16 provides an assessment of the efficiency and effectiveness of Policy 7 and associated implementation requirements in Clause 3.10 and 3.11

**Table 16: Evaluation of Policy 7 and associated implementation requirements**

Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions provide a clearly defined list of significant adverse effects on SNAs that must be avoided to protect SNAs, with certain exceptions. This will result in a nationally consistent, robust level of protection for SNAs. This ‘avoid policy’ in Clause 3.10(2) is based on ecological advice about the adverse effects that must be avoided to maintain indigenous biodiversity. The provisions are, therefore, likely to be highly effective in achieving that environmental outcome.</li> <li>Will help halt the ongoing decline of the indigenous biodiversity of Aotearoa through better protection of ecologically significant areas.</li> <li>Reduced loss of Threatened and At Risk species, including internationally significant species.</li> <li>Loss of ecosystem representation and extent, disruption to ecosystem functions, and further fragmentation or loss of buffering or connectivity within SNAs is avoided, with limited exceptions.</li> <li>Improved protection of SNAs ensures ecosystems are maintained, which has wider benefits than just biodiversity. There can also be environmental benefits in terms of climate change mitigation, such as carbon sequestration, and adaptation, flood mitigation and improved freshwater quality.</li> <li>Where specific new subdivision, use and development activities are not subject to Clause 3.10(2), adverse effects are generally required to be managed in</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The exemptions to Clause 3.10(2) in Clause 3.11 for certain new subdivision, use and development activities mean these activities must result in the significant adverse effects listed in Clause 3.10(2) in some circumstances, such as fragmentation of a SNA. However, the effects management hierarchy will generally apply here, ensuring robust management of adverse effects on SNAs, including biodiversity offsetting and compensation for residual adverse effects that cannot be avoided, remedied or mitigated. This will ensure that the overall objective of maintaining indigenous biodiversity and protecting SNAs is still achieved.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Opportunity costs for new subdivision, use and development on land containing SNAs where the requirement to avoid significant adverse effects on SNA precludes these activities outright or limits the extent of what could otherwise be achieved, over and above operative plan rules. For example, this may mean less potential to subdivide sites, or the need to relocate a proposed development or a planned infrastructure project to avoid significant adverse effects on SNAs.</li> <li>Transaction costs for: <ul style="list-style-type: none"> <li>specified infrastructure and mineral and aggregate extraction must demonstrate an operational or functional need to be at the</li> </ul> </li> </ul>	<p>The provisions are based on core functions of local authorities to protect SNA and established best practice through the effects management hierarchy so there is sufficient information on the provisions in this respect. However, there is still some uncertainty on how the avoid policy Clause 3.10(2) will be implemented in practice and whether local authorities have the capacity and capability to implement this effects management approach as intended.</p> <p>On balance, there is a moderate risk in acting through these provisions despite these uncertainties for the following reasons:</p> <ul style="list-style-type: none"> <li>Protecting SNAs is already a core function of local authorities under the RMA – the provisions seek to clarify how this is to be achieved based on best practice.</li> <li>The provisions set out a clear nationally consistent effects management hierarchy which will provide local authorities and applicants with greater certainty on how to assess and manage adverse effects on SNAs from new subdivision, use and development.</li> <li>Guidance will be developed to assist local authorities implement the provisions as intended and help improve capability and capacity.</li> </ul> <p>Further, it is considered there would be a higher risk in not acting as the continued absence of a clear, nationally consistent effects management framework for SNAs</p>

**Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.**

Benefits	Costs	Risk of acting/not acting
<p>accordance with the effects management hierarchy which is a robust management approach based on national and international best practice. This will ensure a consistent national approach and improved outcomes for indigenous biodiversity within SNAs.</p> <ul style="list-style-type: none"> <li>The requirements for biodiversity offsetting and compensation within the effects management hierarchy are based on national and international best practice. This will help achieve more consistent, robust management practices and improved outcomes for indigenous biodiversity.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Improved protection of SNAs contributes to the prosperity of Aotearoa, which is inherently linked to the clean, green image. This provides a competitive advantage that underpins both the tourism and primary production sectors.</li> <li>Economic benefits associated with certain new subdivision, use and development activities are recognised (including nationally and regionally significant infrastructure and mineral extraction activities). This is achieved through applying the effects management hierarchy to these activities rather than Clause 3.10(2) which would preclude these activities in many circumstances. The provisions also set out a nationally consistent and clear effects management hierarchy for assessing and managing the adverse effects of new subdivision, use and development activities which may result in efficiency gains over time.</li> <li>Reduced debate and litigation resulting from clear requirements and outcomes for avoiding and</li> </ul>	<p>location where a SNA would be affected and show there is no practicable alternative location for the activity</p> <ul style="list-style-type: none"> <li>new dwellings must demonstrate that there are not practicable alternative locations for the dwelling and associated infrastructure that do not result in the significant adverse effects specified in Clause 3.10(2).</li> </ul> <p>Some of these considerations and requirements are already standard practice under the RMA and the NPSIB is expected to result in these being applied in a more nationally consistent manner and improve practice where this is poor. As such, these requirements in Clause 3.11(1) and (2) for specified infrastructure, mineral extraction and aggregate extraction, and construction of dwellings, are generally expected to result in little or no increase in transaction costs compared to status quo in most districts. This is the same conclusion reached in the NPSIB CBA.</p> <ul style="list-style-type: none"> <li>Increase in transaction and compliance costs for specified infrastructure, mineral extraction and aggregate extraction associated with complying with effects management hierarchy, including the costs to comply with the detailed principles for any biodiversity offsetting and/or biodiversity compensation in the NPSIB when this is proposed. The potential transaction and compliance costs for these activities under Clause 3.11 of the NPSIB are assessed in detail in the NPSIB CBA<sup>82</sup> drawing on feedback from ecologists. This feedback indicates that the effects management hierarchy approach is already generally applied to large infrastructure,</li> </ul>	<p>would result in the continued loss of significant indigenous biodiversity throughout Aotearoa.</p>

<sup>82</sup> Refer the NPSIB CBA.

**Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.**

Benefits	Costs	Risk of acting/not acting
<p>managing the adverse effects of new subdivision, use and development on SNAs.</p> <ul style="list-style-type: none"> <li>The provisions recognise the protections of SNAs covered by specified covenants or kawenata and provide a process for specific activities to be permitted in these areas where this is agreed between local authorities, the covenanting agency and relevant landowners. This may help to achieve efficiency gains by not applying the avoid policy in Clause 3.10(2) or the effects management hierarchy to specific activities in these areas.</li> <li>The provisions in Clause 3.10(7) and 3.11(3)-(5) provide specific exceptions to managing adverse effects under Clause 3.10(2) for essential and low-risk activities, including use and development to address high risk to public health and safety and for use and development to maintain and restore a SNA. This will avoid unnecessary restrictions and compliance costs for these essential and low-risk activities.</li> <li>Flexibility and associated efficiency gains for DOC and Tūhoe on works on public conservation land and within Te Urewera.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Social benefits associated with certain new subdivision, use and development activities are recognised, including nationally and regionally significant infrastructure, aggregate and mineral extraction activities. This is achieved through applying the effects management hierarchy to these activities rather than them being subject to Clause 3.10(2)).</li> <li>The provisions enable actions required to address risk to public safety and health to be carried out without undue restrictions and enable other low risk activities such as restoring SNAs and works on public conservation land to be carried out without being</li> </ul>	<p>mineral extraction and aggregate extraction projects whether or not they are specified in the district plan. As such, the NPSIB CBA concludes from the feedback gathered from the ecologists that there is unlikely to be a material increase in transaction or compliance costs for specified infrastructure, mineral extraction and aggregate extraction projects from the NPSIB over and above the status quo.</p> <ul style="list-style-type: none"> <li>The transaction costs associated with the effects management hierarchy over and above are expected to be more significant for small to medium projects as currently these projects do not typically apply such a robust management approach. However, there is still some uncertainty as to exactly how the effects management hierarchy will be applied by local authorities to projects of all scales. A general increase in transaction and compliance costs is expected from Clause 3.10 and 3.11, particularly where existing practice is poor.</li> <li>Potential for specified infrastructure, mineral extraction, aggregate extraction, dwellings and other projects to be precluded where these cannot comply with the principles for biodiversity offsetting and compensation that specify when this is not appropriate. These limits include where offsetting or compensation would affect vulnerable or irreplaceable indigenous biodiversity or where the precautionary approach applies. It is unclear as to the extent to which these compensation limits will completely preclude or limit new projects and it is likely to be a particular issue for larger infrastructure projects with location constraints.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Constraints on new subdivision, use and development may limit the ability of people and communities to</li> </ul>	

**Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.**

Benefits	Costs	Risk of acting/not acting
<p>subject to the avoid policy in Clause 3.10(2). This will contribute to social wellbeing.</p> <ul style="list-style-type: none"><li>Current and future communities benefit from better protection of SNAs. This may provide wider social benefits such as recreation, amenity and mental wellbeing, in terms of the how people and communities connect to, enjoy and benefit from indigenous biodiversity.</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>Potential to contribute to cultural wellbeing through better protection of indigenous ecosystems, species, and habitats, including those that are taonga to tangata whenua.</li></ul>	<p>provide for their social wellbeing, such as loss of recreational and employment opportunities.</p> <ul style="list-style-type: none"><li>Potential constraints on the location of new urban development with flow-on impacts to the social wellbeing of affected communities. However, such social impacts are expected to be minor, particularly when considering the social benefits that results from thriving indigenous biodiversity within and near urban environments and the ecosystem services it provides.</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>N/A – potential costs for new subdivision, use and development on Māori land containing SNAs is addressed under Policy 2 and Clause 3.18.</li></ul>	
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 7, and Clauses 3.10 and 3.11 are considered to be an effective means to achieve the NPSIB objective because the provisions:</p> <ul style="list-style-type: none"><li>provide nationally consistent direction on what adverse effects on SNAs need to be avoided to maintain indigenous biodiversity</li><li>will strike the right balance as they will protect SNAs while providing a consenting pathway for certain new subdivision, use and development activities that are important to the economic, social and cultural wellbeing of Aotearoa, subject to certain tests and the robust effects management hierarchy</li><li>ensure robust management by applying the effects management hierarchy where certain new subdivision, use and development would affect a SNA, based on national and international best practice.</li></ul>		<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 7, and Clauses 3.10 and 3.11 are considered to be an efficient means to achieve the NPSIB objective because of the following:</p> <ul style="list-style-type: none"><li>The provisions will help to reduce litigation by setting clear requirements and outcomes for effects management for SNAs nationally. The provisions provide a consent pathway for certain subdivision, use and development activities, including specified infrastructure and new dwellings on existing allotments, that are recognised as being important to the economic, social and cultural wellbeing of the people of Aotearoa.</li><li>The provisions may help to provide for efficiency gains and improved operational certainty by providing clear direction about how adverse effects on SNAs must be managed.</li><li>The provisions recognise the protections of SNAs provided by specified covenants or kawenata and provide a process for specific activities to be permitted in these areas where this is agreed between local authorities and the relevant landowners. This may help to achieve efficiency gains by not applying the avoids in Clause 3.10(2) to these areas.</li><li>The provisions in Clause 3.10(7) and 3.11(3)-(5) provide specific exceptions to managing adverse effects under Clause 3.10(2) for essential and low risk activities, including use and development to address high risk to public health and safety and for use and development to maintain and restore a SNA. This will avoid unnecessary restrictions and compliance costs for these essential and low-risk activities.</li></ul>

**Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.**

**Benefits**

**Costs**

**Risk of acting/not acting**

**Overall evaluation**

On balance, Policy 7, and Clauses 3.10 and 3.11 are considered to be an appropriate way to achieve the NPSIB objective as:

- The provisions will introduce a nationally consistent effects management regime for indigenous biodiversity based on best practice nationally and internationally. This comprehensive approach is expected to be effective in protecting SNAs and will help contribute to the NPSIB objective of maintaining indigenous biodiversity and achieving at least no overall loss.
- The provisions will strike the right balance by protecting indigenous biodiversity in SNAs from specified significant adverse effects while setting out a clear and robust effects management hierarchy that must be followed for certain new subdivisions, use and development activities that are important to the social, economic, and cultural wellbeing of people and communities. This is considered an effective approach to achieve the NPSIB objective by ensuring subdivision, use and development occurs in appropriate locations and in appropriate forms to protect SNAs and maintain indigenous biodiversity and achieve at least no overall loss.



## **Policy 8: Maintaining indigenous biodiversity outside significant natural areas**

### **Overview of provisions**

Policy 8 of the NPSIB:

**The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.**

Policy 8 will be delivered through Clause 3.16 which sets out requirements for local authorities to manage indigenous biodiversity outside SNAs.

### **Policy intent**

Policy 8 and Clause 3.16 of the NPSIB apply to all areas outside SNAs with the exception of Māori lands which is managed through Policy 2 and Clause 3.18. The provisions aim to recognise that maintaining indigenous biodiversity requires more than the protection of SNAs, and to ensure that local authorities take reasonable steps to manage this outside SNAs consistent with the overall objective of the NPSIB.

Clause 3.16(1) requires that if a new subdivision, use, or development is outside an SNA and not on Māori lands, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity must be managed by applying the effects management hierarchy.

Clause 3.16(2) requires all other adverse effects on indigenous biodiversity to be managed to give effect to the NPSIB objective and supporting policies.

In terms of Clause 3.16(1), the effects management hierarchy is discussed in detail in relation to Policy 7 above and is applied to certain types of subdivision, use and development that have adverse effects on SNAs. It is a robust and comprehensive approach to manage adverse effects on significant ecological values. Outside SNAs, the intent of Clause 3.16(2)(a) is to limit the application of the effects management hierarchy to where new subdivision, use and development will have significant adverse effects on indigenous biodiversity.

Whether or not new subdivision, use and development may have significant adverse effects on indigenous biodiversity will inevitably involve some discretion and needs to be considered on case-by-case basis informed by an appropriate assessment of effects (see Clause 3.24) with a precautionary approach adopted where appropriate (see Policy 3). Guidance will also be developed with examples of where these may have significant adverse effects on indigenous biodiversity to assist with consistent interpretation, implementation and development of plan provisions.

Clause 3.16(2) requires local authorities to manage all other adverse effects on indigenous biodiversity outside SNAs and Māori lands to give effect to the NPSIB objective and supporting policies. This is not expected to result in a significant change in practice where existing provisions are working well. However, it will require local authorities to review those provisions, such as indigenous vegetation clearance rules outside SNAs, and update/refine as necessary to meet NPSIB requirements.

### *Other options considered*

The alternative option is to require regional councils to specify where, how and when controls on subdivision, use and development are required to maintain indigenous biodiversity and apply the effects management hierarchy to all adverse effects. Biodiversity compensation may be considered as an alternative to biodiversity offsetting. This option was consulted on in the draft NPSIB and is not the preferred option due to these factors:

- Concerns over the practicalities of identifying where, how and when controls on subdivision, use and development are required to maintain indigenous biodiversity. The preferred approach is to specify the outcomes sought to maintain indigenous biodiversity and provide local authorities with discretion on the steps needed to achieve this outcome, guided by some minimum requirements.
- The potential for inconsistent application of the effects management hierarchy and a potentially onerous effects management approach for adverse effects outside SNAs. The preferred approach is to limit application of the effects management hierarchy where there **may be significant** adverse effects on indigenous biodiversity. This will be supported by implementation guidance.

## Evaluation of efficiency and effectiveness – Policy 8

Table 17 provides an assessment of the efficiency and effectiveness of Policy 8 and associated implementation requirements.

**Table 17: Evaluation of Policy 8 and associated implementation requirements**

Policy 5: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Greater recognition that controls outside SNAs are necessary to manage indigenous biodiversity in certain circumstances. This should lead to targeted controls on subdivision, use and development outside SNAs and improved outcomes for indigenous biodiversity over time. Will ensure the effects management hierarchy is applied outside SNAs where adverse effects on indigenous biodiversity are significant. This ensures a robust effects management approach outside SNAs where there are significant adverse effects.</li> <li>A more consistent effects management regime outside SNAs based on established good practice. This should lead to improved outcomes for indigenous biodiversity over time.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions provide flexibility in how local authorities provide 'appropriate controls' to manage indigenous biodiversity outside SNAs. This will allow local authorities to implement cost-effective approaches targeted to their regional/local context.</li> <li>This will lead to greater clarity on when and how adverse effects on indigenous biodiversity are to be managed outside SNAs. This may lead to efficiency gains.</li> <li>Application of the effects management hierarchy outside SNAs is limited to where there are significant adverse effects on indigenous biodiversity. This will help ensure</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The flexible nature of the provisions to manage 'all other adverse effects' on indigenous biodiversity outside SNAs means that local authorities may choose to have very limited controls on subdivision, use and development outside SNAs with little/no improvement above status quo in terms of indigenous biodiversity outcomes.</li> <li>Lack of guidance on what are appropriate controls to manage indigenous biodiversity outside SNAs under the NPSIB risks inconsistent, ineffective approaches with little or no improvement above status quo in terms of indigenous biodiversity outcomes. This risk will be somewhat mitigated by guidance on how to manage adverse effects on indigenous biodiversity outside SNAs under the NPSIB objective and supporting policies.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Opportunity costs for subdivision, use and development on non-SNA land containing indigenous biodiversity where the effects management hierarchy or other controls imposed under the provisions preclude these activities in total or limit the extent of what could otherwise be achieved over and above operative provisions.</li> <li>Landowners with proposals that may have significant effects on indigenous biodiversity outside SNAs will</li> </ul>	<p>It is considered that there is sufficient information to act through the provisions as these simply require local authorities to take steps to manage indigenous biodiversity outside SNAs. As noted throughout this report, maintaining indigenous biodiversity is a core function of local authorities, and this extends to indigenous biodiversity outside SNAs.</p>

**Policy 5: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for**

Benefits	Costs	Risk of acting/not acting
<p>that managing such effects is not overly onerous or restrictive for landowners.</p> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The importance of indigenous biodiversity outside SNAs is better understood and appreciated by the community.</li> <li>Manages indigenous biodiversity across the landscape (not just in SNAs), increasing the likelihood that current and future generations will be able to access, enjoy and value indigenous biodiversity.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Tangata whenua, including future generations, are able to experience and enjoy indigenous biodiversity outside SNAs.</li> </ul>	<p>need to spend time and money to apply the effects management hierarchy.</p> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Potential restrictions on subdivision, use and development outside SNAs that may have poor social outcomes for landowners or the wider community.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A – no specific cultural costs anticipated from the provisions.</li> </ul>	

**Effectiveness**

Based on the above examination of costs, benefits and risks, Policy 8 and Clause 3.16 are considered to be an effective means to achieve the NPSIB objective for several reasons:

- The provisions make it clear that controls outside SNAs are necessary to manage indigenous biodiversity, help address current inadequacies and achieve more effective practices nationally.
- The provisions will help ensure local authorities take appropriate steps to manage indigenous biodiversity outside SNAs while providing flexibility in how this is best achieved within their area.
- The provisions require that local authorities apply the effects management hierarchy to proposals that may have significant adverse effects on indigenous biodiversity outside SNAs. This ensures a robust approach outside SNAs where there is the potential for significant adverse effects.

**Efficiency**

Based on the above examination of costs, benefits and risks, Policy 8 and Clause 3.16 are considered to be an efficient means to achieve the NPSIB objective because the provisions:

- provide flexibility in how local authorities manage 'non-significant' adverse effects on indigenous biodiversity outside SNAs. This will allow local authorities to implement cost-effective approaches targeted to their regional/local context
- limit the application of the effects management hierarchy to where there may be significant adverse effects on indigenous biodiversity outside SNAs. This will ensure that the provisions do not impose unreasonable transaction, compliance or opportunity costs.

**Overall evaluation**

On balance, Policy 8 and Clause 3.16 are considered to be an appropriate option to achieve the NPSIB objective because the provisions make it clear that controls outside SNAs are necessary to manage indigenous biodiversity while providing flexibility in how this is best achieved within each region/district. The provisions also ensure a more robust approach is applied where there is significant adverse effects on indigenous biodiversity outside SNAs by applying the effects management hierarchy. This will help ensure local authorities take appropriate steps, including developing targeted plan provisions, to manage indigenous biodiversity outside SNAs, improving practice and outcomes for indigenous biodiversity nationally.

## Policy 9: Providing for established activities

### Overview of provisions

Policy 9 of the NPSIB:

**Certain established activities are provided for within and outside SNAs.**

Policy 9 will be delivered through Clause 3.15 which manages adverse effects of established activities affecting SNAs and Clause 3.17 which concerns maintenance of improved pasture.

### Policy intent

#### *Clause 3.15 – Managing adverse effects of established activities affecting SNAs*

Clause 3.15 applies to **established activities**. Clause 3.15(1) states that for the purpose of Clause 3.15, this means an activity including maintenance, operation and upgrade that:

- a) *is in, or affects, an SNA; and*
- b) *is not a new subdivision, use or development.*

Clause 3.15(2) states that local authorities must include objectives, policies, and methods in their policy statements and plans to enable specified established activities, or specified types of established activities, to continue where the effects of the activity on a SNA, including cumulative effects:

- a) *are no greater in intensity, scale, or character over time than at the commencement date; and*
- b) *do not result in the loss of extent, or degradation of ecological integrity, of an SNA.*

This allows local authorities to manage certain established activities in a more flexible manner where they are important to economic, social or cultural wellbeing (Policy 10), provided they met the above tests. Where the tests in subclause (2) are not met, Clause 3.15(3) states that the activity must be managed under Clauses 3.10 to 3.14, or Clause 3.18 (as relevant) as if it were a new use or development.

Clause 3.15(3)(a) is intended to allow established activities to continue provided the effects are no greater in character, intensity and scale, and other specified tests are met. The key test is the requirement in Clause 3.15(2)(b) to ensure these activities do not result in **loss of extent or degradation of ecological integrity**<sup>83</sup> of the SNA. The intent is that this will translate to permitted activity rules allowing the identified existing activities to continue, subject to conditions to ensure the activity will not result in loss of extent or degradation of ecological integrity of the SNA, such as indigenous vegetation clearance above a certain threshold.

Clause 3.15(4) simply clarifies, to avoid doubt, that nothing in Clause 3.15 affects existing use rights under sections 10 or 20A of the RMA.

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<sup>83</sup> Ecological integrity is defined in the NPSIB as: *means the extent to which an ecosystem is able to support and maintain its: (a) composition (being its natural diversity of indigenous species, habitats, and communities); and (b) structure (being its biotic and abiotic physical features); and (c) functions (being its ecological and physical processes).*

### Clause 3.17 – Maintenance of improved pasture

Clause 3.17 applies to the maintenance of improved pasture where it may affect a SNA. The terms maintenance of improved pasture and improved pasture are defined in Clause 3.17(3) of the NPSIB:

*Maintenance of improved pasture includes the removal of indigenous vegetation for the purpose of maintaining the improved pasture, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species, mob stocking, or making changes to soils, hydrology, or landforms.*

*Improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.*

Clause 3.17(2) requires local authorities to allow the maintenance of improved pasture to continue where it may affect a SNA, provided the following conditions are met:

- a) *there is adequate evidence to demonstrate that the maintenance of improved pasture is part of a regular cycle of periodic maintenance of that pasture; and*
- b) *any adverse effects of the maintenance of improved pasture on an SNA are no greater in intensity, scale, or character than the effects of activities previously undertaken as part of the regular cycle of periodic maintenance of that pasture; and*
- c) *the improved pasture has not itself become an SNA; and*
- d) *the land is not an uncultivated depositional landform<sup>84</sup>; and*
- e) *the maintenance of improved pasture will not adversely affect a Threatened or At Risk (Declining) species.*

Overall, Clause 3.17 recognises that:

- pastoral farming is significant existing activity throughout Aotearoa which provides a range of economic, social and cultural benefits
- the periodic clearance of regenerating indigenous vegetation on improved pasture is often a standard, regular part of pastoral farming operations.

The intent of Clause 3.17 is to ensure that the NPSIB does not impose unreasonable constraints on pastoral farming by specifically requiring local authorities to allow for periodic removal of indigenous vegetation to maintain areas of improved pasture. As with Clause 3.15, the intent is that this will be translated into permitted activity rules, provided the conditions listed in Clause 3.17(2) are met. Those conditions will ensure that any permitted removal of indigenous vegetation is part of the regular cycle of periodic maintenance and does not result in significant adverse effects on the SNA. It will also help ensure that such removal for the purpose of maintaining improved pasture is managed through a resource consent process where the regenerated indigenous vegetation itself has become a SNA or the removal of indigenous vegetation would adversely affect a Threatened or At Risk (declining) species.

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<sup>84</sup> Defined in Clause 3.17(3) as: *depositional landform means a landform that is alluvial (matter deposited by water, eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, eg, talus), or glacial (matter deposited by glaciers, eg, moraines and outwash).*

## **Other options considered**

The other main option considered was to not include any specific provisions in the NPSIB relating to established activities and instead rely on the general provisions in sections 10 and 20A relating existing use rights. Some submitters to the NPSIB preferred this on the basis that the provisions in the NPSIB relating to existing activities create unnecessary duplication and confusion and are more stringent than the RMA existing use right provisions. However, the RMA existing use rights provisions are intended to provide limited protection of specific existing uses when faced with a changing regional or district plan framework rather than specifically provide for continuing established activities that are important for economic, social and cultural wellbeing. The RMA existing use rights provisions also do not apply to activities that have been discontinued for more than 12 months after a proposed rule was notified and, therefore, would not protect key existing activities, including the periodic maintenance of improved pasture.

A more specific set of provisions in the NPSIB for established activities is preferred as this recognises that established activities have already modified the indigenous vegetation of Aotearoa and the habitat of indigenous fauna and that these activities are often important to economic, social and cultural wellbeing. It is, therefore, appropriate for the NPSIB to require local authorities to specifically provide for the continuation of these activities provided specific conditions are met and ensure that the overall objective of maintaining indigenous biodiversity to achieve at least no overall loss is achieved.

## Evaluation of efficiency and effectiveness – Policy 9

Table 18 provides an assessment of the efficiency and effectiveness of Policy 9 and associated implementation requirements in Clause 3.15 and Clause 3.17.

**Table 18: Evaluation of Policy 9 and associated implementation requirements in Clause 3.15 and Clause 3.17**

Policy 9: Certain established activities are provided for within and outside SNAs Clause 3.15: Managing adverse effects of other activities affecting SNAs, Clause 3.17: Maintenance of improved pasture		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions provide clear direction to local authorities on which adverse effects on SNAs need to be avoided when providing for the continuation of established activities and the maintenance of improved pasture. This will help ensure that SNAs are better protected from the adverse effects of established activities in a more nationally consistent and certain manner.</li> <li>Will ensure established activities do not result in the loss of extent or degradation of ecological integrity of SNA or are otherwise managed through Clause 3.10.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions provide considerable flexibility for regional councils to identify which established activities within their region should be provided for under Clause 3.15. This will allow them to identify and provide for the continuation of established activities important to economic wellbeing in their region.</li> <li>The provisions will ensure that pastoral farming is generally provided for as permitted activity (subject to conditions) and there are not unnecessary constraints and costs on pastoral farming by allowing for periodic clearance of indigenous vegetation. As noted in the NPSIB CBA, this means that Clause 3.17 should not result in any additional net transaction costs for existing pastoral farming activities.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Potential risk that the adverse effects of identified established activities provided for under Clause 3.15 and maintaining improved pasture under Clause 3.17 are not monitored or enforced and/or the conditions relating to the protection of SNAs are not known by landowners. This may result in adverse effects on, and degradation of, SNAs.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Potential opportunity costs and compliance costs for established activities where regional councils do not identify them and provide for their continuation under Clause 3.15.</li> <li>Compliance costs for established activities to comply with the conditions in Clause 3.15 and 3.17. For example, this could require evidence that maintenance of improved pasture is part of a regular cycle of periodic maintenance of that pasture under Clause 3.17(2).</li> <li>The NPSIB CBA considers the potential compliance and opportunity costs from Clause 3.17 on established farming activities on land which contains a SNA. This assessment is based on different scenarios to identify where there will be no compliance or opportunity costs directly attributable to the NPSIB and other scenarios where there might be costs directly attributable to</li> </ul>	<p>There is some uncertainty in acting through the provisions as it is unclear the extent of 'established activities' regional councils will identify as needing to continue through their regional policy statement in accordance with Clause 3.15. However, overall, it is considered that there is sufficient information and certainty to act through the NPSIB provisions relating to established activities as:</p> <ul style="list-style-type: none"> <li>the identification of established activities to be provided for under Clause 3.15 focuses on activities important for the social, economic, cultural, and social wellbeing of Aotearoa, consistent with other NPSIB provisions</li> <li>the provisions are specific on the adverse effects on SNAs from established activities that need to be avoided, otherwise Clause 3.10 applies</li> <li>Clause 3.17 provides a specific set of provisions and conditions for maintaining improved pasture which is a key existing activity to be provided for under the NPSIB</li> <li>implementation guidance will clarify the types of established activities that should be provided for under Clause 3.15 and will provide practical examples of permitted activity rules and conditions to provide for the continuation of established activities and the maintenance of improved pasture.</li> </ul>



<ul style="list-style-type: none"> <li>There is flexibility in the rules and conditions that local authorities develop to provide for the continuation of identified established activities and the maintenance of improved pasture. This will allow for cost-effective approaches to be developed based on permitted activity frameworks to avoid unnecessary consent requirements.</li> <li>The provisions ensure that established activities not covered by RMA existing use rights provisions are provided for. This includes, for example, periodic land use activities such as farm track maintenance and improved pasture clearance cycles that may not have RMA existing use rights because they are discontinued for a period of 12 months. Most district plans already provide permitted activity rules for these common activities.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The provisions provide considerable flexibility for regional councils to identify established activities within their region that should be provided for under Clause 3.15. This will allow them to identify and provide for the continuation of established activities important to social wellbeing in their region.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions provide considerable flexibility for regional councils to identify established activities within their region that should be provided for under Clause 3.15. This will allow regional councils to identify and provide for the continuation of established activities important to cultural wellbeing in their region.</li> </ul>	<p>the NPSIB. Key scenarios and findings from the CBA are the following:</p> <ul style="list-style-type: none"> <li><b>Compliance costs:</b> will only be incurred in an unlikely scenario where Clause 3.17 results in new consent requirements. Fencing may potentially be imposed as condition of consent to ensure SNAs are not cleared and to exclude harmful stock grazing.<sup>85</sup> This could result in a one-off \$18,000<sup>86</sup> compliance cost for landowners. Another scenario in the CBA with more extensive fencing and pest control due to the presence of At Risk or Threatened species has one-off costs of \$34,450 plus ongoing costs of \$4000 per annum.</li> <li><b>Opportunity costs:</b> this is unlikely to occur except in circumstances where previously cleared land has become a SNA. In this situation, landowners would incur opportunity costs from the need to retire that land from pastoral farming. Actual opportunity costs would depend on the size of land and its productive value, with the CBA noting that average industry operating profit before interest of \$2750/hectare.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The ability of established activities to contribute to social wellbeing may be compromised if regional councils do not identify them and provide for their continuation under Clause 3.15.</li> </ul>	
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<sup>85</sup> As noted in the CBA, not all stock grazing is detrimental to SNAs. It depends on the intensity and type of stock, and the nature of the SNA habitat. Sheep grazing in tussock grasslands, for example, can be beneficial for the biodiversity values of that tussock grassland.

<sup>86</sup> Based on some hypothetical assumptions about the amount of fencing required and data on fencing costs from fencing company and recent report: Forbes Ecology, 2021. Review of Actual Forest Restoration Costs – Contract Report Prepared for Te Uru Rakau – New Zealand Forest Service.

	<b>Cultural</b> <ul style="list-style-type: none"><li>• The ability of established activities to contribute to cultural wellbeing may be compromised if regional councils do not identify them and provide for their continuation under Clause 3.15.</li></ul>	
<b>Effectiveness</b> <p>Based on the above examination of costs, benefits and risks, the provisions are considered to be an effective means to achieve NPSIB objectives as the provisions:</p> <ul style="list-style-type: none"><li>• will ensure that established activities identified by regional councils do not result in loss of extent or degradation of ecological integrity of SNA or effects of established activities on SNAs are otherwise managed under Clause 3.10. This will lead to better protection of SNAs from the adverse effects of established activities</li><li>• provide a framework for continuing established activities where these are important to economic, social and cultural wellbeing and adverse effects on SNAs are appropriately managed, noting that many of the key activities, such as periodic clearance of indigenous vegetation, are often permitted activities in district plans. This will assist in achieving the NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss in a way that provides for the social, economic and cultural wellbeing of people and communities</li><li>• recognise the importance of pastoral farming and enable the periodic clearance of indigenous vegetation on improved pasture subject to compliance with conditions that seek to protect SNAs. This will help ensure the protection of SNAs and recognise the role of landowners as stewards of indigenous biodiversity.</li></ul>	<b>Efficiency</b> <p>Based on the above examination of costs, benefits and risks, the provisions are considered to be an efficient means to achieve the NPSIB objectives as:</p> <ul style="list-style-type: none"><li>• the provisions seek to ensure that local authorities provide for the continuation of established activities that can affect SNAs where these activities are important to economic, social and cultural wellbeing</li><li>• there is considerable flexibility in how regional councils identify established activities subject to Clause 3.15 and how local authorities provide for the continuation of these activities. This will allow cost-effective approaches to be developed and implemented to give effect to the provisions</li><li>• the expectation is that local authorities will generally give effect to the provisions through permitted activity rules and conditions for identified established activities and the maintenance of improved pasture to avoid unnecessary consent requirements, transaction and compliance costs.</li></ul>	
<b>Overall evaluation</b> <p>On balance, the provisions are considered in an appropriate way to achieve the NPSIB objective, as they will ensure that the adverse effects of established activities on SNAs are managed in a nationally consistent manner and that key adverse effects such as degradation of an SNA’s ecological integrity are avoided. The provisions also provide a framework for local authorities to identify and provide for continuing established activities where these are important to economic, social and cultural wellbeing, provided adverse effects on SNAs are appropriately managed. This will assist in achieving the NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss in a way that provides for the social, economic and cultural wellbeing of people and communities.</p>		

## **Policy 10: Activities that contribute to the social, economic, cultural, and environmental wellbeing of Aotearoa are provided for as set out in the National Policy Statement**

### **Overview of provisions**

Policy 10 of the NPSIB:

**Activities that contribute to the social, economic, cultural and environmental wellbeing of Aotearoa are recognised and provided as set out in this National Policy Statement.**

Policy 10 will be delivered through a range of NPSIB provisions, but most significantly the provisions in Clause 3.5:

- that manage subdivision, use and development within and outside SNAs; in particular clauses 3.11-18
- relating to restoration
- relating to the role of tangata whenua as kaitiaki and people and communities as stewards of indigenous biodiversity.

### **Policy intent**

The intent of Policy 10 is to ensure the approach to maintaining, protecting and restoring indigenous biodiversity under the NPSIB is done in a way that recognises and provides for activities that contribute to the social, economic, cultural and environmental wellbeing of the people of Aotearoa. Policy 10 is to be implemented through a range of provisions, including Clause 3.5 which states that local authorities must consider:

- (a) *that the protection, maintenance, and restoration of indigenous biodiversity contributes to the social, economic, and cultural wellbeing of people and communities; and*
- (b) *that the protection, maintenance, and restoration of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms; and*
- (c) *that people and communities are critical to protecting, maintaining, and restoring indigenous biodiversity; and*
- (d) *the importance of forming partnerships in protecting, maintaining, and restoring indigenous biodiversity; and*
- (e) *the importance of enabling tangata whenua to exercise kaitiakitanga for indigenous biodiversity*
- (f) *the importance of respecting and fostering the contribution of people and communities, particularly landowners, as stewards of indigenous biodiversity; and*
- (g) *the value of supporting people and communities in understanding, connecting to, and enjoying indigenous biodiversity.*

The intent of Clause 3.5 is to ensure these matters are considered when local authorities put the NPSIB into action. The provisions are directly linked to achieving the NPSIB objective and are intended to emphasise and reinforce key concepts and principles that apply across the NPSIB. This includes valuing indigenous biodiversity, allowing for subdivision, use and

development in appropriate forms and places, enabling tangata whenua to exercise kaitiakitanga, and fostering the role of landowners as stewards. Policy 10 and Clause 3.5 are implemented through a range of NPSIB provisions and are not assessed separately in this evaluation.

### **Other options considered**

The alternative option considered was to not have Policy 10 and Clause 3.5 and rely on the implementation of NPSIB provisions that recognise and provide for activities that contribute to the social, economic, cultural and environmental wellbeing of Aotearoa. The advantage of this approach would be less duplication/overlap between NPSIB provisions, more streamlined drafting, and potentially clearer for local authorities to consider and implement. However, the preferred approach is to retain the provisions to emphasise key concepts and principles that apply across the NPSIB to assist in the effective implementation and the achievement of the NPSIB objective.

# Policy 11: Geothermal significant natural areas

## Overview of provisions

Policy 11 of the NPSIB:

**Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing underlying geothermal system classification.**

Policy 11 will be delivered through Clause 3.13 which sets out how local authorities must classify, protect and manage geothermal SNAs. Clause 3.10(1)(c) also clarifies that the avoid policy for SNAs in Clause 3.10(2) does not apply to subdivision, use and development in geothermal SNAs, as these activities are managed through Clause 3.13.

The bespoke management approach for geothermal SNAs in Clause 3.13 recognises that geothermal SNAs have some unique factors and values that warrant a different management approach, including being important for renewable electricity generation and having strong iwi/Māori rights and interests. However, local authorities are still required to consider and manage adverse effects on geothermal SNAs in accordance with Clause 3.10(2) and Clause 3.10(3) to the extent practicable (Clause 3.13(1)(b)).

## Policy intent

The overarching intent of Policy 11 and Clause 3.13 is to achieve a nationally consistent approach to managing and protecting geothermal SNAs that reflects their vulnerability to use or development. Geothermal ecosystems are among the rarest and most distinctive natural systems in Aotearoa. They are classified as naturally uncommon<sup>87</sup> and four of the five geothermal ecosystem types found here are critically endangered.<sup>88</sup>

Another key outcome sought from Policy 11 and Clause 3.13 is to recognise the important role of tangata whenua in understanding and managing geothermal ecosystems within their rohe. To ensure their rights and interests are recognised, Clause 3.13(1) of the NPSIB specifically requires all local authorities with geothermal SNAs to work in partnership with tangata whenua when making or changing policy statements and plans to include provisions to protect and manage geothermal SNAs.

Clause 3.13(1) requires policy statements and plans to include objectives, policies, and methods that, in relation to any new subdivision, use or development, provide a level of protection of the geothermal SNA that:

- (i) *Reflects the vulnerability of the geothermal SNA to use or development; or*

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<sup>87</sup> Wisser, S.K., Buxton, R.P., Clarkson, B.R., Hoare, R.J.B., Holdaway, R.J., Richardson, S.J., Smale, M.C., West, C., Williams, P.A. 2013. *New Zealand's naturally uncommon ecosystems*. In Dymond, J.R. ed. *Ecosystem services in New Zealand – conditions and trends*. Lincoln: Manaaki Whenua Press.

<sup>88</sup> Holdaway, R.J., Wisser, S.K., Williams, P.A. 2012. *Status assessment of New Zealand's Naturally Uncommon Ecosystems*. *Conservation Biology* 26 (4), 619–629.

- (ii) *In the case of a local authority that has, at the commencement date, classified its geothermal systems, is consistent with the geothermal system classification<sup>89</sup> that applies in the region where the geothermal SNA is located.*

The level of protection provided through policy statements and plans must also:

- apply the management approach in Clauses 3.10(2) and (3) to the geothermal SNA to the extent practicable
- provide for new occupation, use and development than enables tangata whenua to use and develop geothermal resources for geothermal SNAs on Māori lands
- require decision-makers on resource consent applications to:
  - have particular regard to the adverse effects described in Clause 3.10(2) when managing adverse effects on geothermal SNAs
  - consider any practicable measures for the restoration of the geothermal SNAs.

Enabling local authorities to provide a level of protection for geothermal SNAs based on their existing classification systems is a key aspect of Clause 3.13. This recognises that existing management regimes for geothermal systems/SNAs in the Bay of Plenty and Waikato are generally working well in practice. They have also had significant tangata whenua and stakeholder input which should not be undermined by the NPSIB coming into force.

At a broader level, the intent of Policy 11 and Clause 3.13 is that the protection of geothermal SNAs reflects the vulnerability of the SNA to use or development. Clause 3.13(2) requires that the assessment of vulnerability should be done by a suitably qualified ecologist to inform what level of protection is required through policy statements and plans and when assessing any proposals for development or use within the SNA. This provides sufficient flexibility for local authorities to reflect the local characteristics of their geothermal SNAs while ensuring a nationally consistent approach to protecting them from use or development informed by expert advice and tangata whenua input.

Clause 3.13(b) requires the level of protection for geothermal SNAs in policy statements and plans to apply the approach Clause 3.10(2) and Clause 3.10(3) to the extent practicable. Clause 3.10(2) and Clause 3.10(3) are discussed and evaluated under the Policy 7 assessment above. The intent of Clause 13(1)(b) is to ensure local authorities consider whether it is practicable to avoid the adverse effects listed in Clause 3.10(2) or apply the effects management hierarchy (Clause 3.10(3)) without requiring this in all circumstances. This recognises that it may not be achievable or appropriate to avoid the significant adverse effects in Clause 3.10(2) or apply the effects management hierarchy in all circumstances, such as when a geothermal field has been identified as suitable for use and development and it has less ecological value. This also recognises the value of geothermal SNAs for use and development for renewable electricity generation and in relation to iwi/Māori rights and development interests. Managing geothermal SNAs under Clause 3.10(2) and Clause 3.10(3) with no exemptions would likely conflict with the National Policy Statement for Renewable Electricity Generation and create tensions with iwi/Māori rights and interests in relation to geothermal systems.

To further recognise and provide for the rights and interests of tangata whenua in relation to geothermal resources, Clause 3.13(1)(c) requires local authorities to provide for new occupation, use, and development of geothermal SNAs on Māori lands to enable tangata

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<sup>89</sup> The geothermal classification may be the same or different to the classification at commencement date (when the NPSIB comes into force).

whenua to use and develop geothermal resources. This must be done in a way that notes the vulnerability of the geothermal SNA or the existing geothermal system classification used by the local authority. It must also be done in accordance with tikanga. This will require local authorities to work closely with tangata whenua and have a clear understanding of the values and vulnerability of geothermal ecosystems.

Clause 3.13(1)(d) requires decision-makers on any resource consent applications to have particular regard to adverse effects specified in Clause 3.10(2) when managing adverse effects on the geothermal SNA and consider any practicable measures for its restoration. The aim is to ensure decision-making on proposals to use and develop geothermal SNAs seek to avoid the most harmful adverse effects on SNAs listed in Clause 3.10(2) and consider any practicable restoration measures. Once local authorities give effect to Clause 3.13(1), the policy and rule frameworks within their policy statements and plans should effectively ensure decision-makers consider these matters. In the interim, Clause 3.13(1)(b) will help ensure decision-makers on resource consent applications involving geothermal SNAs consider these matters consistently.

Clause 3.13(3) clarifies that this clause prevails over any other provision in the NPSIB that may apply to a geothermal SNA. The exception is Clause 3.15, which sets out how established activities affecting all SNAs, including geothermal SNAs, should be managed.

## **Other options considered**

The draft NPSIB consulted on did not propose a policy or supporting clauses specifically managing adverse effects on geothermal ecosystems. Rather, the NPSIB discussion document set out options for how they could be managed in future. Some of these options are considered below.

### *Maintain the status quo for all geothermal ecosystems (by excluding geothermal ecosystems from the scope of the NPSIB – option 1 in the NPSIB discussion document)*

This option would enable geothermal ecosystems to continue to be managed under relevant policy statements and plan provisions without any national direction through the NPSIB. Iwi/Māori raised concerns during consultation that including geothermal ecosystems within the NPSIB could limit their ability to develop and manage geothermal taonga in a culturally appropriate and sustainable way in accordance with tikanga. Concerns were also raised that providing national direction may compromise the ability of iwi/Māori to apply locally appropriate protections and aspirations in relation to geothermal fields in their rohe.

While these concerns are acknowledged and are important, it is considered there is significant value in including geothermal ecosystems within the scope of the NPSIB to provide clear, nationally consistent direction on how they should be managed. Importantly, they are rare and distinctive natural ecosystems and, therefore, warrant a nationally consistent level of protection and regulation. Including geothermal ecosystems in the NPSIB also reflects the importance of integrated management, as required under Policy 5. However, the concerns raised do highlight that the NPSIB approach to geothermal SNAs needs to be sufficiently flexible to recognise the local uniqueness, history, and culture of each area, recognise existing management regimes, and clearly identify the role of tangata whenua in managing decision-making on geothermal SNAs. The proposed provisions strike an appropriate balance to achieve this and are considered the most appropriate option.

*Maintain the status quo for the Taupo Volcanic Zone only and require geothermal SNAs outside the TVZ to be managed as SNAs (as per clause 3.10) – option 2 in the NPSIB discussion document*

Geothermal ecosystems predominantly exist in the Taupo Volcanic Zone (TVZ) through the Bay of Plenty and Waikato. The other significant high-temperature geothermal system is the Ngāwhā geothermal field in Northland. These are the main systems used for geothermal electricity generation.

There are numerous small low-temperature ngawha/geothermal areas outside the TVZ, including those associated with the Alpine fault, predominantly along the West Coast of the South Island.

Both the Bay of Plenty and Waikato regional councils have established geothermal classification management frameworks for the TVZ that are embedded within their respective regional policy statements and regional plans. Those frameworks are supported by tangata whenua and other key stakeholders such as generators. They are generally recognised as an appropriate way to manage the effects of use or development of geothermal ecosystems. As such, the preferred option is to provide a nationally consistent set of policy requirements for geothermal SNAs that recognises these existing management frameworks and enables them to continue while also promoting best practice outside the TVZ.



## Evaluation of efficiency and effectiveness – Policy 11

Table 19 provides an assessment of the efficiency and effectiveness of Policy 11 and associated implementation requirements.

**Table 19: Evaluation of Policy 11 and associated implementation requirements**

Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing geothermal system classification		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Protects rare and vulnerable geothermal ecosystems from inappropriate use and development.</li> <li>Provides direction to consider avoiding the adverse effects listed in Clause 3.10(2) on geothermal SNAs or apply the effects management hierarchy under Clause 3.10(3) to the extent practicable. This will help ensure geothermal SNAs are protected unless it is not practicable or appropriate to do so.</li> <li>Ensures the ecological significance of geothermal SNAs is recognised in the NPSIB.</li> <li>Ensures that the level of protection provided to unclassified geothermal SNAs reflects their vulnerability to use and development.</li> <li>Geothermal electricity generation is enabled where the geothermal system vulnerability means it has been identified as appropriate for geothermal use and development. This will help to reduce the use of, and reliance on, fossil fuels for electricity supply, reducing their high greenhouse gas emissions.</li> <li>The restoration clause supports an improvement in the state of geothermal SNAs, recognising the need for active management given that not all threats to these ecosystems are from direct use or development. For example, some are passive threats from pest and weed incursions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Recognises existing geothermal management practices and provisions in TVZ and enables these to continue. This means</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The direction to apply “...to the extent practicable, the approach in clause 3.10(2) and (3) to the geothermal SNA...” allows for considerable discretion on the part of the local authority in how it is applied, particularly as there is no requirement to implement the effects management approach even when it is practicable. This may result in geothermal SNAs being protected in a less robust manner than other SNAs.</li> <li>There is a high level of discretion in how local authorities determine an appropriate level of protection for geothermal SNAs based on the expert assessment. This increases the risk of inconsistent protection for geothermal SNAs.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>May constrain the future use of geothermal ecosystems for electricity generation or other commercial purposes where local authorities, informed by expert advice, determine that vulnerability of a geothermal SNA means it should not be used or developed. Reducing opportunities to expand geothermal electricity generation will have potential economic impacts.</li> <li>Cost for local authorities outside TVZ to develop bespoke management approaches to manage geothermal SNAs and engage external experts to undertake assessments of vulnerability.</li> </ul>	<p>There is some uncertainty in the available information to act through the provisions. While the provisions are based on existing geothermal classification management systems in Bay of Plenty and Waikato, they will be new for other geothermal systems and there is some degree of uncertainty about the ‘vulnerability approach’. However, overall, it is considered there is sufficient information and a low risk in acting through the provisions because:</p> <ul style="list-style-type: none"> <li>Clause 3.13(1)(a)(ii) allows for existing geothermal system classifications to continue (ie, in Waikato and Bay of Plenty). As such, applying the NPSIB in these regions will have little impact and there is very limited risk in taking this approach.</li> <li>applying a level of protection proportionate to the vulnerability of the geothermal ecosystem is consistent with existing good practice and technical advice on the NPSIB provisions</li> <li>there is a degree of flexibility in how the provisions are implemented regionally.</li> </ul> <p>Further, there is a greater risk in not acting in that some vulnerable geothermal ecosystems are not consistently or appropriately protected from use or development.</p>

**Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing geothermal system classification**

Benefits	Costs	Risk of acting/not acting
<p>there should be limited implementation costs for regional councils with established geothermal management frameworks to give effect to Clause 3.13 of the NPSIB, specifically Bay of Plenty and Waikato.</p> <ul style="list-style-type: none"> <li>Recognises the importance of geothermal energy generation by enabling it as an appropriate use and development when provided for as such in the relevant geothermal classification system. This will ensure established geothermal power stations continue to operate and new geothermal power stations can be established when the geothermal field has been identified for development and use with economic and employment benefits to people and communities.</li> <li>The provisions create more certainty and consistency around how geothermal SNAs should be managed which may lead to efficiency gains over time.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The provisions enable geothermal SNAs to be protected, used, or developed based on their underlying values and vulnerability. This may have wider benefits to the community in terms of the recreational, ecological, and consumptive use values of geothermal SNAs.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions will help ensure that the rights and interests of tangata whenua are explicitly considered in the management of geothermal SNAs and enable tangata whenua to use geothermal SNAs on their lands where appropriate.</li> <li>The provision recognises the strong connection tangata whenua have with geothermal systems and recognise that each ngawha/geothermal area is unique for tangata whenua and may require unique management.</li> </ul>	<p><b>Social</b></p> <ul style="list-style-type: none"> <li>May constrain use of geothermal SNAs for recreational purposes if the vulnerability assessment by an expert determines a high level of protection is required.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>May constrain use of geothermal SNAs for cultural purposes, or constrain rights and interests, if the vulnerability assessment by an expert determines a high level of protection is required.</li> </ul>	

**Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing geothermal system classification**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"><li>• The provisions will empower tangata whenua as kaitiaki and ensure they have an active role in decision-making on geothermal SNAs within their rohe.</li><li>• The provisions will help ensure that any use of geothermal SNAs on Māori lands is in accordance with tikanga.</li><li>• The provisions allow existing geothermal classification systems to continue which have been developed in collaboration with tangata whenua.</li></ul>		
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks Policy 11 and Clause 3.13 are considered to be an effective means to achieve the NPSIB objective for these reasons:</p> <ul style="list-style-type: none"><li>• The provisions ensure the effects of use and development on geothermal ecosystems are consistently assessed and that any proposed use is only done where appropriate, based on a specialist assessment of their vulnerability. This will help to protect and maintain indigenous biodiversity in relation to geothermal SNAs.</li><li>• The provisions will ensure all policy statements and plans across the country consistently set out a policy framework for the management of geothermal SNAs where present in a region. This is an improvement compared to the status quo.</li><li>• The provisions seek to ensure geothermal SNAs are restored where practicable and consistent with the overarching NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss.</li><li>• The provisions will ensure tangata whenua are involved in the management of geothermal SNAs and can use geothermal ecosystems on Māori lands where appropriate, based on the vulnerability of the ecosystem. This recognises the role of tangata whenua as kaitiaki consistent with the NPSIB objective.</li></ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks Policy 11 and Clause 3.13 are considered to be an efficient means to achieve the NPSIB objective because:</p> <ul style="list-style-type: none"><li>• the provisions enable existing geothermal classification management systems to continue where these are fit for purpose resulting in minimal implementation costs in these regions</li><li>• the provisions will support local authority planning and decision-making on geothermal SNAs by providing consistent national direction on how they should be assessed and managed. This may lead to efficiency gains over time</li><li>• there is flexibility in the application of the approach to avoid adverse effects under Clause 3.10(2) and apply the effects management hierarchy under Clause 3.10(3). This will help ensure the provisions don’t impose unnecessary restrictions on the use and development of geothermal SNAs</li><li>• the provisions recognise the importance of geothermal SNAs for renewable electricity generation and allow this to occur when deemed to be appropriate in the underlying geothermal classification. This ensures alignment with the National Policy Statement on Renewable Electricity Generation and the renewable electricity generation targets of Aotearoa.</li></ul>	
<p><b>Overall evaluation</b></p> <p>On balance Policy 11 and Clause 3.13 are considered to be an appropriate way to achieve the NSPIB objective as the provisions will ensure vulnerable geothermal ecosystems are protected from inappropriate use and development while enabling geothermal SNAs to be developed and used where appropriate to provide for economic, social and cultural wellbeing. The provisions also seek to ensure geothermal SNAs are restored where practicable. The provisions will, therefore help to maintain geothermal SNAs to achieve at least no overall loss in a way that provides for the social, economic, and cultural wellbeing of people and communities.</p>		

## Policy 12: Plantation forestry areas

### Overview of provisions

Policy 12 of the NPSIB:

**Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities.**

Policy 12 will be delivered through Clause 3.14 which sets out how local authorities must manage SNAs within a plantation forest while providing for plantation forestry activities.

### Policy intent

The overall intent of Policy 12 and Clause 3.14 is to manage plantation forestry activities to maintain indigenous biodiversity as far as practicable while enabling plantation forestry activities to occur. This is intended to be achieved through two subclauses in Clause 3.14 which recognise the different parts of plantation forestry and where a plantation forest may become a SNA.

#### *Clause 3.14(1) – managing adverse effects of plantation forestry activities on indigenous biodiversity*

This clause provides more general policy direction to manage the adverse effects of plantation forestry activities in an existing plantation forest on any SNA in a manner that:

- (a) *maintains indigenous biodiversity in the SNA as far as practicable; while*
- (b) *providing for plantation forestry activities to continue.*

This is intended to make it clear that plantation forestry activities should be able to be done as required while ensuring foresters take all reasonable steps to maintain indigenous biodiversity in a SNA in an existing plantation forest as far as practicable. This clause only applies to existing plantation forests at commencement date. It does not apply to afforestation or new plantation forests.

#### *Clause 3.14(2) – maintaining long-term populations of Threatened or At Risk (declining) species<sup>90</sup> living in the productive areas of plantation forests*

This clause applies where plantation forests deliberately planted for commercial harvesting and subsequently that forest, or an area within it, is identified as a SNA. This will generally be as a significant habitat for Threatened or At Risk (declining) indigenous fauna.

Clause 3.14(2) requires that any part of a SNA within an existing plantation forest that is, or is intended to be, planted in trees for harvest must be managed over the course of consecutive

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<sup>90</sup> As noted in Section 1.6 Interpretation, threatened or at risk species are defined in the NPSIB as: *Threatened, At Risk, and At Risk (Declining) have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008, Science & Technical Publishing, Department of Conservation, Wellington), available at: <https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>, or its current successor publication.*

rotations of production in a manner necessary to “...maintain the long-term populations of any Threatened or At Risk (declining) species present in the area.”

This bespoke management approach for plantation forestry activities recognises that applying the avoid policy in Clause 3.10(2) would effectively prevent forestry harvesting in many parts of the country. It also recognises that the National Environmental Standards – Plantation Forestry (NES-PF) contains a range of regulations and requirements to manage adverse effects of plantation forestry activities on indigenous biodiversity. Clause 3.14 of the NPSIB is intended to work alongside the NES-PF controls for indigenous biodiversity and adds additional requirements to ensure:

- plantation forestry activities are managed to maintain indigenous biodiversity on any SNA as far as practicable
- long-term populations of any Threatened or At Risk (declining) indigenous fauna within plantation forests are maintained over the course of consecutive harvesting and planting rotations.

Clause 3.14(2) is intended to provide a broad effects management regime for plantation forests that contain a SNA where it is a habitat for Threatened or At Risk (declining) species. This is intended to strike an appropriate balance between protecting the long-term populations of Threatened or At Risk (declining) species in the SNA and allowing plantation forestry operations to continue. The requirements do not set out a specific management methodology to achieve this outcome in order to provide some flexibility in how it is achieved based on the nature of the plantation forest and the identified SNA. This more flexible approach also recognises that the plantation forestry industry has developed best practice guides and management plan requirements that can guide operators on how to manage their operations to protect any identified Threatened or At Risk (declining) species within their plantation forest.

Further, the provisions also recognise that plantation forests often support the presence of rare, threatened and endangered species, where other types of productive land uses would not.<sup>91</sup> For example, a number of kiwi restoration programmes have taken place in plantation forests.<sup>92</sup> As such, it is important the NPSIB recognises this and does not inadvertently disincentivise the establishment of plantation forests or actions by foresters to proactively identify and protect Threatened and At Risk species that establish a habitat in their plantation forest. Clause 3.14 will be accompanied by implementation guidance with practical examples of how to manage plantation forestry activities to maintain indigenous biodiversity as far as practicable and to protect any identified Threatened or At Risk (declining) species within a productive area of a plantation forest. This will assist foresters in complying with the provisions and also give local authorities a better understanding of what management practices and plans are needed to comply with the requirements of Policy 12 and Clause 3.14. This implementation guidance will also support local authorities to make or change their policy statements and plans to be consistent with Clause 3.14 as required under Clause 3.14(3).

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<sup>91</sup> Paul Peterson and Ella Hayman, – Landcare Research. *Conserving indigenous fauna within production forestry landscapes* <https://www.waikatoregion.govt.nz/assets/Envirolink/Reports/1854-GSDC150-Conserving-indigenous-fauna-within-production-forestry-landscapes.pdf>.

<sup>92</sup> Examples of ‘high profile’ fauna projects include kiwi programmes in the Whangapoua and Waimarino Forests (Ernslaw One Ltd 2016).

### *The NES-PF*

The NES-PF came into force on 1 May 2018. It provides a comprehensive set of regulations and conditions to manage eight plantation forestry activities covering the full forestry cycle, and rules and conditions to manage ancillary activities, including indigenous vegetation clearance. The NES-PF includes a range of rules and conditions aimed at managing the effects of plantation forestry activities on indigenous vegetation, including:

- allowing plan rules to be more stringent to protect SNAs
- setbacks to SNAs for afforestation and setbacks to SNAs maintained when replanting
- requirements for earthworks and harvesting management plans to be prepared that set out practices to mitigate adverse effects on SNAs and minimise damage to indigenous vegetation
- permitted activity conditions that require foresters to develop and comply with procedures to protect nationally critical, or nationally endangered bird species within their forests
- controls on indigenous vegetation clearance that limit this to specific circumstances and only allow for 'incidental damage' to adjacent SNAs (where it would not significantly adversely affect the values of the SNAs).

There is a strong overlap between the NES-PF and Policy 12 and Clause 3.14 in the NPSIB. Policy 12 and Clause 3.14 are intended to ensure these national direction instruments are aligned and the NPSIB does not undermine the national consistency and efficiency objectives sought through the NES-PF while ensuring foresters adopt management practices to maintain indigenous biodiversity in a SNA as far as practicable and maintain the long-term populations of any Threatened or At Risk species within plantation forests. Implementation guidance will be developed to support implementation of these two instruments in an integrated and effective manner.

### *Forestry stewardship schemes*

In current practice, most large plantation forestry companies actively use management practices to avoid and manage the potential adverse effects of forestry on Threatened or At Risk species that may be located within their forest. Internationally, the Forest Stewardship Council (FSC) is an independent not-for-profit organisation established to promote the responsible management of the world's forests. It provides standard setting, trademark assurance and accreditation services for companies and organisations interested in responsible forestry.

Most large plantation forestry companies in Aotearoa are FSC accredited<sup>93</sup> and use the FSC National Standard for Certification of Plantation Forest Management in Aotearoa.<sup>94</sup> This requires FSC registered companies to produce a management plan appropriate to the scale and intensity of their operations, setting out how to identify and protect rare, threatened, and endangered species. Although there is a good uptake in FSC best practice in Aotearoa, there are still some operators that are not certified, especially smaller operators, and there is no

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<sup>93</sup> Plantation forests that are FSC registered make up 920,589 hectares of New Zealand's 1,710,429 hectares of exotic plantation forested area. In total 1,167,885ha of plantation forestry estate is managed under FSC certification.

<sup>94</sup> National Standard for Certification of Plantation Forest Management in New Zealand, Approved Version 5.7: <https://nz.fsc.org/preview.fsc-std-nzl-01-2012-new-zealand-plantations.a-838.pdf>.

nationally consistent approach to managing and protecting Threatened or At Risk species in SNAs within plantation forests. As such, the NPSIB is intended to ensure consistent national requirements and practices for managing the indigenous biodiversity values of plantation forests, building on current industry good practice.

## **Other options considered**

### *Exempt plantation forestry from the NPSIB*

This option would not include any provisions relating to plantation forestry in the NPSIB and would rely on the NES-PF to manage the effects of plantation forestry activities on indigenous biodiversity and SNAs, or plan rules where these are more stringent under Regulation 6 of the NES-PF, and any voluntary measures taken by the forestry industry. The NES-PF contains provisions to manage impacts on four fauna<sup>95</sup> species and focuses primarily on indigenous vegetation clearance outside SNAs. The NES-PF does not take an ecosystem focused, integrated and holistic approach to indigenous biodiversity protection, maintenance and restoration. As such, it was determined that the NES-PF provisions alone do not provide an appropriate level of national direction on Threatened or At Risk species in an SNA within a plantation forest. Nor do they provide sufficient direction on how plantation forestry practices can be effectively managed to maintain indigenous biodiversity in SNAs and protect the long-term populations of these species.

### *A requirement to avoid adverse effects from the use or development of an SNA within plantation forests*

This option would involve applying Clause 3.10(2) of the NPSIB to SNAs in plantation forests. This sets out a list of significant adverse effects on SNAs that must be avoided for any subdivision, use or development. This option is not preferred as it would effectively prevent forestry harvesting in many parts of the country. This would be inconsistent with the NPSIB objective. As such, the preferred approach is for Clause 3.10 to clarify that SNAs within a plantation forest are exempt from the strong avoid policy in Clause 3.10(2) but instead a targeted, bespoke approach for plantation forest in Policy 12 and Clause 3.14 is used as outlined above.

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<sup>95</sup> North Island brown kiwi, Eastern falcon, Bush falcon, North Island weka.



## Evaluation of efficiency and effectiveness – Policy 12

Table 20 provides an assessment of the efficiency and effectiveness of Policy 12 and associated implementation requirements in Clause 3.14.

**Table 20: Evaluation of Policy 12 and associated implementation requirements**

Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Plantation forestry activities are managed to maintain indigenous biodiversity in any SNA as far as practicable.</li> <li>Threatened and at-risk species in SNAs within plantation forests are actively protected during the forestry lifecycle to maintain their long-term populations.</li> <li>The importance of protecting Threatened and At Risk (declining) species in SNAs within plantation forests is better understood and implemented by the forestry industry.</li> <li>Reduces the long-term risk of cumulative indigenous biodiversity loss in plantation forests by focusing on those species that warrant the greatest level of protection while also ensuring that indigenous biodiversity in any SNA is maintained as far as practicable.</li> <li>The NPSIB aligns with and complements NES-PF regulations relating to indigenous biodiversity to ensure indigenous biodiversity and SNAs within and adjacent to plantation forests is protected and maintained.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions provide a targeted approach for SNAs within plantation forests rather than applying the avoid policy in Clause 3.10(2) — which would result in significant operational and opportunity costs for many forestry operations, including not being able to harvest.</li> <li>The provisions provide clear direction that effects on indigenous biodiversity from forestry activities must be managed to achieve certain outcomes while ensuring these</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions allow flexibility for foresters to implement management practices to maintain indigenous biodiversity in any SNA as far as practicable and maintain long-term populations of Threatened and At Risk species within their plantation forestry. This relies to some degree on good management practices which not all operators may adhere to.</li> <li>The provisions are less stringent than the avoid policy in Clause 3.10(2) and, therefore, may not protect SNAs within plantation forests to the same degree, for example, maintaining populations of non-threatened species.</li> <li>Clause 3.14(2) relies on SNAs being identified within productive areas of plantation forests by identifying the presence of Threatened and At Risk (declining) species and confirming it as significant habitat. This is likely to be limited without significant physical inspections and/or foresters proactively communicating the presence of those Threatened and At Risk species within their forests to local authorities. This may limit the effectiveness of this provision in practice to protect Threatened and At Risk (declining) species in SNAs within plantation forests.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Cost to the forestry industry to maintain indigenous biodiversity in any SNA as far as</li> </ul>	<p>There is some uncertainty and gaps in information on the provisions in terms of the extent of SNAs that will be identified within plantation forests and how the forestry industry will understand and comply with the provisions, particularly smaller operators. Despite this degree of uncertainty, it is considered that there is a low risk in acting through these provisions for the below reasons:</p> <ul style="list-style-type: none"> <li>The provisions build on existing good practice and align with requirements in the NES-PF and voluntary initiatives underway.</li> <li>Most forestry operators are already taking practicable steps to manage the effects of plantation forestry activities on SNAs and indigenous biodiversity which is the intent of the provisions.</li> <li>Implementation guidance will be developed for foresters and local authorities explaining how to comply with the provisions and assess compliance respectively, focusing on the management practices and plans needed to maintain long-term populations of Threatened and At Risk species in SNAs within plantation forests. This will assist with effective implementation and help local authorities understand what information requirements are needed to confirm if management practices and plans meet the requirements of Policy 12 and Clause 3.14.</li> </ul>



**Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities**

Benefits	Costs	Risk of acting/not acting
<p>activities can continue. This will ensure forestry operations can continue with associated employment and economic benefits for people and communities.</p> <ul style="list-style-type: none"> <li>The provisions build on current industry best practice rather than introduce completely new requirements. In particular, most larger forestry companies already produce management plans that outline practices to manage effects on identified SNAs and threatened or at-risk species within their plantation forestry. These requirements are embedded within the management plan regulations in the NES-PF for earthworks, harvesting and forestry quarrying. As such, there is no expectation of a material cost increase from Policy 12 and Clause 3.14 for forestry operators already compliant with NES-PF and following good practice.</li> <li>The provisions provide flexibility for foresters and local authorities to understand and implement requirements in the most cost-effective manner within each plantation forestry operation. This is expected to help reduce the administrative burden and costs to comply with the provisions.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>May help to promote increased awareness in the community of the benefits for indigenous biodiversity that plantation forests can provide.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Ensures forestry operations of owners of Māori lands are not subject to the avoid policy in Clause 3.10(2) and can continue to operate and harvest.</li> </ul>	<p>practicable. These costs are not expected to be significant given most operators are already taking practicable steps to manage the effects of plantation forestry activities on SNAs and indigenous biodiversity.</p> <ul style="list-style-type: none"> <li>Costs to the forestry industry to adapt practices to manage effects on Threatened or At Risk species to maintain these populations within their plantation forest. Compliance costs are expected to be limited compared to the status quo for foresters complying with NES-PF and good industry practice. However, compliance costs will be greater for operators that are not FSC registered and do not currently have plans to manage effects on indigenous biodiversity. The NES-PF already requires management plans for earthworks and harvesting.</li> <li>Overall, economic costs are considered to be short-term and minor in nature while the industry adapts to best practice already required to a large extent by the NES-PF as industry best practice.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A — no specific social costs are anticipated from the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A — no specific cultural costs are anticipated from the provisions.</li> </ul>	
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 12 and Clause 3.14 are considered to be an effective means to achieve the NPSIB objective because the provisions:</p>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 12 and Clause 3.14 are considered to be an efficient means to achieve the NPSIB objective because the provisions:</p>	

**Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"> <li>will ensure the effects of plantation forestry production processes are effectively managed to maintain indigenous biodiversity in any SNA as far as practicable and to protect and secure the longevity of Threatened or At Risk species populations in SNAs within plantation forests while providing for the economic benefits of forestry production. This will help implement the NPSIB objective which seeks to maintain indigenous biodiversity to achieve at least no overall loss but do this in a way that provides for the social, economic, and cultural wellbeing of people and communities</li> <li>recognise that foresters can provide a stewardship role in protecting and maintaining indigenous biodiversity within plantation forests</li> <li>focus on achieving the outcome in Clause 3.14(2): maintain the long-term populations of any Threatened or At Risk species in the SNA and provide flexibility to forestry operators on how to achieve this outcome, which can build on current industry best practice.</li> </ul>		<ul style="list-style-type: none"> <li>provide a targeted approach to managing SNAs within plantation forests rather than apply the avoid policy in Clause 3.10(2), which would have significant operational and opportunity costs for plantation forestry, including preventing harvesting</li> <li>require plantation forestry activities to maintain indigenous biodiversity in any SNA as far as practicable while ensuring these activities can continue. This provides flexibility for foresters to adopt cost-effective approaches to manage effects on any SNA and ensures the NPSIB does not prevent/restrict these activities inappropriately</li> <li>will support the industry to consistently manage its operations in a way that protects Threatened or At Risk (declining) species within SNAs. This clarifies the outcome needed while providing flexibility in how it is achieved, allowing cost-effective approaches to be implemented</li> <li>will support local authorities to ensure their decision-making and planning policy frameworks effectively protect Threatened or At Risk species in SNAs within plantation forests while enabling forestry operations to continue without undue compliance costs. This will help to provide additional clarity, reduce debate and lead to efficiencies over time</li> <li>provide alignment between the NPSIB and the NES-PF. Addressing this source of potential conflict up front in the NPSIB provisions reduces the chance of implementation issues for local authorities and associated costs.</li> </ul>

**Overall evaluation**

On balance Policy 12 and Clause 3.14 are considered to be an appropriate way to achieve the NPSIB objective as they will ensure indigenous biodiversity in any SNA is maintained as far as practicable and that Threatened or At Risk (declining) species are protected during forestry operations to secure their longevity while enabling the continuation of plantation forestry activities to support economic, social and cultural wellbeing. The provisions recognise and encourage the stewardship role of foresters in protecting and maintaining indigenous biodiversity within plantation forests. The provisions also complement and align with existing requirements in the NES-PF and voluntary initiatives relating to managing indigenous biodiversity within plantation forests which will help achieve the NPSIB objective to maintain indigenous biodiversity and achieve at least no overall loss.

# Policy 13: Restoration

## Overview of provisions

Policy 13 of the NPSIB:

**Restoration of indigenous biodiversity is promoted and provided for.**

Policy 13 will primarily be delivered through Clause 3.21 which sets out how local authorities must promote and prioritise restoration<sup>96</sup> of indigenous biodiversity, including through reconstruction.<sup>97</sup> However, there are other provisions in the NPSIB such as Policy 14 and Clause 3.22 which also seek to achieve restoration outcomes as outlined and assessed in other sections of this evaluation.

## Policy intent

Policy 13 and Clause 3.21 require local authorities to include objectives, policies and methods in their policy statements and plans, to **promote the restoration** of indigenous biodiversity, including reconstruction of areas. Clause 3.21(2) states that objectives, policies and methods must prioritise all of the following for restoration:

- (a) *SNAs whose ecological integrity is degraded:*
- (b) *threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:*
- (c) *areas that provide important connectivity or buffering functions:*
- (d) *natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:*
- (e) *any other priorities specified in regional biodiversity strategies or any other national priorities for indigenous biodiversity restoration.*

The requirement to prioritise restoration provides clear direction to local authorities and ensures they focus their plan provisions and decision-making consistently on where restoration of indigenous biodiversity is needed most. The list focuses on areas that are most important to restore to maintain indigenous biodiversity, such as areas that provide important connectivity and buffering functions, and those areas that are already degraded or vulnerable.

Clause 3.21(3) supports the implementation of Policy 13 by requiring local authorities to consider providing incentives for restoration in the priority environments listed above, particularly where these areas are on Māori lands, in recognition of the opportunity costs of restoring indigenous biodiversity on this land. This intended to encourage private landowners to engage in voluntary restoration and enhancement, recognising that planning controls

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<sup>96</sup> Restoration is defined in the NPSIB as: *restoration means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.*

<sup>97</sup> Reconstruction is defined in the NPSIB as: *reconstruction means reintroducing and maintaining appropriate biota to recreate an ecosystem that would not regenerate or recolonise even with best practice restoration interventions.*

cannot require them to undertake restoration activities, although this can be required through consent conditions. It also recognises that owners of land within these prioritised areas for restoration will incur some costs to restore indigenous biodiversity and that a suite of incentives such as contestable funds, subdivision entitlements and rates relief will help to offset this opportunity and financial cost.

Clause 3.21(4) requires local authorities to consider imposing or reviewing restoration or enhancement conditions on new and renewed resource consents and when recommending conditions on designations. This will ensure they consider priority restoration environments in resource consent applications, when reviewing consent conditions (while recognising that consent reviews can impose substantial costs on local authorities and consent holders), and when making recommendations on designations.

### **Other options considered**

N/A – restoration of indigenous biodiversity in Aotearoa is a core component of the NPSIB objective and is necessary to enable the indigenous biodiversity of Aotearoa to thrive. As such, excluding policy direction and implementation requirements in the NPSIB relating to restoration of indigenous biodiversity was not considered to be a reasonably practicable option to achieve the NPSIB objective. Certain submitters and stakeholders have requested a purely non-regulatory approach to restoration of indigenous biodiversity, but this is not considered to be the most effective or efficient way to achieve the NPSIB objective for the reasons outlined above.

## Evaluation of efficiency and effectiveness – Policy 13

Table 21 provides an assessment of the efficiency and effectiveness of Policy 13 and the associated implementation requirements in Clause 3.21.

**Table 21: Evaluation of Policy 13 and associated implementation requirements**

Policy 14: Restoration of indigenous biodiversity is promoted and provided for		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions prioritise areas for restoration efforts, leading to focused action and effort and improved outcomes for indigenous biodiversity within regions and across degraded ecosystems nationally.</li> <li>Areas of restoration will increase the availability of habitat for indigenous species and may help increase species populations to the extent these move out of the Rare, Threatened and At-Risk categories in the New Zealand Threat Classification System.</li> <li>Local authorities will more proactively identify opportunities and locations for ecological restoration through planning and decision-making. This may lead to improved outcomes for indigenous biodiversity by prioritising those areas which would benefit most from restoration (eg, degraded SNAs).</li> <li>The provisions require local authorities to consider the promotion of restoration in key priority areas through incentives such as contestable funds, subdivision entitlements and rates relief to support the implementation of restoration projects. This will help accelerate the restoration of priority areas of indigenous biodiversity and help expand the number of people doing restoration work.</li> <li>The provisions will help restore and enhance the ecological integrity of degraded SNAs including wetlands, and areas that provide important connectivity and buffering functions.</li> <li>Recognises that proactive restoration efforts are needed in addition to protection to maintain the indigenous</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Flexibility afforded to local authorities in implementing the provisions means there is a risk that restoration work is not promoted or prioritised and/or there is poor uptake of opportunities.</li> <li>Requirement to 'consider' imposing and reviewing conditions on resource consents and designations relating to restoration may lead to limited tangible outcomes/improvements for indigenous biodiversity, particularly when there is resistance from applicants and consent holders.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Time commitment and financial costs for local authorities, landowners, NGOs, and the community to undertake ecological restoration and enhancement actions.</li> <li>A focus on the priority areas may also increase restoration costs above status quo given threatened and rare ecosystems are often the hardest/most expensive to restore.</li> <li>The actual time, costs and effort required to achieve the restoration of identified priority areas is expected to vary across the country. In some regions/districts, such costs could potentially be significant, particularly in regions/districts with large areas of degraded SNAs and wetlands. However, the flexible nature of the provisions in</li> </ul>	<p>It is considered that there is sufficient information and certainty to act through the provisions for the following reasons:</p> <ul style="list-style-type: none"> <li>It is current best practice to include objectives, policies and methods in policy statements and plans to promote and prioritise the restoration of degraded ecosystems.</li> <li>Many local authorities already place restoration conditions on new and reviewed resource consents and designations.</li> <li>The provisions provide flexibility in how local authorities promote and prioritise restoration, reducing the risk of implementation issues and excessive compliance costs.</li> <li>Many local authorities already provide incentives to support restoration initiatives and the provisions simply direct rather than require local authorities to consider incentives.</li> </ul>

**Policy 14: Restoration of indigenous biodiversity is promoted and provided for**

Benefits	Costs	Risk of acting/not acting
<p>biodiversity of Aotearoa and reverse the trend of ongoing decline.</p> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The flexibility in the policy means local authorities can promote restoration efforts that deliver the desired outcomes in a cost-effective way without imposing unnecessary costs on landowners.</li> <li>The provisions direct local authorities to promote the restoration of priority areas which are the most cost-effective in terms of improving indigenous biodiversity outcomes.</li> <li>Requiring local authorities across the country to restore regionally and nationally identified priority ecosystems and areas now is likely to reduce the cost burden of restoring these environments in future after further degradation has taken place.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Greater community awareness of the importance of restoration efforts and increased buy-in to these initiatives, thereby increasing social connections. This may help improve the connection of communities with nature and contribute to social wellbeing.</li> <li>Clarifies priorities for restoration, helping to promote focused action from the community with wider social benefits for current and future generations.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Restoration and enhancement efforts may include SNAs, wetlands and other areas that contain species and ecosystems that are taonga to tangata whenua and improve the mauri of these areas with associated cultural benefits.</li> <li>The provisions require that local authorities consider incentives for restoration, particularly where those areas are on Māori land. This may lead to greater support for</li> </ul>	<p>terms of if/how incentives are provided and a focus on promotion rather than regulation of priority restoration areas mitigates the risk of significant compliance costs.</p> <ul style="list-style-type: none"> <li>Potential costs to applicants and existing activities through the imposition of restoration or enhancement conditions on new and reviewed resource consents and designations where conditions are not currently being imposed. However, section 108(2)(c) of the RMA lists restoration as a standard condition and many resource consents for subdivision and land use activities already impose restoration conditions. As such, the additional costs from the provisions to applicants over and above the status quo are not expected to be significant.</li> <li>Costs to consent holders where local authorities review restoration and enhancement conditions. The requirement to 'consider' reviewing conditions will help ensure this is only done in limited circumstances given the costs and uncertainty associated with reviews of consent conditions.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Some of the costs for doing/incentivising restoration and enhancement are likely to be funded through rates, potentially reducing the amount of funding for other community initiatives.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Potential increased time commitment and financial costs for tangata whenua to do ecological restoration. This is somewhat mitigated by the direction to consider incentives for restoration,</li> </ul>	

**Policy 14: Restoration of indigenous biodiversity is promoted and provided for**

Benefits	Costs	Risk of acting/not acting
restoration initiatives on Māori land with wider benefits to tangata whenua.	particularly when the priority areas are located on Māori lands.	
<b>Effectiveness</b>  Based on the above examination of costs, benefits and risks Policy 13 and Clause 3.21 are considered to be an effective way to achieve the NPSIB objective because: <ul style="list-style-type: none"><li>the provisions provide local authorities with clear nationally consistent direction to include objectives, policies and methods in policy statements and plans to promote restoration and clear direction on the areas that should be prioritised for restoration</li><li>strengthened national direction encouraging restoration incentives will help support regulatory requirements and accelerate the rate of restoration in degraded priority areas</li><li>the provisions direct local authorities to impose restoration and enhancement conditions on new and reviewed resource consents and designations for activities in priority ecosystems, strengthening the mandate to use regulatory requirements under the RMA to restore indigenous biodiversity</li><li>the provisions acknowledge the important role of incentives in supporting the regulatory framework by encouraging local authorities to actively consider incentives to support restoration efforts by landowners and tangata whenua.</li></ul>		<b>Efficiency</b>  Based on the above examination of costs, benefits and risks, Policy 13 and Clause 3.21 are considered to be an efficient means to achieve the NPSIB objective because the provisions: <ul style="list-style-type: none"><li>provide clarity on the areas that should be prioritised for restoration leading to more focused and cost-effective restoration actions</li><li>encourage local authorities to consider incentives for restoration in priority areas which will help mitigate costs to landowners and tangata whenua to do restoration</li><li>provide flexibility in how local authorities promote and prioritise restoration efforts, reducing the risk of implementation issues and excessive compliance costs.</li></ul>
<b>Overall evaluation</b>  On balance, Policy 13 and Clause 3.21 are considered to be an appropriate, effective and efficient way to achieve the NPSIB objective. The provisions provide clear direction on the areas that should be prioritised for restoration which will help ensure local authorities prioritise these areas through their policy statements and plans and decision-making on resource consents and designations. The provisions require local authorities to consider providing incentives for restoration helping to accelerate actions on the ground and reduce the potential costs for landowners, including Māori landowners. The provisions also provide flexibility in how local authorities promote and prioritise restoration efforts, allowing local authorities to determine the most cost-effective and appropriate ways to restore indigenous biodiversity in their region/district. Collectively, the provisions will ensure the restoration of indigenous biodiversity is done in a way that provides for the role of tangata whenua as kaitiaki and landowners as stewards and provides for the wellbeing of people and communities.		

# Policy 14: Increasing indigenous vegetation cover

## Overview of provisions

Policy 14 of the NPSIB:

**Increased indigenous vegetation cover is promoted in both urban and non-urban environments.**

Policy 14 will be delivered through Clause 3.22 which sets out requirements for:

- regional councils to assess the percentage of indigenous vegetation cover and set targets in relation to indigenous vegetation cover in urban and non-urban environments
- local authorities to promote the increase of indigenous vegetation cover in their region/district through provisions in their policy statements and plans.

## Policy intent

To implement Policy 14, the first requirement in Clause 3.22(1) and (2) is for regional councils to assess the percentage of indigenous vegetation cover in urban environments<sup>98</sup> and non-urban environments in their region. This assessment is to be done by desktop analysis, ground truthing analysis (or both) and to be done in collaboration with relevant territorial authorities.

Clause 3.22(3) then requires regional councils to set the following targets in their regional policy statements based on the findings of the indigenous vegetation cover assessment:

- in urban and non-urban environments that have less than 10 per cent cover of indigenous vegetation – set a target to at least 10 per cent indigenous vegetation cover
- consider setting higher targets for urban and non-urban environments that already have at least 10 per cent coverage of indigenous vegetation cover.

Once the targets have been set, Clause 3.22(4) requires local authorities to develop objectives, policies and methods in their policy statements and plans to increase indigenous vegetation cover having regard to the targets set, and giving priority to **all the following**:

- Areas referred to in Clause 3.21(2), (ie, priority areas for restoration)*
- Ensuring species richness appropriate to the ecosystem*
- Restoration at a landscape scale across the region (which is the purpose of regional biodiversity strategies under Clause 3.23 and Appendix 5).*
- Using species, and seeds from species, that are local to the area.*

Policy 14 and Clause 3.22 recognise that indigenous biodiversity in many of the urban and non-urban areas of Aotearoa has been depleted to below 10 per cent and it is very difficult for indigenous populations to survive below this level. Ecological advice informing the NPSIB is that where indigenous ecosystems persist at 10 per cent or less of their original extent, this may

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<sup>98</sup> The NPSIB uses the same definition of urban environment as the National Policy Statement on Urban Development 2020 as follows: *Urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that: is, or is intended to be, predominantly urban in character; and is, or is intended to be, part of a housing and labour market of at least 10,000 people.*



trigger a decline in many species with severe fragmentation effects.<sup>99</sup> The implementation requirements in Clause 3.22 are intended to provide a nationally consistent approach to address this issue. For some areas, a 10 per cent indigenous biodiversity cover target may be achieved relatively easily, whereas in many areas it will be difficult to achieve in the foreseeable future. For example, the Christchurch urban area currently has less than 1 per cent indigenous vegetation cover).

Once the targets are set, Clause 3.22 provides local authorities with some flexibility in how they achieve the targets and promote the increase of indigenous vegetation cover in their policy statements and plans. This could include, for example, promotion of increasing vegetation cover through regulatory requirements when assessing plan changes or resource consent applications for subdivision, use and development or through a range of non-regulatory tools and support such as voluntary planting programmes. Potential methods and actions to promote an increase in indigenous vegetation cover in both urban and non-urban environments include:<sup>100</sup>

- requirements in policy statements and plans to establish greening networks across urban areas and networks for green enhancement in non-urban areas, identifying key locations with opportunities to increase vegetation to help achieve coverage targets
- commitments to indigenous vegetation plantation and restoration on public/local authority owned land
- transferable development rights when indigenous vegetation planting, restoration and enhancement are done
- subdivision/development incentives – such as increased development rights to landowners for part of their land when indigenous vegetation planting, restoration and enhancement is done on another part
- coordinating and/or supporting community group indigenous vegetation planting and enhancement efforts
- funding and financial incentives for indigenous vegetation planting and enhancement on private land
- seeking support through wider government initiatives relating to indigenous biodiversity restoration and planting.

## Other options considered

N/A – the promotion of increased vegetation cover is a key requirement to help restore indigenous biodiversity in Aotearoa and is a core part of the NPSIB objective. Excluding policy direction in the NPSIB relating to the promotion of vegetation coverage in urban and rural environments was not considered to be a reasonably practicable option to achieve the NPSIB objective. Certain submitters and stakeholders have requested a purely non-regulatory approach to restoration of indigenous biodiversity (including targets for increasing indigenous vegetation cover) but this is not considered to be the most effective or efficient way to achieve the NPSIB objective for the reasons outlined above.

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<sup>99</sup> Report of the Biodiversity Collaborative Group, pg 34. Clarkson, B., Kirby C. and Wallace, K. (2018). *Restoration targets for biodiversity depleted environments in New Zealand*. The Environmental Research Institute, University of Waikato.

<sup>100</sup> Refer to Hamilton City 'Nature in the City' strategy for a good example of a urban environment strategy aiming to achieve 10 per cent indigenous biodiversity cover: [D-3572664 Finalised work — HCC Nature in the City Strategy Doc FINAL — Dec 2020.pdf \(hamilton.govt.nz\)](#).

## Evaluation of efficiency and effectiveness – Policy 14

Table 22 provides an assessment of the efficiency and effectiveness of Policy 14 and associated implementation requirements in Clause 3.22.

**Table 22: Evaluation of Policy 14 and associated implementation requirements**

Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Recognises that nationally consistent, proactive restoration and indigenous planting efforts are needed in addition to protection to maintain and enhance the indigenous biodiversity of Aotearoa.</li> <li>Ensures local authorities understand the extent of indigenous cover in their region and take proactive steps to increase it over time.</li> <li>Indigenous vegetation cover in urban and non-urban environments is increased to achieve a minimum of 10 per cent coverage over time. This will contribute to increased green infrastructure and spaces in urban areas, creating larger and healthier habitats for indigenous species to survive, and encourage indigenous planting and restoration in non-urban areas.</li> <li>The provisions set clear priorities for vegetation planting and enhancement work in areas that have lost their former indigenous vegetation cover. This will target threatened environments in lowland areas which are the site of most urban areas.</li> <li>Increasing vegetation cover in urban environments can help offset the urban heat effect in cities with high impervious surface areas and building densities.</li> <li>Increasing indigenous biodiversity will help mitigate the impacts of climate change.</li> <li>Increased indigenous vegetation in urban environments helps improve air quality.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Flexibility afforded to local authorities in how they promote increases in indigenous vegetation cover may limit the effectiveness of the provisions with limited/no increase in cover in some regions/districts.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Costs for regional councils to assess indigenous vegetation cover in their region. Clause 3.22(2) makes it clear that this can be a desktop exercise drawing on existing datasets which will help ensure costs for regional councils are not significant.</li> <li>Time commitment and financial costs for local authorities, landowners, NGOs, and the community to achieve indigenous vegetation cover targets. Actual costs will vary and the direction to promote rather than require increasing indigenous vegetation cover will ensure the provisions do not result in unreasonable costs on local authorities, landowners or applicants.</li> <li>Costs for resource consent applications to increase indigenous vegetation cover when this is imposed through resource consent process. Actual costs will vary significantly based on a range of factors and are not expected to be a significant increase compared to the status quo.</li> </ul>	<p>There is some uncertainty on the provisions as setting targets to increase indigenous vegetation cover is not common practice for local authorities, although some urban councils have set targets. However, overall, it is considered that there is sufficient information and a low risk in acting through the provisions for the following reasons:</p> <ul style="list-style-type: none"> <li>While significant improvements may be needed to achieve a minimum 10 per cent indigenous vegetation cover target in some areas, the provisions provide flexibility as to when this target is met and how local authorities promote increasing indigenous vegetation cover. This helps to reduce the potential risks and costs for local authorities, landowners, NGOs, and the community when working to achieve indigenous vegetation cover targets over time.</li> <li>The provisions ensure that local authorities prioritise certain areas when promoting increased indigenous vegetation cover.</li> </ul> <p>Conversely, the risk of not acting is considered to be high, especially in urban environments with low levels of indigenous vegetation cover. In the absence of the provisions, continued decline of indigenous vegetation in urban environments is highly likely given current trends.</p>

**Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"> <li>Increased vegetation cover in urban environments will help mitigate the risk of increased stormwater flooding from impervious surface areas and reduce demand on the stormwater network.</li> <li>Requiring clear objectives, policies, and methods to promote increasing indigenous vegetation cover in policy statements and plans will encourage resource consent applicants to better understand their existing site vegetation cover and explore design opportunities to increase indigenous vegetation cover early in the design and pre-application process. This may lead to proposals with improved outcomes in terms of increasing indigenous vegetation cover.</li> </ul> <p><b>Economic</b></p> <p>Flexibility in the provisions means local authorities can promote increasing indigenous vegetation cover in urban and non-urban environments in the most cost-effective manner.</p> <p><b>Social</b></p> <p>Greater awareness in the community of the importance of increasing indigenous vegetation cover in urban and non-urban areas and increased community buy-in to initiatives to achieve these outcomes. This may help improve community connection with nature and contribute to social wellbeing. This will be particularly important in urban environments where the majority of people live and work.</p> <ul style="list-style-type: none"> <li>The amenity of urban and non-urban areas may increase as indigenous vegetation cover increases, with associated benefits to communities.</li> <li>Increasing vegetation cover in urban areas should help increase the number of publicly accessible green spaces for communities to enjoy. Greater access to green spaces increases opportunities for social engagement to support community cohesion.</li> </ul>	<ul style="list-style-type: none"> <li>The actual time, costs and effort required to achieve the targets is potentially significant, particularly in urban environments that currently have low levels of indigenous vegetation cover. The flexibility provided to local authorities in terms of when the targets are met and how this is promoted will help ensure this does not impose unjustifiably high costs to local authorities, applicants, landowners and the wider community.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Some of the costs for indigenous vegetation planting to increase coverage are likely to be funded through rates. This could potentially reduce the amount of funding for other community initiatives.</li> <li>Potential that this creates tensions with the need to provide land for housing in urban areas. However, green networks and open spaces are recognised as being important to achieve well-functioning urban environments as required under the National Policy Statement-Urban Development.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A – no specific cultural costs are anticipated from the provisions.</li> </ul>	

**Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments**

Benefits	Costs	Risk of acting/not acting
<b>Cultural</b> <ul style="list-style-type: none"><li>Efforts to increase indigenous vegetation cover may include areas that contain species and ecosystems that are taonga to tangata whenua, with associated cultural benefits.</li></ul>		
<b>Effectiveness</b> <p>Based on the above examination of costs, benefits and risks Policy 14 and Clause 3.22 are considered to be an effective means to achieve the NPSIB objective because the provisions:</p> <ul style="list-style-type: none"><li>will help maintain and increase indigenous vegetation cover in urban and non-urban environments, contributing to the restoration of vegetation cover where this has been lost and increasing the size of habitats for indigenous species</li><li>require the setting of clear, nationally consistent targets and requirements for regional councils to increase indigenous vegetation cover in urban and non-urban environments, while providing an appropriate level of flexibility for local authorities to choose suitable methods to promote the increase indigenous vegetation cover in their region/district</li><li>support a nationally consistent approach to increase indigenous vegetation cover, with priority given to areas identified as priorities for restoration, restoration of landscapes across regions, achieving species richness appropriate to the ecosystem and using local species. This will assist in achieving the NPSIB objective to restore indigenous vegetation in a way that provides for the wellbeing of people and communities.</li></ul>	<b>Efficiency</b> <p>Based on the above examination of costs, benefits and risks Policy 14 and Clause 3.22 are considered to be an efficient means to achieve the NPSIB objective because the provisions:</p> <ul style="list-style-type: none"><li>will help ensure a nationally consistent approach to increasing indigenous vegetation cover, with clear direction to focus on priority areas leading to focused, cost-effective indigenous planting and restoration efforts</li><li>provide flexibility in when targets are met and how local authorities ‘promote’ increasing indigenous vegetation cover within their region/district. This will allow local authorities to adopt the most cost-effective approach and minimise the risk of excessive compliance costs for local authorities, applicants, landowners and the wider community.</li></ul>	
<b>Overall evaluation</b> <p>On balance Policy 14 and Clause 3.22 are considered to be an appropriate way to achieve the NPSIB objective as the provisions:</p> <ul style="list-style-type: none"><li>set clear nationally consistent minimum targets to increase indigenous vegetation cover across urban and non-urban environments</li><li>provide clear direction to local authorities on how they are to assess and increase indigenous vegetation cover and include provisions in policy statements and plans to achieve this</li><li>prioritise increasing indigenous vegetation cover in priority areas for restoration, restoration at a landscape scale across the region, achieve species richness appropriate to the ecosystem and use local species to achieve the best outcomes for indigenous biodiversity</li><li>enable flexibility for local authorities to implement the requirements of Clause 3.22 and use methods to promote increasing indigenous vegetation cover that are most suitable to address the opportunities and constraints in the region/district.</li></ul>		

## Policy 15: Highly mobile fauna

### Overview of provisions

Policy 15 of the NPSIB:

**Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.**

Policy 15 will be delivered through Clause 3.20 which sets out requirements for:

- regional councils to record areas outside SNAs as 'highly mobile fauna areas' where information is available
- local authorities to include provisions in policy statements and plans to manage adverse effects of new subdivision, use and development on specified highly mobile fauna areas, in order to maintain viable populations across their natural range
- local authorities must provide information to their communities about specified highly mobile fauna and their habitats within their regions and districts.

**Specified highly mobile fauna** is defined in the NPSIB as:

*Threatened or At Risk species<sup>101</sup> of highly mobile fauna that are identified in Appendix 2.*

**Highly mobile fauna area** is defined in the NPSIB as:

*An area outside an SNA that is identified under Clause 3.20 as an area used intermittently by specified highly mobile fauna*

Appendix 2 of the NPSIB provides a list of specified highly mobile fauna which are all Threatened or At Risk based on the *New Zealand Threat Classification Manual*. Clause 1.3(2)(b) of the NPSIB is also relevant to the specified highly mobile fauna provisions and this clarifies that specified highly mobile fauna are covered by the NPSIB, whether or not they use areas outside the terrestrial environment such as the coastal marine area or water bodies for part of their life cycle.

### Policy intent

Certain species are more mobile than others and regularly move through different landscapes to find mates, food, and refuge, or in response to environmental change. These species often use habitats at a landscape scale that are outside SNAs and, if Threatened or At Risk, may need additional help to survive. Highly mobile fauna include:

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<sup>101</sup> Threatened or At Risk species are defined in the NPSIB as: Threatened, At Risk, and At Risk (Declining) have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008, Science & Technical Publishing, Department of Conservation, Wellington), available at: <https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>, or its current successor publication.

1. migratory species that leave their breeding areas to go somewhere else for a range of reasons, such as banded dotterels, black-fronted terns and wrybill
2. mobile species that use the landscape less predictably, generally moving around habitat patches that vary in their suitability and resources such as food supplies over time. For example, forest kaka, matuku/Australasian bittern using wetland networks, and pekapeka/bats across complex habitat mosaics.

These mobile species are often threatened by a wide range of human-induced pressures when they use habitats outside protected areas or while moving along their flyways.

Currently, there is a lack of basic information available on the presence of highly mobile fauna. This makes it difficult to provide appropriate protection through plan provisions and through resource consent processes. As noted throughout this report, local authorities have an obligation under the RMA to maintain indigenous biodiversity and this responsibility extends to highly mobile fauna. However, the lack of monitoring and information available on the presence of highly mobile fauna species, and the costs associated with obtaining this, has meant there is limited active management of such species under the RMA. Uncertainty about the respective roles of DOC and local authorities in this area has also contributed to limited action in some cases.

The intent of Policy 15 and Clause 3.20 is to address these issues through specific requirements to record, manage and provide information on highly mobile fauna areas and specified highly mobile fauna as outlined below.

#### *Regional councils – Clause 3.20(1)-(2)*

Clause 3.20(1) requires regional councils to record areas outside SNAs that are highly mobile fauna areas where that information is available. This is to be done by working with tangata whenua, territorial authorities and DOC. The intent of this clause is to encourage collaboration between key agencies and tangata whenua to share information and resourcing to record highly mobile fauna areas. It also provides some flexibility in how regional councils 'record' highly mobile fauna areas to support both regulatory and non-regulatory approaches.

Clause 3.20(2) requires regional councils to include a map and description of each highly mobile fauna area in its regional policy statement where this would help manage adverse effects on specified highly mobile fauna. This clause is also intended to provide some flexibility as to when regional councils record highly mobile fauna in their regional policy statement. For example, it is expected that mapping highly mobile fauna areas in regional policy statements will be the preferred approach where there is a high level of certainty about the location and extent of the highly mobile fauna area, rather than just relying on external information/guidance.

#### *Local authorities – Clause 3.20(3)-(4)*

Clause 3.20(3) requires local authorities to include objectives, policies, or methods in their policy statements and plans for managing adverse effects of new subdivision, use, and development on highly mobile fauna areas “...to maintain viable populations of specified highly mobile fauna across their natural range”.

Clause 3.20(4) requires local authorities to provide information to their communities on:

- a) *specified highly mobile fauna and their habitats; and*
- b) *best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.*

Overall, the intent of Policy 15 and 3.20 is to help to clarify roles and responsibilities in relation to highly mobile fauna between relevant agencies and lead to improved identification of, information on, and management of, highly mobile fauna areas and species. Clause 3.20(3) is intended to assist in achieving the overall NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss.

## **Other options considered**

### *The Department of Conservation being responsible for assessing highly mobile fauna*

Some local authorities raised concerns through consultation on the NPSIB that the requirements relating to highly mobile fauna are more related to DOC's functions under the Wildlife Act 1953 and that DOC should be taking a lead role in managing highly mobile fauna. As noted throughout this report, regional councils and territorial authorities have statutory functions to maintain indigenous biodiversity under sections 30(ga) and 31(b)(ii) of the RMA and this extends to highly mobile fauna. The preferred option is, therefore, to retain the requirements for local authorities to identify and manage highly mobile fauna in the NPSIB while clarifying roles, encouraging collaboration, and providing greater flexibility in how areas are recorded and the management approach to achieve the outcome sought.

However, it is recognised that many local authorities do not currently have the resources or expertise necessary to implement Policy 15 and Clause 3.20. Guidance, information, and expert support from central government, including DOC, will be developed and implemented to ensure Policy 15 and Clause 3.20 can be effectively delivered as intended.

## Evaluation of efficiency and effectiveness – Policy 15

Table 23 provides an assessment of the efficiency and effectiveness of Policy 15 and associated implementation requirements in Clause 3.20

**Table 23: Evaluation of Policy 15 and associated implementation requirements**

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Highly mobile fauna species are better identified and protected over time.</li> <li>Improved protection and reduced loss of At Risk and Threatened species.</li> <li>The provisions focus on achieving a clear outcome – maintaining viable populations of specified highly mobile fauna across their natural range. This will help focus efforts and ensure viable populations of specified highly mobile fauna are maintained across regions and districts.</li> <li>Clear direction as to the specified highly mobile fauna species that need to be protected by listing the Threatened and At Risk species in Appendix 2 of the NPSIB.</li> <li>Greater landowner and community awareness of the location of specified highly mobile fauna species leading to improved protection of these species over time.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Greater certainty on the presence of highly mobile fauna and how effects on these fauna species are to be managed. This may lead to efficiency gains over time.</li> <li>Providing a list of specified highly mobile fauna in Appendix 2 of the NPSIB provides certainty to all parties as to the Threatened and At-Risk species to be protected, which is more efficient and certain than giving each individual local authority the discretion to decide which species are</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The provisions provide some flexibility on how local authorities can manage the adverse effects of subdivision, use and development on highly mobile fauna areas to maintain viable populations of specified highly mobile fauna across their natural range. This creates the risk of ineffective and inconsistent approaches, particularly as many local authorities do not currently actively monitor and manage the populations of specified highly mobile fauna.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Existing data on the presence of specified highly mobile fauna species does not currently exist for many species across their natural ranges. The provisions will, therefore, impose additional implementation costs for local authorities, DOC and tangata whenua.</li> <li>Resourcing internal and external costs for local authorities to carry out mapping/surveys to record highly mobile fauna areas and provide information to the public on the presence of these species. Actual costs are not known as the extent of additional mapping/surveying is not known. The provisions provide some flexibility to local</li> </ul>	<p>There are some gaps in information and uncertainties about the provisions as the requirements will be new to many local authorities and the extent of highly mobile fauna areas are not yet known. However, overall, there is sufficient information on the provisions and the risks of not acting through the provisions are considered to be greater than the risks of acting for the following reasons:</p> <ul style="list-style-type: none"> <li>The management of indigenous fauna, including highly mobile fauna, is part of the core function of local authorities to maintain indigenous biodiversity under sections 30(1)(ga) and 31(1)(b)(ii) of the RMA.</li> <li>Policy 15 and Clause 3.20 are intended to build on, and improve, current best practice by ensuring specified highly mobile fauna and the areas they live in are consistently identified, recorded, and managed nationally to maintain viable populations across their natural range. The provisions provide some flexibility in how local authorities do this which will help mitigate implementation risks and costs.</li> <li>Implementation guidance and information will be developed to provide local authorities with best practice examples of how they can record highly mobile fauna areas and manage specified highly mobile fauna within these areas.</li> </ul>



**Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved**

Benefits	Costs	Risk of acting/not acting
<p>considered to be Threatened or At Risk in their region/district.</p> <ul style="list-style-type: none"> <li>Requiring regional councils, DOC and territorial authorities to work together to record highly mobile fauna areas will help promote efficiencies through sharing of resourcing, expertise and information.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Greater awareness in the community of the presence and values of highly mobile fauna. This may help to improve public understanding of, and connection to, highly mobile fauna species in their local area and help enable landowners and the wider community to exercise their stewardship role in the protection of these species.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Specified highly mobile fauna that are identified and protected may also be taonga species, with their protection having associated cultural benefits for tangata whenua.</li> <li>Improved data available to iwi/Māori on specified highly mobile fauna areas may help support their role as kaitiaki in managing and protecting specified highly mobile fauna species.</li> </ul>	<p>authorities on how they meet these requirements which may help to mitigate costs.</p> <ul style="list-style-type: none"> <li>Potential opportunity/consenting costs for landowners where survey work identifies the presence of highly mobile fauna on their land and local authorities introduce controls on new subdivision, use and development to maintain viable populations of these species.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The costs to record and provide information on specified highly mobile fauna are likely to be largely funded through rates potentially reducing the amount of funding for other community initiatives.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Resourcing costs for tangata whenua to work with local authorities to help record and map highly mobile fauna areas.</li> </ul>	
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks Policy 15 and Clause 3.20 are considered to be an effective means to achieve the NPSIB objective because of the following reasons:</p> <ul style="list-style-type: none"> <li>The provisions will ensure each region effectively understands and records highly mobile fauna areas. This information will help local authorities better protect Threatened and At Risk specified highly mobile fauna species within these areas.</li> <li>The provisions focus on ensuring local authorities manage the adverse effects from new subdivision, use and development to maintain viable populations of specified highly mobile fauna across their natural range. This provides clear direction on the outcome expected under Clause 3.20 and is expected to result in greater protection of specified</li> </ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 15 and Clause 3.20 are considered to be an efficient means to achieve the NPSIB objective because:</p> <ul style="list-style-type: none"> <li>The provisions encourage collaboration and sharing of information and resources to record highly mobile fauna areas.</li> <li>The provisions provide flexibility in how local authorities record and provide information on highly mobile species areas helping to mitigate potential implementation costs.</li> <li>The provisions provide some flexibility in how local authorities identify and protect specified highly mobile fauna within identified highly mobile fauna areas.</li> </ul>	

**Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved**

Benefits	Costs	Risk of acting/not acting
<p>highly mobile fauna compared to current levels of protection in most regions/districts. This will assist in achieving the NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss.</p> <ul style="list-style-type: none"> <li>Greater community awareness of highly mobile fauna, enabling landowners, communities and tangata whenua to take a more active and informed role in the management of specified highly mobile fauna and to exercise their steward and kaitiaki role in relation to indigenous biodiversity.</li> </ul>		<p>This will enable cost-effective approaches to be implemented, informed by implementation guidance on how to give effect to Policy 15 and Clause 3.20.</p> <ul style="list-style-type: none"> <li>While the provisions will impose initial implementation costs to record highly mobile fauna areas within each region, these initial implementation costs should be outweighed by the long-term efficiency of having one comprehensive record of highly mobile fauna areas for each region that can be more easily updated over time.</li> <li>Providing a list of specified highly mobile fauna in Appendix 2 of the NPSIB provides certainty to all parties on the Threatened and At Risk species to be protected, which is more efficient and certain than leaving it at the direction of each individual local authority.</li> </ul>

**Overall evaluation**

On balance Policy 15 and Clause 3.20 are considered to be an appropriate way to achieve the NPSIB objective as they will ensure all regions effectively record and protect threatened and at risk specified highly mobile fauna within identified highly mobile fauna areas to maintain viable populations across their natural range. The provisions will also improve community, landowner and tangata whenua awareness and understanding of highly mobile fauna areas, helping them to exercise their steward and kaitiaki roles in relation to indigenous biodiversity. The provisions provide some flexibility in the implementation approach to record highly mobile fauna areas and protect specified highly mobile fauna to help ensure this is done in a way that provides for social, economic and cultural wellbeing of people and communities.

## Policy 16: Regional Biodiversity Strategies

### Overview of provisions

Policy 16 of the NPSIB:

**Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale.**

Policy 16 will be delivered through Clause 3.23 which requires regional councils to prepare a regional biodiversity strategy that complies with Appendix 5 – Regional biodiversity strategies in the NPSIB, and have regard to that strategy when developing restoration objectives, policies and methods in regional policy statements and plans. Clause 4.3 sets out the timeframe for updating and completing regional biodiversity strategies within 10 years of commencement date.

### Policy intent

Policy 16 and Clause 3.23(1) requires regional councils to prepare a regional biodiversity strategy in collaboration with territorial authorities, tangata whenua, communities, and other identified stakeholders. Requiring these strategies to be developed collaboratively is intended to help achieve buy-in from all key agencies and parties which will then help to collectively deliver the desired actions and outcomes sought by the strategies. Once regional biodiversity strategies have been prepared, Clause 3.23(2) requires local authorities to have regard to the relevant regional biodiversity strategy when developing restoration objectives, policies and methods for inclusion in regional policy statements and plans. This is intended to ensure the vision and actions in the regional biodiversity strategy are supported by regulatory provisions in regional policy statements and plans.

The overall intent of Policy 16 and Clause 3.23 is to ensure each region develops and implements a community and stakeholder driven strategic plan for restoring indigenous biodiversity at a landscape scale. There are already significant indigenous biodiversity restoration efforts being done across Aotearoa and many regions have already prepared or are preparing such strategies to focus and coordinate these efforts. However, a lot of indigenous biodiversity restoration work happens in isolation at an individual project level without effective regional coordination. Regional biodiversity strategies provide an opportunity to coordinate these efforts in a more strategic and collaborative manner, ensuring all key stakeholders are engaged and increasing their buy-in to the required restoration actions.

Clause 3.23(1) states that regional biodiversity strategies must comply with Appendix 5 which sets out the purposes of these strategies as follows:

*to promote landscape-scale restoration and enhancement vision for the region's indigenous biodiversity.*

Appendix 5 sets out more detailed requirements for what regional biodiversity strategies **must include** and what they **may include**. These requirements have been amended from those set out in the NPSIB consulted on, with more flexibility in their mandatory and discretionary content. Clause 2 of Appendix 5 lists key requirements in that regional biodiversity strategies must do to achieve its purpose.

- *Setting out a landscape vision for the restoration of the region's indigenous biodiversity.*

- *Providing for resilience to biological and environmental changes, including those associated with climate change.*
- *Recognising biological and physical connections within, and between, the terrestrial environment, water bodies, and the coastal marine area.*
- *Supporting the achievement of any national priorities for indigenous biodiversity protection.*
- *Recording actions and methods to restore indigenous biodiversity and increase indigenous vegetation cover, who will undertake those actions, and how those actions will be resourced.*
- *Specifying milestones for achieving the strategy's purpose.*
- *Specifying how progress achieves the strategy's purpose is to be monitored and reported on and measures to be taken if milestones are not met.*

Overall, regional biodiversity strategies are intended to provide a comprehensive record of all indigenous biodiversity restoration goals, actions and methods and be the overarching strategic document to deliver improved outcomes in each region. Importantly, the requirements in Appendix 5 are also intended to link to other key NPSIB policies, including policies 4, 5, 13 and 14, helping to ensure these NPSIB provisions are implemented in an integrated and complementary manner.

Clause 4.3 sets out the timeframes to prepare, complete or update regional biodiversity strategies.

- 1) Where regional councils have an existing strategy or are in the process of preparing a strategy, the strategy must be updated or completed within 10 years after the commencement date.
- 2) Where regional councils have not prepared or begun preparing a strategy, preparation must be initiated within three years and completed within 10 years after the commencement date.

## **Other options considered**

### *Alternative implementation timeframes*

The NPSIB consulted on proposed that regional biodiversity strategies would need to be initiated within three years and completed within six years for regions without existing strategies and updated within six years for regional councils with an existing strategy. During consultation on the NPSIB, submitters requested both shorter and longer timeframes. Several local authorities supported a 10-year implementation timeframe, noting they have a lack of resources to develop a comprehensive strategy within six years of the commencement date. The timeframes to prepare and complete regional biodiversity strategies have been extended to respond to this feedback. This will help to spread out the NPSIB implementation costs and effort over 5-10 years and will also enable more time for targeted implementation guidance on regional biodiversity strategies to be developed.

### *Deliver regional biodiversity strategies through the Aotearoa New Zealand Biodiversity Strategy*

During consultation on the NPSIB, submitters suggested that regional biodiversity strategies should be promoted through *Te Mana o te Taiao – The Aotearoa New Zealand Biodiversity Strategy* rather than through the NPSIB. They said this would lead to greater flexibility in content and enable better alignment with other regional priorities.

As *Te Mana o te Taiao – The Aotearoa New Zealand Biodiversity Strategy* is a non-statutory document, it cannot require regional biodiversity strategies to be prepared by local authorities; it can only encourage them. This presents a risk that regional biodiversity strategies will not be developed by local authorities in a consistent manner across the country, as evident by the status quo. It would also not help link regional biodiversity strategies with the implementation of key NPSIB provisions focused on increasing resilience to climate change, integrated approach, restoration and increasing indigenous vegetation cover (in particular, policies 4, 5, 13 and 14) and is, therefore, likely to be less effective in achieving the NPSIB objective. For these reasons, the requirement to prepare regional biodiversity strategies through the NPSIB with nationally consistent requirements and content is the preferred option.

## Evaluation of efficiency and effectiveness – Policy 16

Table 24 provides an assessment of the efficiency and effectiveness of Policy 16 and associated implementation requirements in Clause 3.23 and appendix 5.

**Table 24: Evaluation of Policy 16 and associated implementation requirements**

Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Promotes a shared vision for indigenous biodiversity maintenance and restoration within each region with supporting objectives, actions and timeframes. This will help achieve a more coordinated effort and empower stakeholders to deliver improved outcomes for indigenous biodiversity within each region.</li> <li>The provisions will help provide a consistent link between regional efforts and the actions in the New Zealand Biodiversity Strategy to assist with implementation. This will help ensure national priorities for indigenous biodiversity are also prioritised at the regional level to deliver improved outcomes for indigenous biodiversity.</li> <li>Places a clear focus on indigenous biodiversity restoration which is needed to achieve the overall NPSIB objective of maintaining indigenous biodiversity to achieve at least no overall loss.</li> <li>Helps to provide an overall strategy to achieve other NPSIB provisions focused on increasing resilience to climate change, integrated approach, restoration and increasing indigenous vegetation cover. This will help to provide a more cost-effective and coordinated implementation approach to deliver improved outcomes for indigenous biodiversity.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The NPSIB provides a 10-year timeframe to prepare or update regional biodiversity strategies. This means these strategies will not inform plan changes to deliver the NPSIB which are required within five or eight years. The benefits of regional biodiversity strategies for restoring indigenous biodiversity may not be realised for some time in some regions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Implementation costs for regional councils to prepare/update regional biodiversity strategies in a collaborative manner and include the mandatory content for regional biodiversity strategies in appendix 5. Costs will vary based on whether there is an existing strategy in the region, how aligned existing strategies are with the requirements in appendix 5, and the approach each regional council takes to develop each strategy.</li> <li>The NPSIB CBA provides an estimate of the potential costs to develop regional biodiversity strategies.<sup>102</sup> This is based on information</li> </ul>	<p>It is considered that there is sufficient information and certainty on the provisions for the following reasons:</p> <ul style="list-style-type: none"> <li>Most regional councils have already produced regional biodiversity strategies in some form which are recognised as good practice to help maintain indigenous biodiversity and increase community buy-in to restoration efforts. In this respect, the provisions build on current best practice rather than introduce fundamentally new or different requirements.</li> <li>The implementation of the provisions will be supported by guidance with best practice examples of regional biodiversity strategies and how to prepare strategies that are consistent with the requirements set out in appendix 5.</li> </ul>

<sup>102</sup> Refer section 4.2 of the CBA for further details on NPSIB implementation costs.

**Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale**

Benefits	Costs	Risk of acting/not acting
<ul style="list-style-type: none"> <li>Will help ensure restoration efforts are coordinated and focused on the priority areas that have been identified, supported by clear actions, milestones and timeframes. This provides a high degree of certainty that the provisions will deliver improved outcomes for indigenous biodiversity.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>A clearly defined regional biodiversity strategy developed collaboratively may provide efficiencies through greater clarity on priority areas and actions for restoration and promote joined up efforts and sharing of resources.</li> <li>Strengthened relationships with tangata whenua, communities, and other stakeholders through the collaborative development of the regional biodiversity strategy may improve efficiency in terms of maintenance and restoration of indigenous biodiversity and efforts to increase indigenous vegetation cover.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Using regional biodiversity strategies as a key tool to implement the restoration provisions in the NPSIB elevates the importance of community engagement as part of overall indigenous biodiversity management in each region.</li> <li>The provisions increase the likelihood that the community and stakeholders will buy in to a shared vision for indigenous biodiversity in each region and provides a specific vehicle for the community to be involved in restoring indigenous biodiversity in their region.</li> <li>Greater awareness in the community of the importance of restoration efforts and increased buy-in to these initiatives.</li> </ul>	<p>provided by case study councils and anecdotal information on the cost of externally resourced assessments being used by some regional councils as input to their biodiversity strategies. It also includes an allowance for in-house council costs on top of contracted work. The estimated range of costs for regional councils to prepare regional biodiversity strategies in the NPSIB CBA are:<sup>103</sup></p> <ul style="list-style-type: none"> <li>low end: \$100,000, assuming amendments to an existing strategy</li> <li>high end: \$300,000, assuming a completely new strategy.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Costs for stakeholders and the wider community to engage in the preparation and implementation of regional biodiversity strategies (time and potential financial costs). However, this is not mandatory and will only affect those with an interest in indigenous biodiversity so any costs will be marginally above the status quo.</li> <li>Some of the costs to undertake and support restoration and enhancement are likely to be funded through rates, potentially reducing the amount of funding for other community initiatives.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Costs and time for tangata whenua to engage in the preparation and implementation of regional biodiversity strategies.</li> </ul>	

<sup>103</sup> The estimated cost range includes the preparation of the strategy in accordance with the NPSIB and indigenous vegetation cover analysis. It does not include the costs to implement actions in the strategy. The CBA notes that there is insufficient information on how any existing funding by regional councils for restoration planting, for example, might be increased specifically in response to the regional biodiversity strategy or NPSIB generally.

**Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale**

Benefits	Costs	Risk of acting/not acting
<p>This may help improve the connection of communities with nature and contribute to social wellbeing.</p> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>• The collaborative process to develop regional biodiversity strategies will allow for Māori worldviews on indigenous biodiversity to be considered alongside agency, stakeholder, and wider community perspectives.</li><li>• Regional biodiversity strategies may include actions for the protection and restoration of identified taonga species, ecosystems and habitats with associated cultural benefits to tangata whenua.</li></ul>		
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 16, Clause 3.23, and Appendix 5 are considered to an effective means to achieve the NPSIB objective for the following reasons:</p> <ul style="list-style-type: none"><li>• The provisions will ensure each region has an overarching biodiversity strategy to promote and coordinate all indigenous biodiversity restoration actions, methods, and efforts in the region. This will improve practice nationally and help ensure restoration actions are proactively and consistently done within each region in a coordinated and collaborative manner.</li><li>• The requirements set out in appendix 5 set out minimum requirements for regional biodiversity strategies based on existing good practice. This will reduce debate over what is required and help promote more effective content and implementation with restoration efforts focused on those priority areas that need it most.</li><li>• The provisions will help coordinate the implementation of other NPSIB provisions, particularly those relating to restoration and increasing indigenous vegetation cover, helping to achieve a more cost-effective, integrated implementation approach to achieve the NPSIB objective.</li><li>• The provisions will assist landowners and the wider community to exercise their steward role and assist tangata whenua to exercise their kaitiaki role in relation to indigenous biodiversity.</li></ul>		<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Policy 16, Clause 3.23, and appendix 5 are considered to be an efficient means to achieve the NPSIB objective because:</p> <ul style="list-style-type: none"><li>• Regional biodiversity strategies will provide one comprehensive strategy for all indigenous biodiversity restoration actions and efforts. This will help coordinate efforts and promote sharing of resources with associated efficiency gains.</li><li>• Appendix 5 sets out minimum requirements for regional biodiversity strategies but also provides considerable flexibility for regional councils to customise the strategy to their regional context and adopt the most cost-effective implementation approach.</li><li>• The implementation timeframes are staged over 10 years which will ensure compliance costs are not significant and can be spread over a number of years and there is sufficient opportunity for collaboration.</li><li>• While implementation costs will be higher on local authorities that have no existing strategy, these costs are expected to be outweighed by the long-term efficiencies gains from the creation of one comprehensive strategy to coordinate all indigenous biodiversity protection and restoration actions and efforts in the region.</li></ul>



**Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale**

**Benefits**

**Costs**

**Risk of acting/not acting**

**Overall evaluation**

On balance Policy 16, Clause 3.23 and Appendix 5 are considered to be an appropriate way to achieve the NPSIB objective as they will ensure local authorities have a clear and consistent strategy to restore indigenous biodiversity within each region and that restoration efforts are coordinated and focused on priority areas that need it most. The strategies are also to be developed through a collaborative process that recognises the role of tangata whenua as kaitiaki, and people and communities as stewards of indigenous biodiversity. This will assist in achieving the protection and restoration of indigenous biodiversity in a way that provides for the social, economic and cultural wellbeing of people and communities.

# Policy 17: Information and monitoring of indigenous biodiversity

## Overview of provisions

Policy 17 of the NPSIB:

**There is improved information and regular monitoring of indigenous biodiversity.**

Policy 17 will be delivered through:

- clause 3.24, which sets out information requirements for the assessment of effects on indigenous biodiversity through resource consent processes
- clause 3.25, which sets out requirements for monitoring plans for indigenous biodiversity within each region.

## Policy intent

### *Clause 3.24 – Information requirements*

Clause 3.24 is intended to improve the assessment of effects on indigenous biodiversity for proposed subdivision, use and development through resource consent processes. This is to be achieved through more specific and robust requirements for information on indigenous biodiversity in the assessment of environmental effects submitted as part of the resource consent process where the proposed activity will have **more than minor adverse effects on indigenous biodiversity**. This threshold is important to ensure that the information requirements are not overly onerous and costly for activities with very limited/minor adverse effects in indigenous biodiversity.

Clause 3.24(1) requires every local authority to change their policy statements and plans to set information requirements for resource consents for activities with more than minor adverse effects on indigenous biodiversity and to make clear that applications cannot be considered until the information requirements are met. Once implemented through policy statements and plans, this will provide local authorities with stronger justification to reject applications and/or request further information when applications do not include sufficient information on the effects of a proposed activity on indigenous biodiversity.

Clause 3.24(1) require policy statements and plans to state that a resource consent application for a proposed activity with more than minor adverse effects on indigenous biodiversity matters shall not be considered unless it includes a report that:

- a) is prepared by a qualified and experienced ecologist or other person with other relevant experience, such as mātauranga Māori; and*
- b) complies with subclause (2); and*
- c) is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.*

The reference to “...other person with other relevant experience...” recognises that there may be other specialists that may be better placed to assess effects on indigenous biodiversity, and

that an ecologist may not necessarily have the expertise to assess effects on identified taonga or utilise mātauranga Māori and tikanga Māori assessment methodologies. Clause 3.24(2) states that the report from the suitably qualified ecologist or other person with other relevant experience must:

- (a) include a description of the existing ecological features and values of the site; and*
- (b) include a description of the adverse effects of the proposal on indigenous biodiversity and how those effects will be managed; and*
- (c) identify any effects on identified taonga; and*
- (d) identify the ecosystem services associated with indigenous biodiversity at the site; and*
- (e) include an assessment of the ecological integrity and connectivity within and beyond the site; and*
- (f) include mātauranga Māori and tikanga Māori assessment methodology, where relevant; and...*

Clause 3.24(2)(f) and (g) then set out more specific information requirements for applications involving biodiversity offsetting and biodiversity compensation. This is to give added assurance that the proposed biodiversity compensation and/or biodiversity offsetting is consistent with the principles in appendix 3 and 4 of the NPSIB (eg, how biodiversity loss and gain will be calculated) and there is a specific assessment of the likely success of the proposed biodiversity compensation and/or biodiversity offsetting achieving its outcomes.

#### *Clause 3.25 – Monitoring by regional councils*

Clause 3.25 sets out requirements for regional councils to work with tangata whenua, territorial authorities, relevant agencies, and other relevant stakeholders to develop a monitoring plan for indigenous biodiversity within their region. Clause 3.25(2) sets out what every regional monitoring plan must do/include as follows:

- (a) establish methods and timeframes for monitoring:*
  - (i) the maintenance of indigenous biodiversity in, and the ecological integrity and physical extent of, SNAs; and*
  - (ii) the maintenance of identified taonga; and*
  - (iii) the achievement of restoration objectives established under clause 3.21; and*
  - (iv) the percentage of indigenous vegetation cover in urban and non-urban environments in its region, as required under clause 3.22.*
- (b) use best practice methods, or nationally agreed standards or methods, for monitoring areas that allow for comparability; and*
- (c) to the extent possible, where tangata whenua agree, use scientific monitoring methods and mātauranga Māori and tikanga Māori monitoring methods equally; and*
- (d) recognise the importance of long-term trends in monitoring results, and the relationship between results and the overall state of indigenous biodiversity; and*
- (e) establish methods, such as action plans, for responding to monitoring that indicates the objectives of this National Policy Statement will not be met.*

Clause 3.25(3) also states that there may be different timeframes and methods for monitoring SNAs and identified taonga, but national monitoring methods must be used where these are available.

The monitoring requirements in Clause 3.25 are comprehensive and are intended to lead to a substantial improvement in the monitoring of the state, trends and pressures on indigenous biodiversity throughout Aotearoa. This recognises that current practices to monitor indigenous biodiversity at the regional and district level are variable and very limited in some areas. This is despite the general obligation in section 35 of the RMA to monitor the state of the environment to the extent that this will enable local authorities to carry out their RMA functions (including maintaining indigenous biodiversity). The lack of proactive and comprehensive monitoring of the state of indigenous biodiversity and biodiversity trends is generally a result of limited capacity and resourcing within local authorities and competing priorities for time and resources.

Improved monitoring of indigenous biodiversity and knowledge of indigenous biodiversity state, pressures and trends is important to understand the effectiveness of the NPSIB and to inform decision-making now and in the future. This was noted by the BCG in their report on the draft NPSIB stating that:

*“Decision-makers, as well as researchers, need better access to a national picture of the state of our indigenous biodiversity. A comprehensive national picture will enable improved decision-making, more efficient operational processes, opportunities for increased collaboration between organisations and new research opportunities that will further inform policy development.”<sup>104</sup>*

As Clause 3.25 will require a significant shift in the approach and level of indigenous biodiversity monitoring in many regions/districts, guidance and support from central government will be provided to assist with implementation. This should provide practical guidance to assist regional councils in developing regional monitoring plans and outline the best practice monitoring methods and nationally agreed standards that are envisaged by central government to give effect to Policy 17 and Clause 3.25.

## Other options considered

The other option considered was no specific information requirements or monitoring requirements in the NPSIB and instead to rely on the following general provisions in the RMA:

- Schedule 4 – which sets out the information required in resource consent applications.
- Section 35(2)(i) – which states that local authorities shall monitor the whole or part of the environment in its region or district to the extent that it is appropriate to enable the local authority to carry out its RMA functions (including maintaining indigenous biodiversity).

The benefits of this approach include avoiding duplication of RMA requirements and reduced compliance costs for applicants and local authorities (due to the prescriptive nature of both Clause 3.24 and Clause 3.25). However, it would not address the key issues identified in this evaluation relating to poor, incomplete assessments of adverse effects on indigenous biodiversity through resource consent processes and inconsistent and incomplete monitoring

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<sup>104</sup> Report of the Biodiversity Collaborative Group, pg. 39.

of indigenous biodiversity by local authorities. A more specific approach through Clause 3.24 and Clause 3.25 is preferred as this will help ensure decision-making is based on an improved understanding of indigenous biodiversity at both the project and policy level, leading to better decisions and improved outcomes for indigenous biodiversity over time. Clause 3.24 and Clause 3.25 will also support the implementation of other key NPSIB clauses (eg, those relating to the effects management hierarchy, biodiversity offsetting and biodiversity compensation) which will help ensure the NPSIB provisions are collectively effective and efficient in achieving the NPSIB objective.

## Evaluation of efficiency and effectiveness – Policy 17 and Clause 3.24

Table 25 provides an assessment of the efficiency and effectiveness of Policy 17 and associated implementation requirements in Clause 3.24.

**Table 25: Evaluation of Policy 17 and associated implementation requirements in Clause 3.24 (information requirements)**

Policy 17: There is improved information and regular monitoring of indigenous biodiversity.		
Clause 3.24: Information requirements		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Will ensure improved assessment of effects on indigenous biodiversity through resource consent processes for activities that would have a more than minor adverse effect on indigenous biodiversity to support more informed decision-making, particularly where existing practice is poor. This in turn should lead to improved outcomes for indigenous biodiversity.</li> <li>The provisions will ensure that the assessment of effects of a proposed activity on indigenous biodiversity is prepared by a qualified and experienced ecologist or other person with relevant expertise. This will help to ensure all impacts are fully assessed and more effectively managed through resource consent processes.</li> <li>Requiring applicants to demonstrate effective implementation of the effects management hierarchy and compliance with principles for biodiversity offsetting and biodiversity compensation will encourage well-designed proposals and will assist in achieving good outcomes for indigenous biodiversity, such as a no-net loss outcome.</li> <li>Nationally consistent, minimum standards for assessments of adverse effects on indigenous biodiversity will help ensure that any necessary work such as biodiversity surveys will be completed up-front. This will reduce the likelihood that assessments will be incomplete and potentially miss key Threatened or At Risk indigenous species, ecosystems or habitats.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no specific environment costs anticipated from the provisions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Increased costs to applicants associated with more detailed information and assessments of effects of their proposal on indigenous biodiversity. These costs are likely to be substantial in some cases such as assessing effects on ecosystem services, ecological integrity and connectivity beyond the site. However, they will be limited to proposals that will have a more than minor adverse effect on indigenous biodiversity where a more detailed assessment by a suitably qualified ecologist or other suitable person is justified.</li> <li>Increased costs to applicants to engage qualified and experienced ecologists where their proposal may have a more than minor adverse effect on indigenous biodiversity.</li> <li>The NPSIB CBA assesses the transaction costs to private landowners attributable to the NPSIB, which was informed by feedback from a group of ecology consultants. This assessment noted that Clause 3.24 is expected to add another layer of rigour to the assessment of ecological effects in consent</li> </ul>	<p>There is some uncertainty on acting through the provisions as it is not fully known:</p> <ul style="list-style-type: none"> <li>how many resource consent applications the requirements will apply to</li> <li>the capacity of ecologists nationwide to respond to the new information requirements</li> <li>how some assessment matters such as ecosystem services will be practicably assessed, and the associated costs to applicants and local authorities.</li> </ul> <p>As such, it is considered that there is a <b>moderate risk</b> in acting through the provisions.</p> <p>These risks will be mitigated to some extent by NPSIB implementation guidance, which will help clarify how to comply with the requirements and ensure the level of detail in the assessments corresponds with scale and significance of the proposal on indigenous biodiversity. The scale of the impact will also be limited to proposed activities that may have more than minor adverse effects on indigenous biodiversity. It is also considered that these implementation risks will reduce as practice develops and standardised methods and reporting are developed by ecologists and other relevant experts nationwide.</p>

**Policy 17: There is improved information and regular monitoring of indigenous biodiversity.**

**Clause 3.24: Information requirements**

Benefits	Costs	Risk of acting/not acting
<p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Potential reduction in debate and associated costs between applicants and consent authorities through the consent process as both parties will have a clearer understanding of the information required to assess impacts on indigenous biodiversity in resource consent applications.</li> <li>• Nationally consistent information requirements on indigenous biodiversity through resource consent processes will lead to efficiency gains over time as ecologists develop standardised templates and methods and consent authorities have clear and consistent requirements.</li> <li>• The provisions make it clear that the level of detail in the assessment should correspond to the scale and significance of the effects on indigenous biodiversity. The information requirements are also limited to where proposed activities would have a more than minor adverse effect on indigenous biodiversity. This will ensure proportionate assessments of effects on indigenous biodiversity and reduce the risk of overly onerous and costly assessments and/or further information requests.</li> <li>• Increased certainty about the information and assessments of effects on indigenous biodiversity required in resource consent applications will help to ensure the necessary assessments are undertaken upfront. This may provide efficiency gains at the latter stages of the consent process by reducing further information requests and associated delays.</li> </ul>	<p>applications and account for the majority of transaction costs under the NPSIB.<sup>105</sup></p> <ul style="list-style-type: none"> <li>• Key findings in the CBA include: <ul style="list-style-type: none"> <li>– Clause 3.24 may have no or only a marginal impact on the cost and scope of an ecological assessment through consenting processes as local authorities are already required to assess these matters under the RMA. Further, the NPSIB provisions are based on existing best practice so there will be no, or minor increases in transaction costs where existing practices are good.</li> <li>– The biggest increases in transaction cost are likely to be for smaller and medium scale projects that currently do not follow best practice.</li> <li>– The actual costs to do an ecological assessment for a resource consent application in accordance with Clause 3.24 will vary significantly (see Table 24 below from NPSIB CBA). Feedback from ecologists indicates that ecological assessments start as low as \$3000-\$7000 for small scale/simple projects where these may have significant adverse effects on indigenous biodiversity but don't include any fauna assessments. At the upper end, the cost can be \$70,000-\$150,000 for large scale/complex projects that deal with effects on multiple species/ecosystem types and require offset/compensation modelling. These costs may</li> </ul> </li> </ul>	

<sup>105</sup> Note that the NPSIB CBA assumed that the NPSIB will not materially add to status quo costs associated with section 92 requests (requests for further information once lodged), alter notified/non-notified application status, or add to an applicant's consent hearing costs.

**Policy 17: There is improved information and regular monitoring of indigenous biodiversity.**

**Clause 3.24: Information requirements**

Benefits	Costs	Risk of acting/not acting
<p><b>Social</b></p> <ul style="list-style-type: none"> <li>More detailed assessments of effects on indigenous biodiversity and ecosystem services where a proposed activity may have a more than minor adverse effect on indigenous biodiversity. This will help ensure the wider benefits to the community are better assessed, considered and provided for through the resource consent process. This may have flow on benefits to affected communities.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions encourage the use of mātauranga Māori and tikanga Māori assessment methodologies where relevant. Improved incorporation of mātauranga Māori and tikanga Māori when assessing adverse effects on indigenous biodiversity will enable a more holistic assessment of effects and a more robust assessment of cultural effects. The provisions also provide for a person with expertise in mātauranga Māori and tikanga Māori assessment methodologies to be recognised as a person with relevant expertise able to prepare a report on indigenous biodiversity effects. This may lead to decision-making that better considers and provides for cultural values in relation to indigenous biodiversity.</li> <li>The provisions make it clear that effects on identified taonga should be assessed where relevant through resource consent processes. This will help to ensure the values of the taonga species or ecosystems to tangata whenua are better assessed and protected through the resource consent process with associated cultural benefits for tangata whenua.</li> </ul>	<p>also be up to \$1 million in the case of significant infrastructure projects in sensitive environments,<sup>106</sup> but this is rare.</p> <ul style="list-style-type: none"> <li>These costs may not be attributed to the information requirements in the NPSIB at all, partly attributed to the NPSIB, or fully attributable to the NPSIB – this will vary based on a range of factors including current practice. Feedback from ecologists indicates the biggest changes/costs from the NPSIB information requirements are expected to be for small/medium projects.</li> <li>Uncertainty, complexity and costs associated with assessing certain effects that are often not assessed through resource consent applications. This includes ecosystem services and ecological integrity and connectivity within and beyond the site. This has time and cost implications for applicants and local authorities and will require additional work, more technical input, and upskilling in some areas. These costs are expected to reduce over time as practice develops.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>N/A – no specific social costs anticipated from the provisions.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A – no specific cultural costs anticipated from the provisions.</li> </ul>	

<sup>106</sup> For some large infrastructure projects, the indicative cost range of around \$1 million will generally capture some of the costs associated with the construction phase such as fauna management involving bat or bird nest surveys.



**Policy 17: There is improved information and regular monitoring of indigenous biodiversity.**

**Clause 3.24: Information requirements**

Benefits	Costs	Risk of acting/not acting
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks the provisions are considered to be an effective means to achieve the NPSIB objective because of the following:</p> <ul style="list-style-type: none"><li>• The provisions will effectively address key issues with the status quo relating to poor, incomplete assessments of impacts on indigenous biodiversity through resource consent processes by applying nationally consistent, clear and robust information requirements for proposals that will have a more than minor adverse effect on indigenous biodiversity.</li><li>• The provisions will help ensure resource consent decision-making is based on an improved understanding of indigenous biodiversity which should lead to better decisions and improved outcomes over time.</li><li>• The provisions will ensure that the assessment of effects of a proposed activity on indigenous biodiversity is prepared by a "...qualified and experienced ecologist or other person with relevant expertise...". This will help to ensure all impacts are fully assessed and more effectively managed through resource consent processes.</li><li>• The information requirements support the implementation of other key NPSIB provisions such as those relating to the effects management hierarchy which will help in ensuring the NPSIB provisions are collectively effective in achieving the NPSIB objective.</li></ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, the provisions are considered to be an efficient means to achieve the NPSIB objective because they:</p> <ul style="list-style-type: none"><li>• provide certainty on the information requirements for consent applications affecting indigenous biodiversity to a more than minor degree. This may help reduce debate over the level of assessment required and reduce the frequency of further information requests for ecology input through resource consent processes, with associated efficiency gains over time</li><li>• are based on best practice and are expected to result in no/limited increases in transaction costs where practice is already good and/or for most larger projects that already commission ecological input. Analysis in the CBA and feedback from ecologists indicates that the impacts/costs attributable to the NPSIB will be primarily for small to medium projects that may have more than minor adverse effects on indigenous biodiversity. It is also expected that these costs should reduce over time as standardised approaches are developed.</li><li>• The provisions make it clear that the level of detail in the assessment should correspond to the scale and significance of the effects on indigenous biodiversity and only apply to those proposals involving more than minor adverse effects on indigenous biodiversity. This will ensure proportionate assessments and reduce the risk of overly onerous and costly assessments and/or further information requests.</li></ul>	
<p><b>Overall evaluation</b></p> <p>On balance, the provisions are considered to be an appropriate way to achieve the NPSIB objective as setting nationally consistent and certain information requirements on indigenous biodiversity through resource consent processes will lead to more informed decision-making and improved outcomes over time. The provisions will also increase certainty, reduce debate and further information requests through resource consent processes, and may achieve efficiency gains over time as practice develops and standardised methods and templates are developed by ecologists. There will however be increased costs for applicants and local authorities for projects involving more than minor adverse effects on indigenous biodiversity.</p>		

Table 26 below provides the indicative cost ranges to prepare ecological impact assessments from the NPSIB CBA. The cost ranges are indicative and represent the total costs of the ecological assessment. These costs may not be attributed to the NPSIB at all, be partly attributed to the NPSIB, or fully attributable to the NPSIB; this will vary based on a range of factors including current practice and the nature and scale of the project.

**Table 26: Indicative cost ranges to prepare ecological impact assessments to include in resource consent applications (source – NPSIB CBA)**

Project/Effects Scale Range	Ecological Impact Assessment (excluding any residual effects modelling)	Residual effects modelling (if applicable) for offsetting/compensation)	Total Ecological Impact Assessment including residual modelling (if applicable)
<b>Small/low</b>  Single dwelling development or a site with limited biodiversity values such as grazed farmland.	\$3,000-\$7000	\$2500	\$5500-\$9500
<b>Medium/mid</b>  Small-moderate sized residential subdivision, or a site requiring some fauna surveys/modelling.	\$15,000-\$20,000	\$10,000-\$20,000	\$25,000-\$40,000
<b>Large/high</b>  Large residential subdivision/masterplan area, or a site with multiple impacted habitats such as streams, wetlands and vegetation, or Threatened or At Risk species present.	\$50,000-\$100,000	\$20,000-\$50,000	\$70,000-\$150,000
<b>Very large/very high</b>  Significant infrastructure project such as a windfarm, dam, or large roading project; sensitive environments; and detailed fauna surveys with prolonged data collection periods.	Up to \$1 million		

Note: Costs shown here are intended to reflect the potential costs to produce a report(s) that would be submitted with a consent application. They exclude ongoing information requirements, liaison with council, any hearing costs, etc. They exclude GST.

## Evaluation of efficiency and effectiveness – Policy 17 and Clause 3.25

Table 27 provides an assessment of the efficiency and effectiveness of Policy 17 and associated implementation requirements in Clause 3.25.

**Table 27: Evaluation of Policy 17 and associated implementation requirements in Clause 3.25 (monitoring by regional councils)**

Policy 17: There is improved information and regular monitoring of indigenous biodiversity.		
Clause 3.25: Monitoring by regional councils		
Benefits	Costs	Risk of acting/not acting
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Improved understanding of indigenous biodiversity within each region will inform and improve decision-making at both the project and policy level. This will help improve indigenous biodiversity outcomes over time.</li> <li>The provisions require methods such as action plans to be established where monitoring indicates the NPSIB objective will not be met. This will help ensure that monitoring and management methods work together to achieve the NPSIB objective of maintaining indigenous biodiversity to achieve at least no overall loss.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The provisions promote a collaborative approach for regional councils to work with territorial authorities, agencies and tangata whenua to develop the regional monitoring plan. This will promote the sharing of information, resources and expertise which may lead to efficiency gains.</li> <li>Over time, the provisions will lead to improved knowledge of indigenous biodiversity. This may help</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>N/A – no environmental costs are anticipated from the provisions.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The development and implementation of regional monitoring plans will have time and cost implications for local authorities, primarily regional councils. While local authorities have a function to monitor the state of the environment under section 35 of the RMA, current practice is limited in relation to indigenous biodiversity for many local authorities. As such, effective implementation of Clause 3.25 will require a substantial improvement in practice in many regions, as it sets out reasonably extensive minimum requirements for the regional monitoring plan, such as monitoring ecological integrity and extent of all SNAs. This will require increased resourcing in many parts of the country.</li> <li>The NPSIB CBA provides an estimate of the costs to implement Clause 3.25 based on available information.<sup>107</sup> The indicative cost range provided in the NPSIB CBA for the development and</li> </ul>	<p>While there is some uncertainty on the impacts of the provisions, it is considered that there is sufficient information and certainty to act through the provisions as the monitoring requirements are:</p> <ul style="list-style-type: none"> <li>based on existing best practice</li> <li>directly related to other NPSIB provisions, such as protection of SNAs, and are necessary to understand if the NPSIB objective is being achieved.</li> </ul> <p>Any uncertainties or implementation risks will be mitigated through guidance from central government to assist regional councils in developing regional monitoring plans and to outline the best practice monitoring methods and standards.</p>

<sup>107</sup> The information on monitoring costs in the NPSIB CBA was limited to feedback from three case study councils in the earlier indicative CBA and some additional cost estimates provided by several regional councils during road testing of the draft NPSIB. As with all implementation costs, the NPSIB CBA notes that the key challenge is distinguishing net additional costs attributable to the NPSIB over and above existing monitoring plans/programmes.

**Policy 17: There is improved information and regular monitoring of indigenous biodiversity.**

**Clause 3.25: Monitoring by regional councils**

Benefits	Costs	Risk of acting/not acting
<p>to streamline decisions, compared to decision-making based on incomplete information, and result in efficiency gains.</p> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Improved monitoring and understanding of indigenous biodiversity will help local authorities to make decisions that maximise the benefits of indigenous biodiversity for communities, such as where to focus efforts on increasing indigenous cover.</li> <li>Communities may become more involved in indigenous biodiversity monitoring which may help to improve their connection to nature.</li> <li>Sense of achievement in the community where monitoring demonstrates positive change/improvements in indigenous biodiversity.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>The provisions require that the regional monitoring plan monitors the maintenance of identified taonga. This may help ensure the mauri and ecological integrity of identified taonga is maintained with associated cultural benefits for tangata whenua.</li> <li>The provisions promote the equal use of mātauranga Māori and tikanga Māori monitoring methods to the extent possible where tangata whenua agree. This will ensure cultural concepts are better incorporated into indigenous biodiversity monitoring and management with associated cultural benefits to tangata whenua.</li> </ul>	<p>implementation of the regional monitoring plan by regional councils<sup>108</sup> is:</p> <ul style="list-style-type: none"> <li>lower end — \$50,000 per annum. This assumes limited additional monitoring and covers amendment of existing state of environment monitoring plans/programmes and additional monitoring under the amended plan to meet NPSIB requirements.</li> <li>upper range — \$150,000 per annum. This assumes the development and implementation of a new monitoring plan and programme in regions where there is currently little monitoring of indigenous biodiversity.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Some of the costs for increased monitoring are likely to be funded through rates, reducing the amount of funding for other community initiatives.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>N/A – no specific cultural costs are anticipated from the provisions.</li> </ul>	

<sup>108</sup> The NPSIB CBA acknowledges that territorial authorities will also incur some costs to work with regional councils to develop regional monitoring plans. However, these costs for territorial authorities were not monetised as the costs were considered to be minor relative to other direct NPSIB implementation costs for territorial authorities.

**Policy 17: There is improved information and regular monitoring of indigenous biodiversity.**

**Clause 3.25: Monitoring by regional councils**

Benefits	Costs	Risk of acting/not acting
<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, the provisions are considered to be an effective means to achieve NPSIB objective because of the following:</p> <ul style="list-style-type: none"><li>• The monitoring requirements are based on existing best practice and are likely to lead to a substantial improvement in the monitoring of indigenous biodiversity within regions and districts throughout Aotearoa. This will help address key inconsistencies in the status quo associated with monitoring of indigenous biodiversity.</li><li>• Information collected through improved monitoring will lead to more informed decision-making and improved management of indigenous biodiversity to maintain indigenous biodiversity and protect SNAs.</li><li>• The provisions also require methods to be established, such as action plans, where monitoring indicates the NPSIB objective will not be met. This provides added assurance that the provisions will assist in achieving the NPSIB objective.</li></ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, the provisions are considered to be an efficient means to achieve NPSIB objectives because of the following:</p> <ul style="list-style-type: none"><li>• The provisions are based on best practice and build on existing obligations in the RMA to monitor the state of the environment to enable local authorities to effectively carry out their RMA functions.</li><li>• The monitoring requirement are directly related to other NPSIB provisions, such as protection of SNAs. They are necessary to understand if the NPSIB objective is being achieved; doing nothing is not a practicable alternative.</li><li>• The provisions promote a collaborative approach for regional councils to work with territorial authorities, agencies and tangata whenua to develop the regional monitoring plan. This will promote the sharing of information, resources and expertise which may lead to efficiency gains.</li><li>• There is some flexibility in the monitoring methods and timeframes regional councils use to give effect to the provisions, which will enable cost-effective approaches to be developed and implemented.</li></ul>	
<p><b>Overall evaluation</b></p> <p>On balance the provisions are considered to be appropriate to achieve the NPSIB objective as improved monitoring is essential to determine whether the NPSIB objective to maintain indigenous biodiversity to achieve at least no overall loss is being achieved – doing nothing is not a practicable alternative. Improved monitoring will lead to improved information and more informed decision-making, including establishing new methods and action plans when information indicates the NPSIB objective is not being met.</p>		

# Conclusion

## The appropriateness of the NPSIB objective

The overarching objective of the NPSIB is to maintain indigenous biodiversity to achieve at least no overall loss from the date the NPSIB comes into force and achieve this in a way that:

- recognises the mana of tangata whenua as kaitiaki of indigenous biodiversity
- recognises people and communities as stewards of indigenous biodiversity
- protects and restores indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity
- provides for the economic, social, and cultural wellbeing of people and communities.

The evaluation of the NPSIB objective concludes that it is the most appropriate way to achieve the purpose of the RMA based on an assessment of the objective against selected criteria. Key conclusions from this assessment include:

- The NPSIB objective is directed to address a nationally significant resource management issue — the ongoing decline of the indigenous biodiversity of Aotearoa.
- The NPSIB objective is directly focused on achieving the purpose of the RMA. It aims to protect, maintain and restore indigenous biodiversity and achieve at least no overall loss in a way that enables people and communities to provide for their social, economic and cultural wellbeing. This direction is strongly aligned with the purpose of the RMA defined in section 5(2). The NPSIB objective is also highly relevant to several matters in sections 6 and 7 of the RMA as discussed in detail Part 2 of this report (Statutory and Policy Context).
- The NPSIB objective and implementing provisions will be highly effective in assisting local authorities to carry out their RMA statutory functions addressing key gaps in existing national direction relating to indigenous biodiversity in the terrestrial environment. In particular, the NPSIB objective and implementing provisions will help local authorities carry out the following RMA functions:
  - protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna under section 6(c) of the RMA
  - recognising tangata whenua values and interests, having particular regard to kaitiakitanga and taking into account the principles of the Treaty of Waitangi under sections 6(e), 7(a) and 8
  - maintaining indigenous biodiversity under section 30 and 31 of the RMA.

## Assessment of effectiveness and efficiency provisions to achieve NPSIB objective

### Effectiveness

Assessing the effectiveness of the NPSIB provisions focuses on how successful they are likely to be in achieving the NPSIB objective and addressing the identified issues. Overall, this evaluation

concludes that the NPSIB provisions will collectively be highly effective in achieving the NPSIB objective for the following reasons:

- They require a comprehensive range of actions to protect, maintain and restore indigenous biodiversity which will be effective to maintain indigenous biodiversity and achieve at least no overall loss from commencement date.
- They require a nationally consistent approach to identify SNAs based on existing best practice and introduce a nationally consistent policy to avoid significant adverse effects on SNAs or apply the 'effects management hierarchy', with specific exceptions. This hierarchy is clearly defined in the NPSIB and is based on best practice nationally and internationally. This comprehensive approach is expected to be highly effective to protect SNAs nationally and maintain indigenous biodiversity across Aotearoa.
- They 'strike the right balance' by providing clear direction on the adverse effects that need to be avoided on SNAs and applying the effects management hierarchy, while providing consenting pathways and bespoke management approaches for activities recognised as being important to economic, social and cultural wellbeing. This includes, for example, specified infrastructure that provides significant public benefits, plantation forestry activities, use and development on Māori lands and geothermal SNAs. This is assessed as being an effective approach to achieve the NPSIB objective by ensuring subdivision, use and development occurs in appropriate locations, forms and within appropriate limits, in order to maintain indigenous biodiversity while providing for the economic, social and cultural wellbeing of people and communities.
- They recognise and provide for the significant role of tangata whenua as kaitiaki and people and communities as stewards of indigenous biodiversity. This is achieved through a range of provisions to restore indigenous biodiversity focusing on those areas that need it most. These actions are to be articulated through a regional biodiversity strategy developed collaboratively between local authorities, tangata whenua, landowners and the wider community. This is likely to be an effective approach to incentivise positive efforts and form partnerships between local authorities, tangata whenua, communities, and landowners to restore indigenous biodiversity and achieve the NPSIB objective.

## Efficiency

Assessing the efficiency of the provisions focuses on whether they will be likely to achieve the NPSIB objective at the least cost or highest net benefit to society. The assessment of the efficiency of the NPSIB Part 3 provisions in this report is focused on the main environmental, economic, social and cultural benefits and costs anticipated from the NPSIB policies and implementation provisions. This assessment identifies a range of expected benefits and costs from the implementation of the NPSIB provisions, with these impacting central government, local authorities, tangata whenua, landowners and industries in different ways and some having greater relative benefits and costs than others.

The assessment of efficiency concludes the long-term environmental benefits of the NPSIB provisions will be widespread and will be felt by current and future generations throughout Aotearoa. This is because indigenous biodiversity is a public good that delivers multiple and significant environmental, economic, social and cultural benefits or ecosystem services.

The costs of the NPSIB will primarily be borne more locally at the landowner, project and district and regional level, although there will be national costs for central government and industries and sectors that operate nationally. A key implementation cost will be the requirement for territorial authorities to do a district-wide SNA assessment and mapping exercise within five

years and for all local authorities to implement a more stringent and robust effects management framework to protect SNAs and maintain indigenous biodiversity to achieve at least no overall loss. These costs are expected to be significant for some local authorities, although actual costs will depend on the level of change required from current provisions relative to NPSIB requirements and/or their ability to fund the implementation of the NPSIB. These are mostly short-term costs, and it is expected that the ongoing implementation costs of the NPSIB will reduce substantially over time.

There will also be opportunity, transaction and compliance costs for different land-uses and activities to comply with the NPSIB provisions relating to the protection of SNA and applying the effects management hierarchy and other effects management provisions. In some situations, the NPSIB will effectively preclude or limit some activities where compliance with the avoid policy for SNA or effects management hierarchy cannot be complied with, such as the limits to when biodiversity offsetting and biodiversity compensation is appropriate. However, at a national level, the provisions relating to SNA protection will not affect most landowners and the overall impact/costs for those affected over and above the status quo is not expected to be unjustifiably high to realise the benefits of maintaining the indigenous biodiversity of Aotearoa and addressing the ongoing loss.

Overall, the assessment of efficiency concludes that the aggregate, long-term and cumulative benefits of implementing the NPSIB will, on balance, outweigh the expected aggregate and generally short-term implementation and project-specific costs.

## **Summary of reasons for the NPSIB objective and provisions**

The NPSIB is a significant national direction instrument that addresses complex and challenging issues. It is directly relevant to achieving the purpose of the RMA and the ongoing decline of indigenous biodiversity in Aotearoa. It has been subject to significant testing and refinement and there is now some urgency to introduce and implement effective national direction on maintaining indigenous biodiversity in the terrestrial environment.

A key finding of this section 32 evaluation of the RMA is that there is a high level of variability in how the NPSIB will impact each region/district and the impacts for different types of subdivision, use and development. The type, scale, geography, and tenure of indigenous biodiversity is highly varied throughout Aotearoa, as is the extent to which local authorities already provide for indigenous biodiversity protection, maintenance and restoration in their policy statements and plans, consenting and monitoring in terms of scope and effectiveness. This presents challenges for accurately assessing the effectiveness and efficiency of the NPSIB provisions estimating the benefits and costs of the NPSIB provisions at the district, regional and national level.

However, there is clear and compelling evidence that preventing the further loss of indigenous biodiversity in Aotearoa is critical and that better protection, maintenance and restoration of indigenous biodiversity will contribute directly to environmental, economic, social and cultural wellbeing. Overall, this evaluation concludes that the NPSIB objective is the most appropriate way to achieve the purpose of the RMA to promote sustainable management in relation to indigenous biodiversity. The provisions are assessed as being effective and efficient to achieve the NPSIB objective of maintaining the terrestrial indigenous biodiversity of Aotearoa while also enabling subdivision, use and development in appropriate forms and places. This will ensure indigenous biodiversity is maintained under the NPSIB in a way that provides for social, economic and cultural wellbeing of people and communities.