

FACT SHEET

NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

BACKGROUND

The government recently released a draft National Policy Statement for Indigenous Biodiversity (NPSIB) for public submissions. Submissions are due 14 March 2020.

Over the next few weeks, Beef + Lamb New Zealand (B+LNZ) and Federated Farmers will be updating stakeholders on key points of interest to farmers, how to submit and where to attend public and industry meetings.

National Policy Statements must be implemented by Councils through Regional and District Plans. This NPS covers 'indigenous biodiversity', which includes ecosystems, birds, plants, insects and other species that are special to New Zealand - our indigenous biodiversity. The NPSIB contains objectives and policies to identify, protect, manage and restore indigenous biodiversity, and specifies what Councils must do to achieve this.

KEY POINTS FOR FARMERS

1. Mapping of Significant Natural Areas (SNAs) (NPSIB section 3.8)

- Councils are already required to protect SNAs and many have already mapped them and included them in their District Plans. The NPSIB proposal is for ALL Councils to identify and map all SNAs, generally within 5 years (unless extension sought).
- Standard criteria are proposed to ensure national consistency in the identification of SNAs. Up until now there have been variations around the country.
- The NPS describes principles that should apply during the identification of SNAs. These include the need for partnership with landowners, transparency about how information will be used and where, how and when access should occur.
- We are concerned that the criteria may result in most indigenous vegetation being identified as significant – this was not the intention. As noted in the discussion document, SNAs represent the most iconic and highly valued indigenous biodiversity, the criteria should not capture wider than that.

2. Management of adverse effects (NPS sections 3.19 & 3.13)

There is a distinction between requirements around new activities, and for existing activities; and for activities within SNAs, and outside SNAs.

a. New activities within SNAs

- Generally new farming activities must avoid the following 'adverse effects' - reduction of the SNA's extent; disruption to ecosystem function; loss of connectivity between the SNA and other ecosystems; fragmentation of the SNA or a reduction in the population size of threatened species. This will be a very high bar to cross to be able to establish new activities in SNAs.
- All other adverse effects of new activities are to be managed by the 'effects management hierarchy', which means working down a list of options, first avoiding adverse effects where possible, then mitigating them, then remedying them and finally 'offsetting' or 'compensating' for them.
- Ecological advice is that in practice, very few new activities would be able to manage adverse effects within an SNA based on the hierarchy, which means new activities are unlikely to be allowed unless their effects are minor.
- Part 3.9(4) sets out exemptions from the SNA management framework, so that the adverse effects of the following do not need to be avoided:
 - i. Adverse effects arising from a use or development that is for the purpose of protecting, restoring or enhancing an SNA – e.g. removing drainage into a wetland to restore it, planting riparian areas etc;
 - ii. Adverse effects arising from a use or development that addresses a severe and immediate risk to public health or safety (e.g. clearing a drain to reduce flood risk);
 - iii. Areas that comprise kanuka or manuka that has only been identified as an SNA because it is at risk from myrtle rust. This is critical for farmers, where manuka and kanuka can behave like agricultural weeds; and
 - iv. Habitat and indigenous vegetation created for a purpose unrelated to conservation e.g a constructed wetland for effluent management, riparian planting, farm dams or irrigation channels. The exemption allows you to use and develop your feature, as required to support its original purpose.

b. Existing Activities within SNAs (3.12 of NPSIB)

- Existing activities have protection under sections 10 and 20(a) of the RMA, which provides for existing activities to continue if they remain at the same character, intensity and scale.
- In practice, farmers have had difficulty proving they have existing use rights; for example, the rights lapse if you haven't done an activity for a while. Proving when you last cultivated or cleared scrub in an area of your farm is hard to do when most farmers don't document these activities.
- Councils are to specify in their Plans where, how and when existing activities that adversely affect biodiversity must be provided for. Existing activities under the NPS must not lead to the loss or degradation of the SNA's 'ecological integrity' (The effects of activities must also be no greater in character, intensity and scale than they were before the NPS came in).
- **Special situation: clearance of regenerating indigenous vegetation within improved pasture**
- The NPS recognises indigenous vegetation can regenerate in areas of improved pasture and that clearance of this vegetation as part of a 'regular cycle' is not likely to compromise the objectives of the NPS.
- The proposed definition of 'improved pasture' is '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.
- The proposed definition of 'clearance' is 'the removal of indigenous vegetation by cutting, crushing, application of chemicals, drainage, burning, cultivation, over-planting, application of seed of exotic pasture species, mobstocking and/or changes to soils, hydrology or landforms'.
- There are some cases where a resource consent would be required:
 - Where clearance has happened so long ago that the indigenous vegetation has become an SNA.
 - Where proposed clearance has adverse effects that are greater in character, scale or intensity than what occurred previously.
 - Where there's not enough information available to demonstrate the proposed clearance is part of a regular cycle.
 - Clearance is proposed in an area that supports any threatened or at-risk species OR that supports alluvial landforms that have not been cultivated (i.e. the land has not been disturbed for the purpose of sowing, growing or harvesting pasture or crops – e.g. Mackenzie Basin).

c. General rules outside SNAs (3.13 of NPSIB)

- Councils must take steps to maintain indigenous biodiversity outside of SNAs by making or changing plans to specify where, how and when controls on activities outside SNAs are necessary to maintain indigenous biodiversity.
- The 'effects management hierarchy' of avoid adverse effects where possible, then mitigate and so on (as discussed above) applies, with the same concerns noted.
- Existing use rights apply for existing activities with the challenges indicated above.

3. Restoration targets & Regional Biodiversity Strategies(NPS sections 3.16-3.18)

Councils are to promote restoration back to a minimum of 10% of urban areas and peri-urban areas (there will be potential issues for lifestyle blocks in this regard).

- In rural areas where there is less than 10% indigenous vegetation cover, restoration targets must also be set, but it is left open what those targets should be and the timeframes attached to achieving them. This recognises that restoring 10% of rural areas would likely be cost-prohibitive and in many cases, unachievable.
- Priority areas for restoration efforts have been identified as wetlands and former wetlands, degraded SNAs, areas that provide important connectivity or buffering functions for ecosystems and any national priorities for indigenous biodiversity protection.
- The language around restoration provisions generally suggests non-regulatory measures (although Councils may impose conditions on resource consents around restoration and enhancement of biodiversity).
 - Our concerns are that goal posts have shifted to where restoration initiatives could now be considered part of Councils' legal obligation to maintain biodiversity
 - The implications for farmers are significant; this potentially gives legal grounds for imposing requirements on farmers to actively manage pests and weeds, fence off SNAs and other costly restoration actions – perhaps even retire land altogether. This may not have been the intention of these provisions, so we will be submitting strongly that all restoration initiatives should be non-regulatory and should focus on supporting landowners and community groups with their conservation efforts.
- Every regional council must also prepare a regional biodiversity strategy in collaboration with District Councils, Māori, communities and other stakeholders. The aim is to promote a landscape-scale restoration and enhancement vision, such as the successful community conservation initiatives 'Cape to City' in the Hawkes Bay and 'Wild for Taranaki'.
 - The strength of these strategies is that they are non-regulatory and about bringing landowners, community groups and others together around a shared vision for restoration in their region.
- The Ministry for the Environment is asking submitters to tell them what other non-regulatory measures might be useful to help support you in your conservation work on the ground.

4. Highly mobile fauna policy (NPS section 3.15)

- Councils must survey and record areas outside SNAs where threatened or at-risk highly mobile fauna have been, or are likely to be, sometimes present.
- They must provide information to their communities about highly mobile fauna (such as bats and migratory birds), their habitat and best practices for managing effects on them. For instance, if there are nesting bats or falcons in trees on your farm, you may need a plan for how to ensure their nests aren't destroyed or damaged during regular farming practices.
- Objectives, policies or methods must be included in council plans for managing the adverse effects of activities in highly mobile fauna areas, to maintain viable populations of highly mobile fauna across their natural range.
- Issues will relate to how councils resource or address their requirements, given the lack of capacity, capability, experience and in-house expertise in this area.



5. Plantation forests (NPS section 3.10)

- Because plantation forests often provide habitat for threatened species such as kiwi and falcons, these could be identified as SNAs. To ensure forestry activities (including harvest) can still occur, these areas are proposed to be called 'Plantation Forest Biodiversity Areas' and are exempt from the adverse effects management regime of other SNAs.
- This more flexible approach recognises that the National Environmental Standards for Plantation Forestry already has rules managing indigenous biodiversity in plantation forests.
- Under the NPS, plantation forestry activities must still be managed to maintain long-term populations of indigenous fauna and control adverse effects on native flora.

6. Māori & biodiversity management (NPS sections, 3.2-3, 3.9, 3.13-13-14 & elsewhere).

- A number of sections aim to incorporate the Māori world view and support Māori in their biodiversity management. These include inclusion of the proverb 'Hutia Te Rito' as a core concept underpinning the NPS; this proverb describes the relationship and inter-dependence of people and the environment.
- Councils must also consult with Tangata Whenua on identification and management of taonga (treasured species, populations or ecosystems), recognise Māori in their role as kaitiaki / guardians of biodiversity and take all reasonable steps to incorporate mātauranga Māori (traditional knowledge) relating to indigenous biodiversity in implementing the NPS.
- There is greater flexibility for some land uses on Māori land (defined as Māori customary land and Māori freehold land as defined in Te Ture Whenua Māori Act 1993), as well as a general requirement for Councils to have particular regard for the potential of Māori land to provide for the social, cultural and economic wellbeing of Māori.

7. Costs to Councils and Landowners (Section 32 Evaluation and Cost Benefit Analysis)

- There will be significant new costs for Councils under the NPSIB, including costs associated with identification and mapping of SNAs, surveys of highly mobile fauna and development of Regional Biodiversity Strategies. There are also increased requirements for monitoring.
- The cost-benefit analysis is light on costs to landowners and the Government is relying on the consultation and submission process to fill this gap.
- The impact on rates for Councils with large geographic areas and small rate-payer bases is a particular concern. Government has recognised, in documents accompanying the NPS, that Councils and landowners (including Māori) will require support to implement the NPS, but this will need to be actioned.
- Federated Farmers will be conducting a member survey and encouraging farmers to make their own submissions on how they see the proposed NPS affecting them and what additional (non-regulatory) support they need to support them with their conservation work.

8. Precautionary Principle/Climate Change Policy (3.5 and 3.6 in NPSIB)

New requirements require councils to respond to climate change threats to biodiversity, and also to adopt a precautionary approach towards proposed activities where effects are uncertain, unknown or little understood but potentially significantly adverse. We have concerns with how this will work in practice, given the already very precautionary tone of the NPSIB, and the known gaps in environmental reporting and data. We expressed these concerns throughout the BCG process and will continue to reinforce these through submissions.

WHERE TO FROM HERE?

Consultation on the NPSIB ends on 14 March 2020. You can find links to the consultation documents and how to make submissions on the Ministry for the Environment's website: www.mfe.govt.nz/consultations/nps-indigenous-biodiversity

B+LNZ and Federated Farmers will be making submissions on behalf of farmers.

