

Submission

**National Policy Statement – Indigenous
Biodiversity (Exposure Draft & Draft
Implementation Plan)**

July 2022

- **Submission on National Policy Statement – Indigenous Biodiversity (Exposure Draft and Draft Implementation Plan)**

- **By: Waipā District Council**

- **21 July 2022**

- ***Introduction***

Waipā District Council (the Council) welcomes the opportunity to provide comment on the National Policy Statement – Indigenous Biodiversity Exposure Draft and Draft Implementation Plan.

Notwithstanding the efforts of landowners and community groups, indigenous biodiversity in the Waipā District is largely restricted to the limited area of remnant indigenous forests and wetlands that remain. Remnant biodiversity is clustered around three main landforms. These refuges are the Waipā and Waikato Rivers, the central peat lakes, and the three mountains of Kakepuku, Pirongia, and Maungatautari. Biodiversity restoration in Waipā is achieved by connecting these refuges to smaller remnants through corridors along streams and rivers. Projects such as Taiea te Taiao (the Maungatautari to Pirongia Ecological Corridor) are important for achieving these linkages.

Seventy-three nationally threatened species of plants and animals have been recorded in the District. A further thirteen species that are uncommon or threatened in the Waikato Region have been noted in the Waipā District. Some of these threatened species are highly mobile and require large areas to forage, live and breed safely. A mosaic of remnants and corridors provide habitat for highly mobile species such as pekapeka-tou-roa (long-tailed bats), matuku (bittern), kārearea (falcon), pūweto (spotless crane) and kākā. In Waipā, surviving populations are severely threatened without well thought out and funded interventions.

- ***General Comments***

1. The tight timeframe for responding to the Exposure Draft and Draft Implementation Plan has meant that we have been unable to engage with Elected Members and/or Mana Whenua and Iwi, in accordance with best practice. It is noted that this submission has been prepared by staff with limited input from Elected Members and will be formally reported to Council following the lodging of this submission.
2. The Council supports the intent of the Exposure Draft which seeks to address the ongoing loss and degradation of indigenous biodiversity in New Zealand.
3. However, the Council has concerns relating to some requirements relating to: costs, capacity, interaction with recent and proposed legislation from central government, tuna, and giving effect to the NPS-IB via restoration works and policy and plan changes. These are addressed below.

- **Specific Comments**

1. Costs to ratepayers

Implementing the National Policy Statement for Indigenous Biodiversity would likely require greater and/or realigned investment/financial commitment from Waipā District ratepayers through Long Term Plan processes. We note in the Draft Implementation Plan (p9) that funding will be provided to councils for early phase tasks for one year only. However, there is no mention of funding support for ongoing additional costs for tasks undertaken in the later phases (such as restoration work, and policy and plan changes). These tasks were not anticipated when the Council prepared its 2021–31 Long Term Plan, and any increased costs for biodiversity protection would likely result in changes to the levels of service for other Council activities.

- ➔ In developing the detailed guidance around support measures (Table 1, p 9 of the Draft Implementation Plan), the Council submits that more detail is required in respect of the \$19 million offered to councils in Budget 22 (p 12). We require this to better understand how much is allocated specifically to Territorial Authorities, and if this amount is sufficient to achieve the required work in the timeframe stipulated.
- ➔ We submit that Territorial Authorities should receive funding for the full implementation of the National Policy Statement – Indigenous Biodiversity to 2032. This would include funding policy and plan changes.
- ➔ The Council is strongly opposed to the unfunded mandate provided by the Exposure Draft and the Draft Implementation Plan. We will be undertaking an assessment of compliance costs and what this means for our Waipā ratepayers.

2. Capacity required to achieve successful implementation of the National Policy Statement- Indigenous Biodiversity

Implementation of the National Policy Statement -Indigenous Biodiversity in Waipā District will likely be constrained by capacity and resourcing issues in several key areas.

We note the comment in Table 3 of the DIP (p 13) that biodiversity management is already a requirement for local government. The reality is that this is currently achieved in Waipā with limited capacity and through collaboration with partners, stakeholders and community groups. There is limited ability to do much more than we are at present. The Council will require more skilled staff and resources to implement the National Policy Statement-Indigenous Biodiversity. This is a challenge in the current environment.

Most Significant Natural Areas and much of the remnant habitat for highly mobile and/or taonga species are on private land. Even though Significant Natural Areas already exist in our district plan, it is likely that the public will be concerned as to what these changes mean. Building effective relationships with land owners will require resources, effort, and skilled staff.

The Council seeks clarification as to what ‘kaitikakitanga’ means in practice in the context of indigenous biodiversity. We are concerned that the lack of clarity as to the scope of what is intended, coupled with timing constraints, has not afforded opportunities for us to engage with Mana Whenua

and Iwi, and/or our wider communities. This could be divisive and detrimental to addressing the ongoing loss and degradation of indigenous biodiversity within our district.

Policies 1 and 2 (clauses 2.2., p12 and 3.2., p 14 and 3.3., p15 of the Exposure Draft) require engagement with communities and Tangata Whenua that could be extensive. Furthermore, we are concerned that some iwi and hapū in Waipā currently do not have the capacity to engage at a level and extent that is proposed by the National Policy Statement-Indigenous Biodiversity, nor to engage in kaitiakitanga in a way that is meaningful to them. Whilst the Draft Implementation Plan (Table 3, p 13–16) suggests training, direct financial support and a Wānanga, capacity constraints may preclude Iwi and hapū from successfully securing some of the contestable funding that is proposed as support.

The proposed 5-year timeframe (to 2027) for identifying, mapping and notifying all Significant Natural Areas will contribute to a nationwide high demand for these skills. Furthermore, there is currently no industry standard for 'suitably qualified' ecologists, although this term is used throughout the Exposure Draft and the Draft Implementation Plan.

- ➔ Territorial Authorities should have 10 years to identify Significant Natural Areas and include them within their district plans. This will spread the workload and enable Territorial Authorities and Tangata Whenua to build capacity.
- ➔ We suggest that MfE requires a detailed understanding of the needs of Tangata Whenua, and of barriers and constraints to their engagement with the National Policy Statement-Indigenous Biodiversity. This understanding could inform further funding and support measures.
- ➔ We suggest that MfE work with a professional body such as the Ecological Society of New Zealand to develop a standard for ecologists in the context of the National Policy Statement-Indigenous Biodiversity. This should be done within 2-3 months so that practitioners can achieve certification within 12 months.

3. Clarify relationship of NPS-IB to related policies and plans

Territorial Authorities are currently navigating through an unprecedented wave of reforms and policy development. The interaction/alignment between the National Policy Statement -Indigenous Biodiversity and other recent and proposed legislation and policy, is unclear.

The Council understands that the NPS-IB will be integrated into the RMA reforms, but currently we struggle to understand what this will mean for councils trying to meet their statutory requirements.

Appendix 1 (p 18 at the Draft Implementation Plan) provides a brief outline of the recent freshwater legislation, but further detail is required on how the National Policy Statement-Freshwater Management and National Environmental Standards for Freshwater will interact with the National Policy Statement-Indigenous Biodiversity. The National Environmental Standards for Freshwater has been problematic and expensive for ecological restoration projects, and has required successive amendments to make it workable. There is much that could be learnt from reviewing the implementation of the National Policy Statement-Freshwater Management and National Environmental Standards-for Freshwater, with potential application to the implementation of the National Policy Statement-Indigenous Biodiversity.

We note the comment (Table 4 p 19 of the Draft Implementation Plan) that a National Planning Standard may be required to support components of the National Policy Statement-Indigenous

Biodiversity. This may be relevant once the RMA reforms are completed. A planning standard could also be useful for the latter phase of implementation when councils must notify changes to policy statements and plans that give effect to the National Policy Statement-Indigenous Biodiversity.

- ➔ MfE should make it clear in its implementation plan if/when the National Policy Statement-Indigenous Biodiversity will be updated to align with the resource management reform changes, and be clear what the re-alignment will mean for councils trying to meet their statutory requirements.
- ➔ We suggest a review of the implementation of the National Policy Statement-Freshwater Management and National Environmental Standard-Freshwater if this has not already been done, with attention paid to issues and problems of workability, and how the National Policy Statement-Freshwater Management and National Environmental Standard-Freshwater will interact with the National Policy Statement-Indigenous Biodiversity.
- ➔ Before gazettal, we would like to see the National Policy Statement-Indigenous Biodiversity 'crash-tested' for workability by a panel of planning and restoration practitioners.
- ➔ We support the development of a National Planning Standard.

4. Aquatic species that may be highly mobile and/or considered taonga species

Tuna are considered to be a taonga species for Waipā iwi and hapū. As the National Policy Statement - Indigenous Biodiversity is currently worded, it does not achieve protection for tuna.

While clause 1.3 (1) of the Exposure Draft excludes coastal marine and aquatic indigenous biodiversity, clause 1.3.(2)(b) includes highly mobile species, whether or not they use the coastal marine or water bodies for parts of their lifecycle. However, the highly mobile fauna listed in Appendix 2 (p 35) excludes species such as tuna and native fish species that are highly mobile throughout terrestrial, aquatic and marine coastal ecosystems. Furthermore, tuna could be excluded under clause 3.19(7) where no aquatic species or populations in water bodies can be taonga. Wetlands and their surrounding environment provide habitat for tuna. Clause 1.3.(2)(c) includes wetlands in restoration provisions, but only those that are either threatened or rare (e.g., restiad bogs) or degraded. In summary, it appears that there is no general means under the National Policy Statement-Indigenous Biodiversity for protecting tuna and limited means of restoring tuna habitat.

We also note that clause 3.19(7) is problematic in that it contradicts Policy 2(b) (clause 2.2., p12), because clause 3.19(7) removes the power for Tangata Whenua to determine what species are taonga for them.

- ➔ The highly mobile fauna list that currently emphasises birds and mammals should include a broader range of fauna species that are highly mobile (i.e., tuna, native fish species).
- ➔ Tangata Whenua should determine what species are taonga for them, not the Crown.

5. Implementation via policies and plans

The Exposure Draft focuses on Significant Natural Areas and species protection, but has less detail for the fourth phase (Table 1 p 10 of the Draft Implementation Plan) when the focus turns to policy and planning work. Our concern is that without this clarity, interpretation could result in unintended and/or perverse outcomes. Without a detailed analysis, we note the following key concerns.

We applaud the effects hierarchy (1.5(4) p 6 of the Exposure Draft) but worry that there might be potential issues with biodiversity offsets and compensation approach due to lack of clarity/definition of 'like-for-like', 'irreplaceability' and 'vulnerability' as outlined in Appendices 3 and 4 (p 38–41).

There may be some tension within the clause which permits currently consented activities being able to continue. This is because cumulative impacts, by their nature, will often continue to increase. We do agree that the clause is necessary to ensure that currently consented activities do not ecologically degrade indigenous biodiversity within a region but note that determining degradation will require investment in assessment and monitoring.

- ➔ Again, before gazettal, we would like to see the National Policy Statement-Indigenous Biodiversity 'crash-tested' for workability by a panel of planning practitioners to understand the detail of how changes to policies and plans will give effect to the National Policy Statement - Indigenous Biodiversity.
- ➔ We reiterate that Territorial Authorities should receive funding for the full implementation of the National Policy Statement-Indigenous Biodiversity to 2032, including funding the policy and plan changes.

6. Implementation via ecological restoration and conservation works

Restoration is one key to the success of the National Policy Statement-Indigenous Biodiversity and yet is afforded only one clause in the Exposure Draft. Identifying and prioritising habitat and species means little without effective conservation work to protect them. Otherwise, we risk protecting areas and creating islands of habitat which are then either degraded by neglect or become a magnet for animal and plant pest species, undoing any positive gains from protecting the area. The Council submits that more detail is required in both the Exposure Draft and the Draft Implementation Plan, and more specifically with regard to measuring the effectiveness of restoration and conservation works.

We note that there are potential synergies between the National Policy Statement-Indigenous Biodiversity and national and regional pest management strategies and initiatives such as Predator Free 2050, that could contribute to the successful implementation of the NPS-IB. These synergies make investment in programmes such as Predator-Free 2050 worthwhile.

Clause 3.21(4) (p 26 of the Exposure Draft) requires that Territorial Authorities must consider imposing restoration conditions on resource consents. Currently in Waipā, we have good measures in the District Plan to encourage legal protection over existing Significant Natural Areas, and we do require management plans as a condition of consent, however we don't have capacity to undertake monitoring to understand the benefit or success of this protection.

Clause 3.21(3) incentivises restoration in priority areas. Currently in Waipā we use a mechanism called Environmental Benefit Lots that is intended to achieve a similar effect, but again, we do not have the capacity to enforce conditions or monitor the effectiveness of this requirement.

- ➔ We would like to see more detail in the Exposure Draft and Draft Implementation Plan on how the effectiveness of conservation and restoration works will be measured, and whether this would be undertaken by Regional Councils or Territorial Authorities.

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- ➔ We submit that more support including funding for national and regional biosecurity programmes that will have benefits for biodiversity, is required.
 - ➔ We require funding to be able to monitor the effectiveness of consent conditions.

7. Minor technical aspects

There are several technical aspects in the Exposure Draft that should be refined.

Ecological theory would suggest that the definition of 'sequence' (p10 of the Exposure Draft) should be amended to include both spatial and temporal elements; **sequence** means a series of ecosystems or communities, often physically connected, that replace one another through space *and time*.

With regard to the aspiration in clause 3.22 (p 26 of the Exposure Draft) of a minimum 10% indigenous habitat cover, we seek clarification as to the basis on which this has been determined, noting that quantity is not equivalent to quality of habitat in terms of improving biodiversity outcomes. Has it been costed? Furthermore, it is our submission that whilst the 10% criteria may be acceptable as a national standard, it is nonsensical to apply it to each individual territorial authority, noting the variances in indigenous habitat cover across New Zealand.

8. Pilot

We respectfully submit that the Waipā District could be considered for a pilot funded by Central Government. Possible programmes within our district include: the effectiveness and outcomes achieved by our Environmental Benefit Lots mechanism; and supporting the Taiea te Taiao (the Maungatautari to Pirongia Ecological Corridor) project as an example of effective collaboration with Mana Whenua.

9. Consent to publish

The Council consents to its name and submission being published on the MfE website.



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