

Key themes for the Auckland Council submission on He Kura Koiora i hokia - a discussion document on a proposed National Policy Statement for Indigenous Biodiversity

This document outlines the draft key themes that will be used to draft the full council submission on the proposed National Policy Statement for Indigenous Biodiversity (NPSIB). Staff are still considering some aspects of the NPSIB and its implications on both the Auckland Unitary Plan (AUP) and council's implementation of the NPSIB. This includes the criteria for identifying significant natural areas and the management of adverse effects in SNAs. Initial comments on such matters are provided but the implications will be expanded on in the draft submission.

The submission will be organised in response to the key parts, and related questions, of the discussion document for the proposed NPSIB.

Overall comments

- Auckland Council supports the need for a National Policy Statement for Indigenous Biodiversity (NPSIB) to strengthen requirements for protecting and maintaining indigenous biodiversity under the Resource Management Act (RMA). This includes providing direction and guidance to implement the RMA.
- The council supports the overall intent of the proposed NPSIB, however considers there are opportunities to improve clarity in the proposed provisions and certainty in aspects of its implementation.
- The council has concerns with the interaction and alignment of the NPSIB with other national directions, specifically the National Policy Statements on Urban Development and Freshwater Management and the lack of recognition of the New Zealand Biodiversity Strategy. Alignment of national direction is necessary to achieve the outcomes sought in the NPSIB.
- The council considers that technical and financial support will be essential for successful implementation of the NPSIB. The council has identified several areas where guidance could be provided to support implementation, clarify expectations required by the NPSIB and ensure consistency. The council supports the provision of technical and financial support to councils who may not be as well-resourced as Auckland to implement the NPSIB. Iwi/Māori also need to be adequately resourced for implementation.
- The Auckland Unitary Plan (AUP) identifies significant natural areas as Significant Ecological Areas (SEAs) covering all domains. The council has extensive programmes delivering protection, restoration and enhancement of indigenous biodiversity across the region along with supporting landowners and community groups with advice and funding. As a unitary authority Auckland Council has greater opportunity to achieve integrated management of indigenous biodiversity and in this regard is likely to have different implementation challenges compared with other councils.

Specific topics

Objectives and Policies of the NPS for Indigenous Biodiversity (NPSIB Part 2)

- The council agrees that the NPSIB is necessary to strengthen protection of indigenous biodiversity under the Resource Management Act (RMA). It will provide the necessary guidance and direction on achieving the outcomes sought under the RMA, and to achieve a more consistent approach across New Zealand. To date such national guidance has been absent. Throughout the submission the council has identified various opportunities to improve clarity in the NPSIB provisions to ensure it can be implemented effectively.
- The council recognises that the NPSIB applies to terrestrial indigenous biodiversity while the NPS for Freshwater Management and the New Zealand Coastal Policy Statement will manage indigenous biodiversity in their respective domains. While management can be undertaken through different documents the council emphasises the importance of ensuring alignment between documents to enable clear and effective implementation by councils, and certainty for landowners.
- The council generally agrees with the objectives and policies proposed in the NPSIB. However, the council questions whether they have been over simplified removing important detail from the objectives and prioritise restoration and enhancement over protection of significant indigenous biodiversity. As currently proposed, some objectives and policies do not add any further direction than the RMA.
- The council supports the inclusion of restoration and enhancement within the objectives and the implementation of the NPSIB. The council considers there is a need to do more than just maintain indigenous biodiversity, recognising the reference to 'at least no reduction' currently proposed in the NPSIB (clause 1.7). There needs to be a positive gain for nature to build resilience to impacts of climate change and enable nature-based solutions.

Section A: Recognising te ao Māori and the principles of the Treaty of Waitangi

a. Providing for the concept of Hutia te Rito (Objective 3, Policy 1, clause 3.2 & 3.3)

- The council supports the use of the underlying concept of Hutia te Rito within the NPSIB, recognising the important connections between the health of nature and of people.

b. Providing for the principles of the Treaty of Waitangi and engaging with tangata whenua (Objective 2 & 6, Policy 1 & 12, clause 3.3)

- The discussion document (p25) indicates that the NPSIB proposes a broader participation to allow councils to involve iwi/Māori, as opposed to only iwi authorities. For Auckland (and elsewhere), with a significant mataawaka presence, engagement with all Māori is important.

- The council supports the direction to involve tangata whenua at all stages of implementation of the NPSIB, and the incorporation of mātauranga Māori and tikanga Māori in decision-making and biodiversity management. The council is committed to meeting its responsibilities under Te Tiriti o Waitangi/ the Treaty of Waitangi and supports the additional direction that the NPSIB provides. The council is concerned around resourcing iwi/Māori for the implementation of the NPSIB.

Section B: Identifying important biodiversity and taonga

a. Identification and mapping of Significant Natural Areas (Policy 6, clause 3.8)

- The council supports having a national approach to identifying areas of significant indigenous biodiversity as Significant Natural Areas (SNAs). The Auckland Unitary Plan (AUP) already identifies its SNAs as Significant Ecological Areas (SEAs), with over 3000 identified across terrestrial, freshwater and marine domains.
- The council supports the inclusion of principles and approaches in the NPSIB that must be used when undertaking assessment and classification of SNAs, which reflects the council's approach.
- It is noted that the NPSIB criteria do not cover wetlands and streams (which are covered by the AUP SEA overlay), and this may have implications for the AUP.
- An initial assessment of the criteria used to identify SNAs/SEAs in the AUP suggests that there are generally high levels of congruence with the NPSIB significance criteria (which NPSIB clause 3.8(4) provides for). However, the council considers that the language used in the NPSIB Appendix 1 significance criteria is often general and vague such that they may not be useful to identify SNAs or allow for meaningful comparison throughout New Zealand and may lead to increased contention and litigation about their application. All regional councils have committed to the use of the terrestrial ecosystems identified in Singers & Rogers (2014)¹. In Auckland, this ecosystem classification is used to identify and assess representativeness and other matters covered by the significance criteria in the AUP and provides an objective basis to assess important ecological characteristics. The NPSIB may be out of date in its approach to ecosystem identification, and a more consistent and robust basis is required than currently proposed in the NPSIB. Use of a standardised classification system provides the opportunity for consistent assessment of the current and future state of biodiversity across the country, and in a way that can be aggregated to the national scale.
- The council would like to see greater consideration of climate resilience in the proposed NPSIB significance criteria, or the ability to apply them to manage climate change impacts. Climate resilience and representativeness are linked and will become more important in future.
- The NPSIB proposes to manage adverse effects on SNAs differently depending on whether an SNA is classified as High or Medium (using criteria in Appendix 2 of the

¹ Singers, N.J.D., & Rogers, G.M., (2014) A classification of New Zealand's terrestrial ecosystems. Science for Conservation 325. New Zealand Department of Conservation. Wellington.

NPSIB). The council has concerns with the implications of having to classify SNAs as High or Medium, which may become contentious and be subject to litigation. The NPSIB does not provide any detail around how landowners need to be advised or involved in this process.

- The council is also concerned with using the High Medium classification to manage effects on SNAs. Potentially it may result in greater loss of Medium SNAs and it is still a subjective assessment process.
- The council generally supports regional councils being responsible for identifying, mapping and scheduling SNAs and notes that the approach adopted in other parts of the country where regional councils identify SNAs that are then included in the district plans of the region allows for some efficiency of scale, and more consistent approaches. The success of any approach relies on adequate resourcing, and a standardised approach may not be always provide for the best outcome. As a unitary authority this will have less impact on Auckland Council than other councils.
- The council would like to highlight the impact that RMA section 76(4A)² has on where the mapping and schedule of SNAs sits for urban areas. In Auckland, where there are significant areas of SNA/SEA on land that meets the definition in RMA s76(4C), and for which satisfying the requirements in 76(4A) –(4D) would be impossible, regional rules are required to enable SNA/SEA protection. If the NPSIB is to specify the inclusion of SNAs and associated provisions in district plans, consideration needs to be given to the interaction with RMA section 76(4A) – (4D) and the potential to repeal these provisions to enable effective protection of urban SNAs.

b. Recognising and protecting taonga species and ecosystems (Policy 12, clause 3.14)

- The council supports the identification and management of taonga species and ecosystems, and the recognition that tangata whenua have the right to choose not to identify taonga and the level of detail at which these may be described.

c. Surveying for and managing 'highly mobile fauna' (Policy 13, clause 3.15)

- The council supports recognition of highly mobile fauna within the NPSIB but suggests that these will be difficult to identify. The council considers that further guidance is required on the appropriate responses to managing the habitats of threatened species, including which regulatory responses might be appropriate.
- The council questions whether the relationship between the requirements for councils to identify and manage highly mobile fauna in the NPSIB and the Department of Conservation's functions have been adequately clarified.

² RMA section 76(4A-4D) refers to district rules for tree protection

Section C: Managing adverse effects on biodiversity from activities

a. Managing adverse effects and providing for specific new activities within SNAs (Policy 8 & 9, clause 3.9-3.12)

- The council generally supports the use of the effects management hierarchy to manage effects on indigenous biodiversity proposed in the NPSIB. This generally aligns with the approach in the AUP, including the emphasis on avoidance of adverse effects as the first and sometimes only option.
- However, there are concerns that the application of the effects management hierarchy in the proposed NPSIB, including in relation to the 'Medium' and 'High' classifications required, could undermine protection of 'Medium' value sites. Conversely, the 'High' classification may imply the need to apply prohibited activity status which may be overly restrictive in some SNAs. (Staff are still considering the implications of this)
- The relationship between subdivision and subsequent land use could be more clearly addressed in the proposed NPSIB.
- The council supports the proposed NPSIB including more emphasis on pest management – including integration with other tools such as Regional Pest Management Plans where appropriate.
- The council questions whether the NPSIB contains enough emphasis on positive outcomes for indigenous biodiversity versus managing effects on SNAs.

b. Providing for existing activities (Policy 10, clause 3.12)

- The proposed NPSIB approach to managing existing activities within SNAs (clause 3.12) generally aligns with the AUP approach. However, the approach to existing farming activities and 'improved pasture' proposed may be more enabling than the approach in the AUP and may lead to relitigating of some rural SEAs. The NPSIB may potentially go further than the existing use rights set out in RMA s10 and s20A (notwithstanding the NPSIB recognising these RMA sections 'apply according to their terms').

c. Managing adverse effects outside significant natural areas (Policy 7, clause 3.13 & 3.15)

- The council supports the inclusion of managing adverse effects on indigenous biodiversity outside of SNAs in the proposed NPSIB. However, the council would like to see greater recognition of the impacts of pests and pathogens on indigenous biodiversity and consideration given to the potential of sites to improve, through active management, such that they meet SNA status.
- The council requests greater direction be provided as to the appropriate response to the management of the habitat of highly mobile fauna, including outside of SNAs.

d. Use and development of Māori land (clause 3.7, 3.9, 3.13 & 3.16)

- The council supports the proposed NPSIB recognition of the constraints on use and development of Māori land, and the relationship with indigenous biodiversity areas. The proposed approach in the NPSIB is generally consistent with approach to Māori land in the Auckland Unitary Plan (AUP).

e. Consideration of climate change (Policy 3, clause 3.5)

- The council supports the requirement to promote the resilience of indigenous biodiversity to climate change through the regional policy statement, plans and regional biodiversity strategy. The council suggests that it will be necessary to undertake more than just promote resilience to climate change. The council would support central government providing additional guidance on what is expected of councils when implementing the clause 3.5 climate resilience requirements.
- In relation to climate change, the council suggests that consideration be given as to the need for significance criteria related to ‘refugia’ for climate resilience. As habitats and distributions change some areas will become important refuges for flora and fauna providing relief from the stress of climate change and enable adaptation. The council recognises that regional biodiversity strategies will play an important role in this regard through the inclusion of such a criteria or lens in development of a long-term vision for restoration and enhancement.
- Overall, the council considers the climate change responses in the NPSIB could be developed and elaborated further.

f. Applying a precautionary principle to managing indigenous biodiversity (Policy 2, clause 3.6)

- The council supports the inclusion of the precautionary approach in the proposed NPSIB, noting that such an approach is also part of the New Zealand Coastal Policy Statement.

g. Biodiversity offsetting and compensation (clause 1.8, Appendix 3 & 4)

- The effects management framework in the proposed NPSIB includes biodiversity offsetting and biodiversity compensation. The council supports the framework of criteria as set out in the NPSIB (Appendix 3) for the use of biodiversity offsets which is based around widely accepted principles to qualify as a biodiversity offset. The council also supports the provision in the NPSIB for environmental compensation when biodiversity offsets are not possible or effective. However, the council considers biodiversity offsets should still be preferred for any significant effect on indigenous biodiversity where they are achievable.

Section D: Restoration and enhancement of biodiversity

a. Restoration and enhancement of degraded SNAs, connections, buffers and wetlands (Policy 11, clause 3.16)

- The council supports the inclusion of clear direction for restoration and enhancement policies and requirements in the NPSIB.
- With respect to requirements around restoration of wetlands and former wetlands in proposed NPSIB clause 3.16, the council reinforces the need for alignment with the proposed NPS for Freshwater Management so there is no overlap or gap between the two NPS directions that will prevent the restoration of wetlands as desired in the NPSIB.

b. Restoring indigenous vegetation cover in depleted areas (Policy 11, clause 3.17)

- The council supports directions and requirements to increase indigenous vegetation cover in urban and rural areas with depleted cover. However, there is some uncertainty in terms of how the 10% target/assessment is to be applied. The council suggests that there should be criteria around unequal distribution of indigenous vegetation cover such as is included in [Auckland's Urban Ngahere \(Forest\) Strategy](#).
- The discussion document indicates the benefits of increasing vegetative cover in urban and peri-urban areas (p72). The council reinforces the importance of aligning the NPS on Urban Development with the NPSIB. Bringing nature into cities is an important part of environmental quality in urban development and for responding to the impacts of climate change.

c. Regional biodiversity strategies (Policy 14, clause 3.18, Appendix 5)

- The council supports the direction to require regional biodiversity strategies in the proposed NPSIB. With a focus on a collaborative approach to development of a regional vision for restoration and enhancement across all domains, regional biodiversity strategies will be important tools providing strategic vision and direction to implement the NPSIB.
- Their inclusion in the NPSIB, rather than in the New Zealand Biodiversity Strategy, enables better linkages with RMA plans. The council considers there needs to be strong linkages to the NZBS to ensure regional approaches are consistent with the national approach.
- The council considers that there may need to be stronger direction in clause 3.18(2) whereby regional policy statements and plans 'must have regard to' the regional biodiversity strategy, particularly given the expectation of a collaborative strategy process and engagement with community.
- The council considers that Appendix 5, which details how regional biodiversity strategies will be developed, contains detailed requirements that go beyond what a strategy includes such as the requirement for a comprehensive record of all actions being undertaken. Such a record is generally anticipated in an action plan or

implementation plan. For a large region such as Auckland creating such a record would be an immense task that may detract from development and engagement on a vision. Consideration should be given to greater flexibility around such detailed records being required in a strategy.

- As a regional vision for restoration and enhancement, the council supports regional biodiversity strategies promoting other outcomes such as predator control and prevention of spread of pests and pathogens. The strategy provides the opportunity to provide an integrated approach connecting all aspects of managing, protecting and restoring indigenous biodiversity.

Section E: Monitoring and Implementation

- The council supports greater guidance and direction on monitoring of indigenous biodiversity as proposed in clause 3.20 of the NPSIB, including the direction around using mātauranga Māori and tikanga Māori monitoring methods equally with scientific monitoring, where tangata whenua agree.
- The council supports SNAs being identified on public conservation land, although acknowledges the costs. The AUP currently identifies SNAs on public conservation land and public land. The council considers that protecting and maintaining indigenous biodiversity needs to be tenure neutral and that local and central government play an important leadership role.
- The council generally supports the proposed timeframes to implement the NPSIB and considers it is likely that these timeframes can be met. The council recognises that it may be in a different position to other councils in that it currently identifies and manages SNAs within the AUP, has programmes to support communities and landowners managing and restoring indigenous biodiversity, and is well resourced.