

Submission by Hamilton City Council

DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

5 March 2020

1.0 KEY SUBMISSION POINTS

- 1.1 HCC supports the development of the proposed National Policy Statement for Indigenous Biodiversity (NPS-IB).
- 1.2 HCC suggests a stronger focus on the enhancement of indigenous biodiversity and that the Ministry for the Environment consider stronger interim options to protect indigenous biodiversity.
- 1.3 Greater clarity is required on the relationship between the NPS-IB and other National Policy Statements. This will help to avoid any litigation costs through the resource consenting process falling to local councils.
- 1.4 HCC request that the Ministry for the Environment consider the practicalities of regional and territorial authorities (on top of the SNA identification requirements) being tasked with the responsibility for surveying for highly mobile fauna. HCC also seek changes for greater consistency between the indigenous vegetation cover requirements in urban and rural areas to help ensure the targets that are set will achieve the intended positive outcomes for indigenous biodiversity at a national scale.
- 1.5 HCC requests that the NPS-IB provide greater clarity regarding the ability for TAs to maintain network utilities to ensure public health and safety while meeting the requirements of managing indigenous biodiversity.

2.0 INTRODUCTION

- 2.1 Hamilton City Council (HCC) thanks the Ministry for the Environment (MfE) for the opportunity to make a submission to the proposed National Policy Statement for Indigenous Biodiversity (NPS-IB).
- 2.2 HCC is supportive overall of the NPS-IB and commends MfE on the collaborative approach taken by the Biodiversity Collaborative Group in drafting the NPSIB. This approach, in addition to the early engagement with Treaty partners and local authorities, gives HCC a strong degree of confidence that the process has enabled the key issues and opportunities for biodiversity management to be identified and optioneered. Additionally, HCC acknowledges that the development of this NPSIB has been the result of a determined effort – by many organisations – over a sustained timeframe.
- 2.3 HCC commends MfE on embedding Hutia te Rito as a fundamental concept in the management of indigenous biodiversity. The recognition of the interdependence between people and nature is a critical aspect of indigenous biodiversity management, and it provides for embedding Maatauranga Maaori into an overarching framework for maintaining and restoring indigenous biodiversity. HCC is also pleased to see Hutia te Rito provided for in the implementation requirements of the NPS-IB.

- 2.4 HCC supports the intent of developing an NPS-IB to provide greater clarity of the roles and responsibilities which local authorities (both territorial authorities and regional councils) have in relation to biodiversity management within the Resource Management Act 1991 (RMA) regulatory framework. HCC agrees that improved protection of indigenous biodiversity across the country is required to ensure greater consistency of management approaches. HCC is of the view that this is essential in halting the continuing decline and degradation of indigenous biodiversity.
- 2.5 Halting the decline of indigenous biodiversity is a matter of national importance directly related to delivering social, economic, environmental and cultural outcomes for communities. The NPS-IB is a regulatory tool which can clarify the responsibilities placed on regional and local authorities, however additional interventions and Government funding at a national level is required in order to maintain and enhance indigenous biodiversity.
- 2.6 HCC is of the view that this investment and resourcing is required at all levels (policy development, implementation, monitoring, financial incentives and education) of the biodiversity management system. The level of investment should recognise that two of the country's biggest export earners – tourism and primary production – rely on the ecosystem services which thriving biodiversity provides. Similarly, HCC is of the view that additional investment and resourcing will be required for the implementation of the NPSIB.
- 2.7 HCC also provided feedback on the Department of Conservation's discussion document 'Te Koiroa o te Koiroa – A Discussion Document on a Proposal for a Biodiversity Strategy for Aotearoa New Zealand'. In this feedback, HCC stated that the level of investment and resourcing in strategy implementation in order to improve indigenous biodiversity should be commensurate with the importance of biodiversity to our economy.

3.0 SPECIFIC DISCUSSION POINTS

3.1 Introductory Comments

- 3.1.1 HCC has some broad matters which we would like to see addressed in the NPS-IB, as outlined in the discussion below. Where relevant, specific submission points and suggested amendments are also provided.

3.2 Stronger Focus on the Enhancement of Indigenous Biodiversity

- 3.2.1 HCC is of the view that a stronger focus on enhancement is required in the objectives and policies of the NPS-IB in order to maintain indigenous biodiversity over time and improve ecosystem functioning and resilience. The discussion document highlights that, given the loss of indigenous habitat within some ecosystems and the severely degraded state of much of the nation's indigenous biodiversity, a reconstruction and restoration approach is needed¹. The explanatory note to the NPSIB notes that meeting the obligations of the NPS-IB will need remaining ecosystems to be restored or enhanced and even reconstruction of indigenous vegetation cover in the most modified environments².
- 3.2.2 HCC supports a focus on restoration and enhancement of indigenous biodiversity in the NPS-IB, and suggests some wording changes (as outlined below) to strengthen the objectives and policies.
- 3.2.3 Furthermore, HCC suggests that, as part of the RMA reforms there is an opportunity to amend Section 6(c) to include a restoration and enhancement approach (above that of protection) for indigenous biodiversity. It is anticipated that such changes will give greater weight to the enhancement of indigenous biodiversity which is sought through the NPS-IB.

¹ Ministry for the Environment, 2019: *He Kura Koiora i Hokia: A discussion document on a proposed National Policy Statement for Indigenous Biodiversity*. Wellington: Ministry for the Environment.

² Ministry for the Environment, November 2019: *Draft National Policy Statement for Indigenous Biodiversity*. Wellington: Ministry for the Environment.

Relevant Clause	Suggested Amendment	Rationale
1.3 Purpose of National Policy Statement	The purpose of this National Policy Statement is to set out objectives and policies in relation to maintaining <u>and enhancing</u> indigenous biodiversity and to specify what local authorities must do to achieve those objectives.	As indigenous biodiversity is significantly depleted, enhancement will be required to ensure long-term ecosystem functioning. Many of the other provisions in the NPSIB are enhancement focused (such as increasing indigenous vegetation to 10% within urban areas within a specified time). The suggested amendments provide a greater alignment to the aspirations expressed in Hutia Te Rito (as outlined in the fundamental concepts) and recognises that enhancement will be required in some areas in order for indigenous biodiversity to be maintained. Furthermore, the suggested amendments also align with the concepts embodied in Hutia Te Rito allow for the mauri and hauora of indigenous biodiversity to be improved.
1.4 Matter of national significance	The matter of national significance to which this National Policy Statement relates is the maintenance <u>and enhancement</u> of indigenous biodiversity.	
1.7 Fundamental concepts ((3) Maintenance of indigenous biodiversity	(3) Maintenance of indigenous biodiversity The maintenance <u>and enhancement</u> of indigenous biodiversity requires <u>an increase at least no reduction</u> , as from the commencement date, in the following: ...	
2.1 Objectives	Objective 1: to maintain <u>and enhance</u> indigenous biodiversity.	
2.2 Policies	Policy 7: to manage subdivision, use and development outside SNAs as necessary to ensure indigenous biodiversity is maintained <u>and enhanced</u> .	

3.3 Greater Clarity on the Relationship Between the NPS-IB and other National Policy Statements

3.3.1 HCC is of the view that greater clarity is required regarding the relationship between the existing and proposed national policy statements and the NPS-IB. This is of particular importance in the relationship between the NPSIB and the proposed National Policy Statement on Urban Development (NPS-UD). Greater central government guidance would help to avoid any perverse or conflicting requirements on local authorities resulting from the suite of national policy statements, assist territorial authorities in their regulatory role and reduce the potential for litigation costs.

3.3.2 The NPS-UD promotes urban density and places requirements on territorial authorities (TAs) to ensure that adequate land supply is available for residential and commercial activities. For territorial authorities with a high demand for housing (such as Hamilton City), consideration needs to be given to how local authorities in high growth areas reconcile any potential conflict between working towards indigenous biodiversity targets under the NPS-IB and the requirements under other national policy statements. HCC notes that the discussion document outlines that the NPS-UD highlights that territorial authorities are required to provide open space as part of a quality urban environment, however open space is used for a range of purposes, not all of which are conducive to indigenous biodiversity management.

3.4 Part 1: Preliminary Provisions – 1.5 Application (Temporal Application)

3.4.1 HCC supports a phased approach to implementing the requirements of the NPS-IB, particularly around plan changes that will require significant resourcing, funding and appropriate expertise.

3.5 Part 3: Implementation Requirements – 3.8 Identifying Significant Natural Areas

3.5.1 TAs will need to carefully consider how best to obtain the required information (including desktop and on-site assessments) to identify and support SNA identification through the plan making

process. This includes how TAs consult with the wider community, particularly those landowners who may have a newly identified SNA or increased level of protection or restrictions on land use which will apply to their property.

- 3.5.2 HCC understands that Section 3.8(8) is not intended as a rolling two-year review of all SNAs. Rather, HCC understands that it is intended as a timeframe to notify a plan change to incorporate any changes to existing SNA or new additional SNAs identified. It is assumed that for those TAs who have appropriately identified SNAs within their district plan, the two-year provision required by Section 3.8(8) will not be onerous and will be infrequent. HCC would like clarification that this is the case.
- 3.5.3 HCC is concerned that implementation of the NPS-IB will involve a significant level of discretion when applying the medium and high classification criteria. There may be some contexts (for example in Hamilton's Peacocke area) when considering Nationally Threatened Long-tailed Bat habitat, the SNA area could be classified as high and potentially apply to pasture land. 3.19(1) of the NPSIB outlines the effects on SNA (including connectivity with other areas) requires all effects to be avoided, this raises uncertainty and may unnecessarily restrict the ability to look at the wider effects management hierarchy where net-gain outcomes could be achieved. This uncertainty could potentially be resolved through the NPS-IB providing greater clarity between the SNA rarity and distinctiveness criteria (specifically attribute 1), the intention of the highly mobile fauna provisions of the NPSIB and the definition of 'habitat'.
- 3.5.4 HCC supports Section 3.19(3) and the proposed timeframes, as the ability to include this policy within the district plan without a requirement to follow the Schedule 1 RMA process within one year is easily achievable. Consideration on whether there is scope within the NPS-IB to give immediate effect to a wider scope of provisions is recommended. To strengthen the interim protection sought by the NPS-IB, HCC requests that consideration be given to amending the NPS-IB to enable 3.19(1) and (2) to be inserted into District Plans (along with the policy) without the need to follow the Schedule 1 process. Noting that for this to be applicable to activities in a district plan where Council has not provided discretion of over ecological effects (e.g. controlled and restricted discretionary activities) the NPSIB could make this a mandatory requirement as a matter of discretion.
- 3.5.5 HCC notes that SNAs and related objectives, policies and rules have immediate legal effect upon notification of a plan change, however newly proposed provisions relating to areas outside SNAs that relate to an SNA do not. The ability for the NPSIB to provide a greater level of interim protection, such as the option suggested above or any other alternative, would be supported.

3.6 **Highly Mobile Fauna**

- 3.6.1 HCC seeks greater clarity on the responsibilities for sourcing data for highly mobile fauna, and suggests that due the scale, complexity, expertise and associated cost involved, that this responsibility may be a role that would better sit with the Department of Conservation, with a defined role for involving regional and local councils (to ensure adequate funding commensurate to the role). Another, more pragmatic option particularly in areas not intended for change in land use or development would be to require this information at the time of development, and for this cost to be borne by the developer.
- 3.6.2 HCC would also support a greater level of clarity between SNA and the highly mobile fauna areas (as outlined in Section 3.15) whether through the NPS-IB or supporting guidelines. Habitat is explicitly defined in the proposed NPS-IB, and Appendix 2 rarity and distinctiveness criteria includes habitat of nationally threatened species, however Section 3.15 refers to areas outside of SNAs where highly mobile fauna have been (or are likely to be) sometimes present. Greater clarity on criteria for highly mobile fauna areas would assist in the identification of areas to be mapped or described in district plans.

3.7 Indigenous Vegetation Cover in Urban and Rural Areas

- 3.7.1 Implementation method 3.17 (Increasing indigenous vegetation cover) of the NPS-IB outlines the requirements for assessment of indigenous vegetation cover in urban and rural areas and the requirement for establishing a timeframe to achieve an increase in indigenous vegetation cover. HCC notes that 10% indigenous vegetation cover is the minimum which is required to ensure ecosystem functioning within urban areas³.
- 3.7.2 HCC supports increasing indigenous vegetation cover to 10% within urban areas in order to improve ecosystem function. Current analysis undertaken for the Hamilton context indicates that approximately 2% of land within Hamilton City has indigenous vegetation cover, and that with the restoration and enhancement of the remaining gully network this would result in approximately 9%. In addition, the greenfield development areas within Hamilton City have differing characteristics which will impact the opportunity to increase the areas of indigenous vegetation cover. For example, the Peacocke growth area has a significant gully network and river frontage, while the Rotokauri growth cell is predominantly flat pasture with very little existing indigenous vegetation cover. Given its potential for high housing yield, this could be in conflict with opportunities for indigenous biodiversity restoration.
- 3.7.3 However, HCC considers that the differential approach to indigenous vegetation cover between urban and rural areas is inconsistent with a number of the objectives, policies and methods in the NPS-IB. In order to recognise and provide for Hutia Te Rito, achieve connectivity between – and buffers around – ecosystems and enhance the ecological integrity of ecosystems, indigenous biodiversity needs to be managed in an integrated manner across administrative boundaries.
- 3.7.4 HCC is concerned that a differential approach to indigenous vegetation cover between urban and rural areas could have unintended consequences, whereby rural areas which have less than 10% indigenous vegetation cover may function as a severance to ecosystem corridors and connections. HCC is also of the view that the differential approach to indigenous vegetation cover in urban and rural areas will undermine the ability for restoration and enhancement at a landscape scale across the region to be achieved. Therefore, HCC would like to see rural areas included in the 10% indigenous vegetation cover target. HCC suggests the following wording changes to strengthen the objectives, policies and methods in the NPS-IB.

Relevant Clause	Suggested Amendment	Rationale
3.12 Existing activities in SNAs	(5) for rural areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover ... for increasing indigenous vegetation cover <u>in that area to at least 10 per cent of the area.</u>	<p>The differential approach to indigenous vegetation cover between urban and rural areas undermines the fundamental concept of connectivity and buffering between and around ecosystems, and is in contradiction with maintenance of indigenous vegetation being a matter of national importance. This approach may also compromise the ability to progress the objectives of the NPSIB (particularly Objectives 3 and 5) and operationalise the concept of Hutia Te Rito.</p> <p>The differential approach to indigenous vegetation cover between urban and rural areas also undermines Section 3.4 (Integrated approach) as it potentially prevents a ‘mountains to the sea’ approach in managing biodiversity.</p>

³ Bruce D. Clarkson, Catherine L. Kirby and K.J Wallace - 2018: Restoration targets for biodiversity depleted environments in New Zealand. Prepared for The Biodiversity Collaborative Group.

3.7.5 Furthermore, HCC is concerned that the flexibility in determining the specified timeframe for achieving 10% indigenous vegetation cover may result in the loss of some ecosystems. HCC would like to see a timeframe set for achieving 10% indigenous vegetation cover within the NPS-IB.

3.8 **Relationship with Infrastructure Operation and Maintenance**

3.8.1 HCC has legal requirements (for example, under the Health Act 1956 and Local Government Act 2002) to undertake works efficiently and effectively for functional and operational purposes in order to ensure public health and safety. HCC acknowledges that provision has been made for functional and operational requirements in relation to new network utilities (which will include three waters management) in new subdivision, use and development in the NPS-IB.

3.8.2 While HCC supports a restoration and enhancement approach to managing indigenous biodiversity (as outlined in NPS-IB Section 3.16 - Restoration and Enhancement), HCC is concerned that this approach may impact on HCC's ability to undertake network utility operation and maintenance in existing areas for existing infrastructure. By way of example, HCC maintains a number of stormwater devices as part of stormwater management within Hamilton. Some of these devices may, over time, develop ecological values in or around them and could have potential to become an SNA regardless of original municipal purpose. From time to time these devices require maintenance, the works required by HCC to manage these devices may temporarily or long term, impact on ecological values. HCC requests that the NPS-IB provide greater clarity regarding the ability for TAs to maintain network utilities to ensure public health and safety while meeting the requirements of managing indigenous biodiversity.

3.9 **Central Government Resourcing and Support to Achieve NPS-IB**

3.9.1 As previously mentioned, HCC is supportive overall of the NPS-IB. However, HCC is of the view that the implementation requirements of the NPS-IB will necessitate additional resourcing from central government. In particular, addressing issues such as highly mobile fauna, highly complex issues or indigenous biodiversity management across local authority boundaries will require additional resourcing at a local and regional level. While resourcing is not an issue which can be addressed through any changes to the NPS-IB, HCC requests that resourcing is provided as part of the implementation support to ensure that indigenous biodiversity is maintained and enhanced.

4.0 **FURTHER INFORMATION AND OPPORTUNITY TO DISCUSS SUBMISSION POINTS**

4.1. Should the Ministry for the Environment require clarification of the above points, or additional information, please contact Jamie Sirl (Team Leader City Planning) on 07 929 2714, email jamie.sirl@hcc.govt.nz in the first instance.

4.2. Hamilton City Council would welcome the opportunity to meet with representatives from the Ministry for the Environment to discuss the content of our submission in more detail.

Yours faithfully



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