



ENVIRONMENT AND CONSERVATION ORGANISATIONS OF NZ INC.

Level 2, 126 Vivian St, Wellington, New Zealand
PO Box 11-057, Wellington
Email: eco@eco.org.nz Website: www.eco.org.nz
Phone/Fax 64-4-385-7545

2 May 2011

Land and Water Management Team,
Ministry for the Environment, Environment House,
PO Box 10362, Wellington,
biodiversity@mfe.govt.nz.

Proposed National Policy Statement on Indigenous Biodiversity – Submission by the Environment and Conservation Organisations of NZ Inc, ECO

1.0 INTRODUCTION

The Environment and Conservation Organisations of NZ (ECO) is the national alliance of 67 groups with a concern for the environment. We welcome this opportunity to make a submission on the National Policy Statement. ECO has been involved in issues of resource management and land-use policy, including forest protection, threatened species and biosecurity issues, since its formation nearly 40 years ago.

This submission has been prepared by members of ECO Executive and is in line with ECO Policy that was developed in consultation with ECO member bodies and endorsed by our AGM.

ECO wishes to be heard in support of this submission.

ECO welcomes the opportunity to make submissions on the proposed NPS on biodiversity and we are particularly pleased to welcome the whole initiative of introducing a biodiversity NPS given the alarming, rapid and irreversible decline in New Zealand's biodiversity and the poor showing of New Zealand in its protection of it.

ECO's view is that the Proposed NPS is a positive step, but that there are a number of issues of application, scope and urgency that are not well addressed by the Proposed NPS and that it needs to be amended to remedy these problems. We will address some of the detail and wording issues below.

In general we support much in this proposed statement (but not off-setting for significant biodiversity) and we consider that the NPS should include both the coastal and marine environments and also the aquatic environment.

Our feedback on this National Policy Statement was made difficult by some problems in using the text boxes and the text fields in your document. These were not entirely clear and something about the tables and boxes gave our computer particular difficulties so that the file kept crashing when we tried to save it, and also we kept finding that if we cut and pasted text into a box the box would re-position itself away from the text. The Tables kept corrupting too which caused difficulties with the file.

Process for the NPS

ECO welcomes the NPS but is very concerned that the decision by the Minister to not have a board of inquiry and not to convene any public deliberative process. We were grateful for the opportunity to consult with officials and for the public forums, but this is not the same as a formal process for hearing the cases put forward by various New Zealanders and sectoral interests.

Using this form

MfE said: "Explanatory text and questions in this form are protected so you can't change the text. To navigate through the form use the tab key or down arrow on your keyboard. Click your mouse on the check boxes to add a cross."

NPS on Biodiversity submission - ECO

Submitter details

I am responding as (please tick one):

An individual

Name:

Email:

Address:

On behalf of a group or organisation

Name of group or organisation: Environment and Conservation Organisations of NZ Inc, (ECO)

Email: eco@eco.org.nz

Address: P O Box 11-057,
Wellington, 6142.

Your name: Cath Wallace, Barry Weeber, co-chairs and other members of the ECO EXEC Committee for ECO.

Part 1: Objective and Policies of the proposed National Policy Statement on Indigenous Biodiversity

Scope and coverage:

ECO's view is that the Proposed NPS is a positive step, but that there are a number of issues of application, scope and urgency that are not well addressed by the Proposed NPS and that it needs to be amended to remedy these problems. We will address some of the detail and wording issues below, but key points here are:

1 **The National Policy Statements should refer to the whole of the Purpose and Principles of the RMA**, not simply to section 6 or 6(c) as indicated in the section of the Proposed NPS, "4 Application". As such we submit that the scope be widened to the biodiversity implications for the whole Purpose and Principles of the Act, not simply 6(c). For instance, matters relating to the importance of biodiversity are clearly present in s5 especially but not exclusively s5(2) (b), and in sections 6 a, b and c and in s 7(a), (aa), (d), (f) and (i). We

consider that this issue of the Application of the NPS should have been included in the submission form to prompt consideration of it.

We note the language of s45 of the RMA which forms the basis of National Policy Statements is as below, and we have added commentary on interpretation in brackets in blue text:

45 Purpose of national policy statements (other than New Zealand coastal policy statements)

- (1) The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.
[NOTE from ECO: This refers to the purpose of the Act, not simply to S 6 or section 6c].
- (2) In determining whether it is desirable to prepare a national policy statement, the Minister may have regard to—
 - (a) the actual or potential effects of the use, development, or protection of natural and physical resources:
 - (b) New Zealand's interests and obligations in maintaining or enhancing aspects of the national or global environment:
 - (c) anything which affects or potentially affects any structure, feature, place, or area of national significance:
 - (d) anything which affects or potentially affects more than 1 region:
 - (e) anything concerning the actual or potential effects of the introduction or use of new technology or a process which may affect the environment:
 - (f) anything which, because of its scale or the nature or degree of change to a community or to natural and physical resources, may have an impact on, or is of significance to, New Zealand:
 - (g) anything which, because of its uniqueness, or the irreversibility or potential magnitude or risk of its actual or potential effects, is of significance to the environment of New Zealand: [ECO notes that this, like other aspects, is not restricted to matters of 6c]
 - (h) anything which is significant in terms of [section 8](#) (Treaty of Waitangi): [ECO notes that this reinforces the view that NPSs apply to the whole of the Purpose and Principles of the RMA, not simply to s6 or s6c.]
 - (i) the need to identify practices (including the measures referred to in [section 24\(h\)](#), relating to economic instruments) to implement the purpose of this Act:
 - (j) any other matter related to the purpose of a national policy statement.

Section 45(1): amended, on 20 May 2003, by [section 19](#) of the Resource Management Amendment Act 2003 (2003 No 23).

- 2 **The urgency of the biodiversity losses are understated by the NPS and supporting documentation.** In our view, the severity and urgency of the losses of terrestrial, aquatic and marine native biodiversity, including genetic diversity ecosystems, species, assemblages, and communities needs better spelling out, as does the significance and irreversibility of such losses. The losses of biodiversity are so fast, so profound and so irreversible that we need to have regulatory as well as incentive measures. We also need to develop positive social norms and to provide assistance in the control of invasive species. Extra funding is required and should be regarded as an investment in natural capital not simply as a cost.
- 3 The Proposed NPS restricts the scope of the consideration of biodiversity to the language of s6(c) but, as above this is too limited and in our view omits important aspects clearly covered by s45 of the RMA. **The domains of life include not only fauna and fauna but need to be clear include fungi and microbial populations.** The latter

are emerging as hugely important components and are increasingly recognised as having vital connections to flora and fauna and ecosystem, assemblage and individual organism function. As such, we would like the broader language of biota or life to be used, as well as the abiotic components of biodiversity to be included, not simply restricted to flora and fauna.

- 4 **We urge that the scope of the proposed NPS on biological diversity be retained and clearly specified as native biodiversity,** and that the NPS exclude non-native biodiversity except as it is tackled as a threat to indigenous biodiversity.

The Interpretation section of the RMA defines biodiversity as follows:

“biological diversity means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems.” This is referenced in the Interpretation section of the NPS.

This definition is derived from the definition in the convention on Biodiversity.

Thus we support the specification in 5 on p5 *Matter of National Significance*, and urge that this provision for of “the need to maintain New Zealand’s indigenous biodiversity.” be retained, even though, we agree that in some cases biodiversity for non-indigenous species etc may also be important – but not in this context.

The risk of having a policy not restricted to indigenous biodiversity would be to encourage species that may threaten or invade habitats and species and other aspects of native biodiversity.

- 5 **The NPS breaks with the philosophy, history, black letter law and jurisprudence of the RMA in two important ways that we urge be reconsidered because in our view they will undermine the integrative properties of the RMA** and lead in the case of the Application clause of the proposed NPS to unnecessary legal and other wrangling.

a) Ownership

i) First a really important part of the RMA’s design and implementation has been that it applies irrespective of ownership. This means that who owns what does not have to be resolved in order for the RMA to apply. This tenure blindness means that contested ownership including the question of Treaty of Waitangi claims do not have to be resolved for the environment to be managed. In ECO’s view the introduction of the issue of ownership in “4. Application “This national policy statement applies to land owned by any person except that it does not apply to public conservation land” is highly undesirable. Nowhere else in the RMA are areas of application defined by ownership. We see the language here as particularly difficult and prone to legal wrangling, for instance as to what is a “person” and to disputes as to what is and is not public conservation land. We also see the exception of public conservation land as unnecessary or at least not explained. Sure, the Conservation Act also applies on public conservation land, but we do not see the case for this to be excluded, especially in the event that there are concessions and other activities proposed for such land.

ii) We are aware that WAI 262 is likely to be announced on the 9 July 2011, and we consider that the losses of biodiversity are such that this NPS should proceed and

be tenure blind. We consider that we should all be able to make submissions in the light of that report on this proposed NPS.

b) Integration between the terrestrial, fresh water and coastal and marine realms

One of the guiding and internationally celebrated enlightened elements of the RMA has been that it provided for the coastal-marine realm to be managed in an integrated way out to 12nm. We support that and we urge that this Proposed NPS be modified to continue that. We thus recommend amendments to:

i) clarify that the proposed NPS includes aquatic biodiversity including both fresh water and marine biodiversity, so that lakes, rivers, wetlands and the sea and internal water ways and associated biodiversity are all included.

ii) To specifically to provide for this NPS to complement and not undermine the NZCPS but with the more stringent provisions to the NZCPS to prevail in the event of any conflict.

We urge that changes be made to fix these problems. We see no sensible rationale for the failure to maintain (and restore) biodiversity in the coastal and aquatic realms or for introducing tenure as a basis for biodiversity management.

6 **The NPS needs explicitly to address the problem of invasive species and their impacts and potential impacts on native biodiversity.** Thus, controls on activities that may lead to the spread of weeds, pests, and other invasive species and measures to control their impacts and spread need to be articulated and to be given legal force within this NPS. ECO notes though that there are frequent problems with authorities removing and herbiciding pest plants – especially on dunes – without doing surveys for or making protection for, native insects and reptiles – these native species are not removed or relocated, no proper habitat is planted (years prior) the spraying – in effect mass destruction. This is happening as we speak at Stockton mining area. Also – they don't bother to look up, or don't know where to look for local data on species – which is why we need a national biodiversity distribution database which can be added to each time a survey is done anywhere.

7 **There are a number of aspects of the paper about which the Submission form is silent. These include the preambular section, several definitional issues that need scrutiny, the Application, the Matter of National Significance** and we would urge that the submission forms in future be written to direct attention to all matters, especially interpretation matters, application and matters of significance (ie to include matters 1-5 in the proposed NPS).

8 **The proposed NPS lays the obligation for action at the feet of local authorities while recognising the role of land owners. ECO considers that there are other players who need to be considered: communities and central government.** In ECO's view the Department of Conservation has expertise and experience in conservation of biodiversity and its role and funding should be beefed up, along with recognition of the various agencies such as QEII National Trust who have a role. ECO is aware of and appreciative also of the work of community and mixed government- community- land

owner organisations such as Kiwi Care groups in protection and restoration of biodiversity. Key to enabling biodiversity protection is funding and central government has a role in providing this, most notably the Department of Conservation.

We had had hopes that the Environmental Protection Agency would be an agent of environmental protection but the Purpose of its Act and the criteria for appointment of its Board lack environmental protection provisions, so we no longer consider that the EPA is a suitable agent for biodiversity protection and restoration. We would welcome the remedy of these problems by the government.

9 **The objective of the NPS on biodiversity is sound but is too limited. We need restoration of biodiversity as well as a halt to the losses.** Thus, Restoring the Dawn chorus and previous biodiversity efforts were not limited to simply maintaining biodiversity. We consider that the policy should include both halting the loss and restoring biodiversity.

10 **An ecosystems approach is required.** We suggest that following the example overseas – USA – to determine ecosystem services may be the best framework. Any offset would have to fit into this overarching view, which allows for catchment management and remote effects, and does not get involved in land ownership. The price for destroying the environment must rest with those who are benefiting from the destruction and currently externalize the costs.
<http://rs.resalliance.org/2009/07/27/ecological-society-of-america-statement-on-ecosystem-services-and-decision-making/> This economic consequences model fits in with the idea of costing environmental harm and the Polluter Pays Principle adopted by the OECD. It is a tool to penalise those who damage the ecosystem. We note the comment on Policy 4 #10 –fits in with this concept. There is much which falls outside ‘rare, significant and threatened’ but needs to be accounted for.

The ecosystem approach **requires** a nationally approved framework for the assessment and management of ecosystem functions including the processes which support ecosystems and provide Ecosystem Services to all life. New Zealand will also need associated standards and methodology for determining Ecosystem Services and ecosystem health.

Requirements to not lose biodiversity can be made into an economic instrument with penalties for destruction of biodiversity and ecosystem services. (Our comments under #12 Offsets and Part 2 #22 – obligation to not cause harm to biodiversity also apply here).

11 **Funding of biodiversity and DoC is also crucial,** as is the application of the NPS to public conservation land and unowned territories, the EEZ and extended continental shelf – but by central government agencies, not by regional councils beyond the territorial sea.

- 12 Re the purposes of the Policy Statements – and under (i) “the need to identify practices”, we suggest that the NPSIB **needs to include in the statement under ‘Preamble’, or ‘Application’ to identify provision of**
- national datasets on species distribution is essential, and access to these must be facilitated, as well as data entry from every consent survey.

Preamble:

ECO suggests the following:

“the processes that support ecosystems are not always confined to definable sites; maintaining indigenous biodiversity requires more than the protection of sites of especially high biodiversity value”.

We agree with this statement and since biodiversity is a continuum, and cannot be divided along cadastral boundaries, we query why DOC land is excluded from the Application. We recognise that the RMA specifically does not apply to **work or activity** of the Crown on land held or managed under the Conservation Act, but submit, that since DOC land is so important to biodiversity, as an essential part of the species reservoir, and contribution to Ecosystem Services, that public and private land cannot be separated. The use and protection levels for **all land and sea** will influence the outcomes for biodiversity, and the functioning of ecosystems.

Interpretation – comments

Comments on Interpretation section

- 1 **The definition of Indigenous vegetation** seems too restrictive.
 - a) It needs some reference to habitats of species that are so rare as to not have habitats “normally associated with that vegetation type”
 - b) This section needs to be redrafted to include aquatic, including marine species.
 - c) Some provision needs to be made for the protection of threatened species or assemblages that occur in plantations and other vegetation established for commercial harvesting, for instance pine forests in which kiwi have established habitat.

2 The definition of **Threatened species**:

ECO considers that the IUCN definitions for threatened environments and species should be used, not the NZ Threat Classification system lists, because the latter has no international standing.

The Department's assessment is not comprehensive of all our biodiversity species which spend part of the time in New Zealand but do not breed here. ECO Notes that that New Zealand Coastal Policy includes reference to both lists.

3 The **no net loss** definition is problematic in that the "natural fluctuations" and "long term viability" references could be used as weakening and providing for ducking short term impacts. We recommend that these be removed since they simply allow for obfuscation and legal grappling hooks to be used.

4 **"At risk"** - In this definition there is reference to "longer term risk" of extinction. We need to ensure that this definition also includes any shorter term risk of extinction as well.

5 **Soils and their biota** – need to be defined, whilst soils are part of terrestrial ecosystems the fungi etc as mentioned – soil health is vital for carbon cycle, and the soils suffer from poor land-use – not deliberate biodiversity destruction e.g. erosion, monoculture, chemicals etc

6 **The Biodiversity NPS should acknowledge and define aquatic terms including sea mounts and deep ocean environments** that also have biodiversity in need of protection.
ECO comment 28 – datasets need to tie in with NABIS. Also an ecosystem approach required.

4 Application

As presented by MfE, the Application statement is as follows:

4. Application

This national policy statement applies to land owned by any person except that it does not apply to public conservation land.

This national policy statement does not apply to the coastal marine area. Biodiversity in the coastal marine area should be managed in accordance with relevant policies of the New Zealand Coastal Policy Statement.

This national policy statement is not intended to be a statement of all that is required in order to fulfil obligations under section 6(c) of the Act. Instead it requires the recognition that at least one of the reasons an area or habitat may be significant for the purposes of section 6(c) is for its contribution to maintaining biodiversity.

We recommend that the Application statement be amended to read:

Para 1:

"This national policy statement applies to all New Zealand territories and the areas over which New Zealand has management responsibilities."

Rationale for the changes we suggest:

- 1 Removal of the references to land would allow the NPS to apply to aquatic and coastal and marine environments, as well as to land.
- 2 Removal of the words “owned by any person” would remove scope for wrangling over ownership and would reinstate the coastal marine area which under recently passed legislation Marine and Coastal Area (Tukutai Moana) Act 2011 is unowned. It would also remove scope for contest on the legal definition of person and for Treaty disputes.
- 3 Inclusion of the language of “territories and areas” will allow the protection of the coastal and marine environment.

Para 2

We recommend that the 2nd paragraph of 4, Application, be amended to be:

“This national policy statement applies to the coastal marine area. ~~does not apply to the coastal marine area.~~ Biodiversity in the coastal marine area should be managed in accordance with relevant policies of the New Zealand Coastal Policy Statement and this Biodiversity National Policy Statement.”

Para 3 [inserts in blue, strikethrough indicated].

This national policy statement is not intended to be a statement of all that is required in order to fulfil obligations under sections 5, 6, 7 and ~~8-6(e)~~ of the Act. Instead it requires the recognition that at least one of the reasons an area or habitat may be significant for the purposes of ~~the Act-section 6(e)~~ is for its contribution to maintaining **and restoring** biodiversity.

We endorse the points made by the Nga Motu MRS submission to you:

In the preamble it is stated that “*ecosystems are not always confined to definable sites; maintaining indigenous biodiversity requires more than the protection of sites of especially high biodiversity value*”. We agree with this statement and since biodiversity is a continuum, and cannot be divided along cadastral boundaries, we query why DOC land is excluded from the Application. We recognise that the RMA specifically does not apply to **work or activity** of the Crown on land held or managed under the Conservation Act, but submit, that since DOC land is so important to biodiversity, as an essential part of the species reservoir, and contribution to Ecosystem Services, that public and private land cannot be separated. The use and protection levels for **all land and sea** will influence the outcomes for biodiversity, and the functioning of ecosystems.

Yes No

5 Matter of National Significance

X

We agree that it is a matter of national significance that New Zealand’s indigenous biodiversity **is being lost and that we need to take urgent action to maintain and restore indigenous biodiversity of New Zealand**

6 Objective

*If no, please comment.**

Mostly it is clear, but the ambiguity of “while” is unhelpful and leaves it unclear whether these are absolute requirements or simply things that should be done simultaneously. The objective is inadequate and is too weak.

Do you:

Support the objective?

Or, Support it in part?

Or, Oppose the objective?

1 *Additional comments on the objective: The Objective, is a start but it is too limited and contains significant weakeners and ambiguities which should be removed.

We suggest the following changes to make the statement more direct and less prone to weakening, as below:

6. Objective

To promote the **The** maintenance **protection and restoration** of indigenous biological diversity by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, **and the life supporting capacity of the environment and its natural character**, and to encourage protection and enhancement of biodiversity values more broadly.

In ECO's view, the following is not an appropriate objective, but rather one of many possible methods. Thus we suggest that somewhere in the document this text could be used, but it is not part of the objective, as such:

Methods may include, amongst other things:

~~while:~~

- supporting best practice of local authorities **and other agencies including the Department of Conservation**
- recognising the positive contribution of **iwi and other** landowners as guardians/kaitiaki of their land
- recognising that the economic, social and cultural well-being of people and communities depends on, amongst other things, **making deriving** reasonable **non-extractive benefits from use of some** land.

Policy 1: Defining significant areas and habitats for the purpose of the NPS.

Is the wording and intention of the policy clear?

Yes

No

If no, please comment.*

	Yes	No
Is the policy consistent with the objective of the NPS?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If no, please comment.*

2 Comment A:

Policy 1 seems to be a definition rather than a policy statement. Is the Objective a policy and does it have force? If not, it should be Policy One, up to but not beyond the words, "...and enhancement of biodiversity values more broadly"

We are not clear what the effect of the term "biodiversity values" has compared to "biodiversity"? Just biodiversity may be more clear and straight forward.

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

2 Comment B:

The inclusion of a National Policy Statement on Biodiversity is important and the Objective must have operative effect as well as the specific policies. Policy 1 appears to belong in the interpretation section of the NPS.

A national policy statement will save transactions costs for all and should help losses of biodiversity to be addressed. On its own it is not enough. We need DoC to be better resourced, and communities and land owners and managers to have more public resources to match the policies, particularly for the control of invasives.

It will help everyone to know where they stand and to have a proper framework of policy for people and agencies operating under the RMA and will give a clear sense of direction to the community and businesses operating under the RMA as well as to the agencies with decisions and functions under the Act.

Do you:

Support the policy?

Or, Support it in part?

Or, Oppose the policy?

3 *Additional comments on Policy 1: Policy 1 could be moved to the interpretation section of the NPS.

Policy 2: Criteria for identifying significant indigenous vegetation and the significant habitat of indigenous fauna.

	Yes	No
Is the wording and intention of the policy clear	<input checked="" type="checkbox"/> BUT	<input type="checkbox"/>
This is generally clear, but there are some difficulties in that several of the ecosystems are not “owned by any person”, and this further illustrates that that language from the Application section is not helpful.		?
The scope is too narrow, as discussed below.		Clarity is not the only issue!

*If no, please comment.**
We welcome the general direction of this Policy 2, but it is too terra-centric, omits most aquatic environments and we consider that “vulnerable marine ecosystems”, the term used by the UN in resolutions should also be used here but be supplemented by the term “aquatic and coastal”.

Further, we consider the words “local authorities shall” should be substituted by “agencies with powers, duties and functions” so that central government agencies are also covered.

	Yes	No
Is the policy consistent with the objective of the NPS?	<input checked="" type="checkbox"/> BUT	<input type="checkbox"/>

*If no, please comment.**
As above, we consider it should refer to coastal and aquatic environments, and also to “responsible agencies”, to cover central government agencies, not only to local authorities.

What effects do you think the policy will have?
(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

4 Comment: The policy is important and useful but needs to go beyond terrestrial environments. The list is useful but incomplete. We consider that the list will help all local authorities to recognise some significant environments, but it will not help with marine environments, and we would like to see coastal environments on the list.

	Yes	No
Do you think any changes should be made to the list of significant indigenous vegetation and significant habitat of	YES	<input type="checkbox"/>

indigenous fauna given in Policy 2?

If yes please comment below.

5 Comment: As above, we consider coastal and marine environments should be added in, including habitats. We do not agree with the idea that biodiversity policy should exclude coastal and marine environments. This is especially the case when there are land-sea interactions as for instance, when land based activities may affect marine sediment, marine habitats and hydrological systems and so on.

Do you:

Support the policy?

Or, Support it in part? x

Or, Oppose the policy?

6 *Additional comments on Policy 2: As above.

Policy 3: Including criteria in regional policy statements.

Is the wording and intention of the policy clear? Yes YES BUT No x

*If no, please comment.**

Mostly it is clear, but it is unclear why 2e, “habitats of threatened and at risk species” is not included. It should be.

It is also unclear why the reference only to s6c of the Act given that biodiversity may be considerations in sections 5-8 of the Act.

Is the policy consistent with the objective of the NPS? Yes BUT No

*If no, please comment.**As above, we consider that 2e should be included and we also consider that the reference should be to the full set of sections 5-8 of the Act.

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

7 Comment: It will be good for the future and the present, and may help all operating under the Act. In making it clear that there must be criteria that makes it clearer for all. We consider that there should be national standards for significance but that national significance should not be the only criteria. Regional and local significance are also important.

Do you:

Support the policy?

YES

BUT

Or, Support it in part?

Or, Oppose the policy?

8 *Additional comments on Policy 3: It should include Policy 2e and wider reference to other sections relevant to biodiversity in the Act.

Policy 4: Identifying areas and habitats in district plans.

Is the wording and intention of the policy clear?

Yes

No

*If no, please comment.**

Is the policy consistent with the objective of the NPS?

Yes

No

*If no, please comment.**

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

9 Comment: In our view there should not have to be pre-specification of significant biodiversity areas for these to be the subject of consideration but we agree that such listing or mapping is highly desirable, unless there are reasons to protect the sites from poaching or over-visiting or other risks such as risks to the biodiversity itself or to cultural values associated with these.

Do you:

Support the policy?

Or, Support it in part?

Or, Oppose the policy?

10 *Additional comments on Policy 4: We suggest that areas and habitats should be assumed to be significant unless they are shown to not be. The policy as now framed, particularly the reservation in the reference to 2e, seems to allow areas for which there is no information to be considered to be insignificant. That is not a sound approach when there are sensitive environments and biodiversity at risk. We would prefer to see the reversal of the onus of proof.

Policy 5: Managing effects to achieve no net loss.

Is the wording and intention of the policy clear?

Yes

No

*If no, please comment.**

Is the policy consistent with the objective of the NPS?

Yes

No

AND

*If no, please comment.**

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

11 Comment: This provides clarity with the hierarchy of approaches clearly spelt out. We would prefer to see off-setting not encouraged and that the limits to any offsetting and damage to the environment be more stringently drawn. Irreversibility, uncertainty and severity should all be grounds for disallowing effects and any offsetting (about which we have severe doubts, see below).

Do you support the use of biodiversity offsets, as outlined in this policy?

Yes

No

12 Comment:

ECO considers off sets are a slippery slope which will allow damage to one part of the environment in return for “protection” of other areas that were never at risk, so leading to a net conservation and biodiversity loss.

To the extent that, despite our objections, off sets are permitted, we consider that a strong line must be taken in disallowing any irreversible or significant loss of biodiversity and disallowing off sets in those circumstances. Uncertainty and indeterminacy of impacts should also be grounds for disallowing activities (or lack of activity) with possible biodiversity loss impacts. Thus, we agree with the hierarchy in a-d, we disagree with off-setting, but we agree that if offsetting is allowed, then a beefed-up version of the limits articulated in the last para of Policy 5 and in Schedule 2.

Further the policy does not consider biodiversity that has been lost in the past. It considers that there can be no improvement in the state or pool of biodiversity.

Do you:

Support the policy?

Or, Support it in part?

Conditionally

Or, Oppose the policy?

13 *Additional comments on Policy 5:

Do you agree with the principles outlined in Schedule 2 (*Principles to be Applied when Considering a Biodiversity Offset?*)

All

Some

None

I want to suggest additional/alternative principles

14 Comment: Schedule 2 is generally well developed, though we oppose off-setting, particularly for significant biodiversity since it seems to be a mechanism for allowing harms that should not be allowed at all.

In relation to 1b, we suggest that “the anticipated losses of biodiversity at the site of the activity” be changed to “the anticipated losses of biodiversity on account of the activity, both on and off the site of that activity.. “. This is to ensure that a whole range of effects must be considered, from say, the spread of wilding pines or other biological contamination, to sedimentation, wind impacts or dewatering, etc of surrounding areas.

Monitoring, reporting, bonds, liability and compliance arrangements should also be added to the principles for biodiversity offsets or the whole thing will be an exercise in fiction.

Policy 6: Supporting maintenance and enhancement of biodiversity.

Is the wording and intention of the policy clear? Yes No

*If no, please comment.**

It needs to be developed to be more inclusive of the coastal and marine environments.

The language is too weak. It needs to do more than “promote” but actually to require. It needs to do more than recognise, “encourage” but rather to “ensure” with the means left to the authorities.

Is the policy consistent with the objective of the NPS? Yes No

*If no, please comment.**

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

15 Comment: The policy has useful elements that will give form to biodiversity protection and maintenance, but more stringent requirements than “promote” and “encourage” are needed.

“h’ should refer to ‘measures” not solely to “incentives”.

Do you:

Support the policy?

Or, Support it in part?

Or, Oppose the policy?

16 *Additional comments on Policy 6: We would like to see specific policy measures.

Policy 7: Tangata Whenua.

Is the wording and intention of the policy clear? Yes No

If no, please comment.*

Is the policy consistent with the objective of the NPS? Yes AND No

If no, please comment.*

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

17 Comment: This would no doubt be a challenge to many organisations. It is one that we need to face.

The “values and interests” may be at odds with the objective of biodiversity maintenance and in this case some sense of the priority for biodiversity maintenance and protection and restoration should be clearly spelt out.

Policy 7c should be amended by the insertion after “cultural values associated with” the words “[maintenance and restoration of](#)”.

Policy 7d needs to be qualified to remove from consumptive use or highly risky use of any threatened species or habitats.

Do you:

Support the policy?

Or, Support it in part?

Or, Oppose the policy?

18 *Additional comments on Policy 7: See above

Policy 8: Consultation.

Is the wording and intention of the policy clear? Yes No

If no, please comment.*

Is the policy consistent with the objective of the NPS? Yes No

If no, please comment.*

The difficulty is the policy 8a which would be hugely onerous in many cases. There may be many properties affected by generic provisions of policies and there may be people whose properties are affected but who are widely dispersed both within and beyond a region or New Zealand.

What effects do you think the policy will have?

(How do you think the policy will affect you, your members, or your organisation? What costs and benefits will arise from this policy and where will they fall? Do you anticipate any challenges in implementing this policy?)

19 Comment: The principle of consultation and reasonable opportunities for input is strongly supported by ECO.

We envisage the possibility that policy 8a may be extremely onerous for some policies and places. Some moderation of the requirement to provide all those owners with consultation is required for where these owners are widely dispersed or hard to find. It may also be reasonable to provide for some opportunities for occupiers to be consulted, but again with some moderation of the provisions regarding the absolute requirement to consult.

Do you:

Support the policy?

Or, Support it in part?

Or, Oppose the policy?

20 *Additional comments on Policy 8:

Part 2: General Questions about the Proposed National Policy Statement on Indigenous Biodiversity

Do you think that the policies, taken together, will achieve the objective of the NPS? Yes No

If no please comment below.

21 Comment: We consider that more provision is needed for the marine and coastal areas, for aquatic biodiversity, freshwater biodiversity, and for the control of not only invasive species but also the introduction of such.

Climate Change has been omitted. The recent Nagoya meeting of CBD Parties included a **commitment that all tools to protect biodiversity should include directions on climate change aspects. The Proposed NPS is silent on the subject, despite the requirements in s45 of the RMA on the matters for consideration in NPSs.**

The 2008 IUCN World Conservation Congress in Barcelona (the largest regular global gathering of Government and NGO conservation scientists and managers) adopted the resolution entitled *“Biodiversity conservation and climate change mitigation and adaptation in national policies and strategies”*.

This resolution took into account the findings of the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) which identifies the risk of severe climate-change impacts on ecosystems and species. This resolution, supported by the New Zealand Government representative, recognizes the important role that biodiversity plays in the provision of ecosystem goods and services such as climate regulation, provision of fresh water, mitigation of the effects of catastrophic events, food security and the provision of traditional medicines, and the need to maintain these ecosystem goods and services in order to help humans adapt to climate change. Also recognised was that effective integrated landscape management including effective protected area systems will build the resilience of natural systems to climate change so that the supply of ecosystem goods and services can be maintained.

Do you think the NPS appropriately balances the protection of indigenous biodiversity with landowner’s rights to reasonable use of their land? Yes No

If no please comment below.

22 Comment: It goes too far in protecting the unspecified “use” of land. This should be modified to “benefits from” land to allow for passive uses and explicitly to exclude biodiversity destructive uses. An obligation to not cause harm to significant biodiversity is required. Provision for restoration is also needed.

Specific measures to control stock impacts and to assist pest and weed and other invasive species control are needed.

In general the NPS should distinguish obligations to do and to not do, and opportunities for society to help with biodiversity defensive measures where the land owner themselves is not the author of the harm. Ie, help to control harms to the managed area that are not caused by the land owner, v obligations to avoid harms.

What are the key ways that this NPS will affect you, your members and stakeholders, or your organisation? Will these effects be positive, negative or neutral?

23 Comment:

At last biodiversity maintenance will be explicitly recognised. But that is not enough - We would like this to go further to explicitly provide for restoration and protection.

The Proposed NPS gives authorities some clear information and advice which should help everyone involved but more is needed.

We think the hierarchy for avoidance, remedy and mitigation is very helpful and much needed.

The negative effects are mostly related to the unfortunate introduction of tenure considerations with references to ownership – that should be removed since it violates one of the foundation principles of the RMA that it should apply irrespective of tenure.

The limitation of the scope to land and possibly lakes and rives is regrettable. We strongly recommend that this scope be extended to the coastal and marine areas and aquatic biodiversity and habitats.

Do you see any challenges to the implementation of this NPS? How do you think it will operate in practice?

24 Comment: We agree that care is needed to encourage and to enable the protection of biodiversity, but that on its own is not enough. The losses of biodiversity are so fast, so

profound and so irreversible that we need to have regulatory as well as incentive measures. We also need to develop positive social norms for pro-biodiversity behaviour, especially amongst farmers, and this needs careful work. Kiwicare groups and the like are already doing good here, but we need more, and we need more funding for them, as well as more access to DoC and other expertise, especially but not only to provide assistance in the control of invasive species.

Funding of DoC is also crucial, as is the application of the NPS to public conservation land and unowned territories, the EEZ and extended continental shelf – but by central government agencies, not by regional councils beyond the territorial sea.

Do you think the NPS should more explicitly address freshwater biodiversity? **Yes** **No**

If yes, what aspects of freshwater biodiversity should be addressed more explicitly in this NPS?

25 Comment: All

What, if any other changes would you like to see made to this NPS?

26 Comment: Extension to the coastal and marine environment.

An emphasis on protection of biodiversity, including freshwater, measures for riparian protection, and rules around land disturbance, ecosystem approaches etc.

How do you think the NPS could best be monitored?

27 Comment: Nationally consistent definitions of significance are needed and then nationally consistent monitoring and reporting by all authorities.

Some monitoring could be done by non-governmental agencies to assure farmers and others that this is not government “snooping” but ultimately the work needs to be done.

Remote sensing can sometimes be used.

The PCE is suitably independent but is not set up or funded to do this. Regional councils are close to the action and may be appropriate.

What, if any additional guidance is needed to support the implementation of this NPS?

28 Comment: Much more information on the significant coastal and marine environments, habitat and biodiversity.

The development of social norms, biodiversity extension officers and the like would help.

Part 3: The Section 32 Report

Note: the section 32 report is available online at www.mfe.govt.nz/npsbiodiversity

Does Chapter 2 (The status quo) provide a full account of the measures in place to manage biodiversity?

	Yes	No
The Status Quo		
1. Legislative protection of biodiversity	<input type="checkbox"/>	<input type="checkbox"/>
2. Convention on Biological Diversity and national strategies	<input type="checkbox"/>	<input type="checkbox"/>
3. Non-statutory guidance, trusts and funds	<input type="checkbox"/>	<input type="checkbox"/>
4. Efforts to protect biodiversity under the current framework	<input type="checkbox"/>	<input type="checkbox"/>

29 Comment:

Do you think Chapter 3 (Situation under the status quo) has fully covered the problem?

	Yes	No
Situation under the status quo		
5. Overview	<input type="checkbox"/>	<input type="checkbox"/>
6. Risks and challenges	<input type="checkbox"/>	<input type="checkbox"/>

Are there any other things that should be addressed in chapter 3?

30 Comment:

Are you aware of any more evidence for or against the issues raised in chapter 3?

31 Comment:

	Yes	No
Do you think the aims of Chapter 4 (What are we trying to achieve?) are appropriate things to try to achieve given the issues that have been described?	<input type="checkbox"/>	<input type="checkbox"/>

32 Comment:

Do you think a NPS is the best option, out of the options described in Chapter 5 (Alternatives to the Status Quo), to achieve the objectives and address the problem?

Yes

No

33 Comment:

Are there other options that have not been addressed by Chapter 5?

34 Comment: