

Environment Canterbury submission on the National Policy Statement for Indigenous Biodiversity exposure draft 2022

Introduction

1. Canterbury Regional Council ('Environment Canterbury', 'the Council') welcomes the opportunity to comment on the National Policy Statement for Indigenous Biodiversity (NPSIB) exposure draft, and thanks the Ministry for the Environment (MfE) and the Department of Conservation (DOC) for inviting this submission.
2. This submission is presented in relation to Environment Canterbury's roles, functions, and responsibilities under the Resource Management Act 1991 (RMA).
3. Environment Canterbury supports the need for greater consistency in approaches and methods used to manage biodiversity across the country. We also emphasise that the NPSIB is just one component of the national biodiversity system and that a range of regulatory and non-regulatory measures will be needed to maintain indigenous biodiversity.
4. Environment Canterbury also has an important role in providing regional leadership to act early to protect indigenous biodiversity, economic production and mahinga kai from harm caused by pests and other invasive organisms.
5. In our submission on the previous iteration of the NPSIB (**attached**) we made several points that we are pleased to see have been incorporated into the exposure draft. We continue to support these matters and wish to see them retained. Broadly, these points are:
 - a. The need for a national policy statement to strengthen requirements for and apply a consistent approach to the protection of indigenous biodiversity under the RMA.
 - b. The need to underpin implementation of the NPSIB with other tools and support for local authorities, tangata whenua, communities and private landowners. We note the NPSIB and Draft Implementation Plan begin to address this need and we would like to see ongoing support prioritised. While we appreciate the allocation of \$19 million it will be insufficient to support SNA identification processes across the country.
 - c. We sought clearer definitions of 'restoration of indigenous biodiversity' and 'enhancement of ecological integrity of ecosystems'. While we have offered some suggestions for improving these definitions, we welcome the greater clarity provided.

- d. We sought clearer direction on Hutia Te Rito (now Te Rito o te Harakeke) and are glad to see greater direction provided as part of provision '1.5 - Fundamental Concepts'.
6. Several points from our previous submission have not been carried forward into the exposure draft of the NPSIB. While we appreciate that the focus of this submission is the workability of provisions, we have highlighted these points here as they still reflect Environment Canterbury's views.
 - a. The need for consistency across instruments (in particular the National Policy Statement for Freshwater Management, National Environmental Standards for Freshwater, and New Zealand Coastal Policy Statement) was highlighted. We remain concerned that a general lack of consistency prevails (see submission points below) that will lead to gaps and confusion.
 - b. Protection of existing indigenous biodiversity should remain the top priority, as it is often impossible to recreate ecosystems and habitats once they are lost. We are concerned that some aspects of the NPSIB prioritise restoration and enhancement over protection.
 - c. We sought a more pragmatic approach to the identification of Significant Natural Areas (SNAs) that would reduce cost and time by reducing the requirements for field assessments where high quality information was already available. The NPSIB has retained the requirement to undertake field assessments wherever practicable.
 - d. We sought a consistent, nation-wide SNA identification process, working closely with landowners, to be undertaken by central government. We maintain this view as it would be more effective and efficient while not overburdening small, under-resourced councils who may host vast areas of SNAs in their districts.
 - e. We sought clarification on whether the NPSIB applied to managing the adverse effects from all activities on SNAs (including under the RMA ss13, 14 and 15). This explicit clarity has not been provided and it remains somewhat unclear what the regional council's role in managing adverse effects on SNAs will be.
 - f. We continue to have concerns about the definition and application of improved pasture provisions. While we recognise and support a pathway for the continuation of existing pastoral farming, identifying improved pasture will continue to present implementation challenges while what constitutes 'improved' cannot be easily defined. We note in particular the proposal to move away from 'improved pasture' to 'pasture' in the amendments to the National Policy Statement for Freshwater Management because of these concerns.
 - g. We supported the intention to protect the habitat needs of highly mobile fauna species. We maintain that surveying and identifying areas used by specific fauna species is better aligned with the current expertise and responsibilities of DOC.

- h. We sought a nationally consistent approach to biodiversity monitoring. No nationally agreed indicators exist which means there is likely to be mixed approaches deployed across the country. The NPSIB requires that "...if national monitoring methods are available, must use those methods." It would be much more workable for those methods to be established as part of or in conjunction with the NPSIB so that regional monitoring programmes are consistent from the outset.
- 7. Environment Canterbury note this consultation is seeking feedback specifically relating to the workability of the exposure draft provisions. We have provided our feedback to the consultation questions posed in the table below.

Response to consultation questions

<p>1. Do you have any feedback on the workability of provision 1.3: Application?</p>	<ol style="list-style-type: none"> 1. The NPSIB splits the management of wetlands between instruments, which could lead to implementation challenges resulting in negative outcomes for biodiversity. 2. The manner in which the provisions for wetland habitat are split between the NPSIB (restoration only), the NPS-FM (other matters including regulatory methods), and the NZCPS (outside of the CMA) is potentially confusing from an implementation perspective. There is a risk that the split of functions across the three policy statements will result in gaps rather than overlaps and tensions between multiple policy directives rather than synergies. For example: <ol style="list-style-type: none"> a. Many highly mobile fauna are also wetland, riverine or coastal species. b. There are different definitions (or no definition) for 'wetland' across national instruments, which creates gaps and confusion. For example, 1.3(2)(c) specifies that the NPSIB applies to the restoration of wetlands. The draft NPSIB does not define 'wetland' and would default to the broad RMA definition. In contrast, the NPS-FM 2020 only provides protection for 'natural inland wetlands' (a subset of RMA wetlands). This is likely to cause conflicts: where degraded wetlands are not protected under the proposed amendments to the NPS-FM, these areas will be subject to the restoration provisions in this draft NPSIB. 3. Excluding indigenous biodiversity in the coastal marine area and aquatic indigenous biodiversity from the remit of the NPSIB creates complexity in the application of each document. Further consideration by drafters is needed to be satisfied that the freshwater and coastal management frameworks sufficiently protect the biodiversity values of those systems and that the systems are consistent and cohesive.
<p>2. Do you have any feedback on the workability of provision 1.5: (2) Te Rito o te Harakeke?</p>	<ol style="list-style-type: none"> 4. The clearer direction provided about the fundamental concept of Te Rito o te Harakeke, including the addition of six essential elements, will make implementation easier (compared to the previous draft NPSIB). These changes reflect feedback provided in our submission on the previous draft.

	<p>5. Generating a shared regional (local) understanding of Te Rito o te Harakeke will take time and will require some processes that are underway at Environment Canterbury such as the ki uta ki tai planning framework and the revitalisation of the Canterbury Biodiversity Strategy to take additional matters into account. This will add cost and time.</p> <p>6. A consistent approach across the NPSIB and its terminology in relation to the involvement of tangata whenua would be beneficial, it currently shifts between terms like partnership, engagement, involve. If different terminology is intended, it would benefit from the inclusion of definitions to support implementation.</p>
<p>3. Do you have any feedback on the workability of provision 1.5: (3) Maintenance of indigenous biodiversity?</p>	<p>7. 'Maintenance of indigenous biodiversity', as described in 1.5(3), includes all indigenous biodiversity. However, the NPSIB Policies (2.2) focus on protection of indigenous biodiversity in SNAs. Given the way that the fundamental concept of maintenance is described in 1.5(3), Objective (2.1) cannot be delivered by the supporting policies. Achieving the maintenance of indigenous biodiversity as described requires policies (provision 2.2) that protect indigenous biodiversity outside of SNAs.</p> <p>8. The description of maintenance of indigenous biodiversity in 1.5.(3) would be improved by adding '(g) the extent of habitats supporting indigenous biodiversity'.</p>
<p>4. Do you have any feedback on the workability of provision 1.5: (4) Effects management hierarchy</p>	<p>[No comment]</p>
<p>5. Do you have any feedback on the workability of provision 1.6: Interpretation?</p>	<p>9. The revised definition of 'SNA, or significant natural area' in the Exposure Draft (clause 1.6(1)) links the prerequisite to qualify as an SNA to inclusion in a policy statement or plan. Clause 3.8(5) requires an area that becomes known to qualify as an SNA to be included in the next plan change.</p>

	<p>10. We are concerned that these two clauses combined could result in an implementation gap for areas that are known to be SNAs (for example, areas that become known via consent processes or other council workstreams and are found to meet significance criteria) but are not listed in a plan. Areas that are shown to qualify as an SNA will require protection to achieve the objectives of the NPSIB. Under the current draft definition these areas will not be protected (or prioritised for restoration) until the next district plan review which could take several years. This lack of protection creates a risk that SNA's will be degraded or lost because of subdivision, use or development. Transitional provisions or direct instruction is needed to address this gap.</p> <p>11. Definitions should be consistent across national direction (planning standards, NPS, NZCPS etc).</p> <p>12. The NPS should define the following terms: “enhancement”, “environment”, “land environment” and “landscape scale”.</p> <p>13. The definition of “indigenous vegetation” relies on a 1987 ecological districts report and does not adequately address cross boundary (cross ecological district) interactions.</p> <p>14. The definition of “restoration” [1.6(1)] is wide ranging in scope, making it unclear as to how restoration aligns with protection of existing indigenous biodiversity and SNAs. Consequently, ambiguity remains as to the principal purpose of restoration as set out in this clause, and its contribution to indigenous biodiversity outcomes. The definition of “restoration” reads to include a requirement that it must “maintain or reinstate visual qualities”. This seems highly subjective and distracts from other indigenous biodiversity values. If included, it should be clear that visual qualities are an optional component of the restoration definition.</p> <p>15. The term “terrestrial coastal environment” is used in provision 1.4(1) but is a new term that is not defined. We question the use of this new terminology but if it is required suggest a definition is provided.</p>
6. Do you have any feedback on the workability of provision 2.1: Objective?	<p>16. The requirement to provide for the social, economic, and cultural wellbeing of people and communities now and in the future is likely to conflict in some instances with the requirement to protect, maintain and restore indigenous biodiversity, especially where a large percentage or area of a property is impacted. This will create uncertainty for landowners/resource users and require resource management practitioners to balance competing objectives. If this balancing of conflicting objectives is the intent of the NPSIB, it will likely fail to fully provide for Te Rito o te Harakeke.</p>

<p>7. Do you have any feedback on the workability of provision 2.2: Policies?</p>	<p>Policy 5</p> <p>17. Achieving Policy 5 is not aligned with the requirement that territorial authorities identify areas that qualify as SNAs, which remove the option of this responsibility being delegated in part or full to the regional council through a regional policy statement.</p> <p>18. The requirement to manage indigenous biodiversity in an integrated way includes the need to do so across administrative boundaries: ecosystems are not always contained in one jurisdiction, and freshwater environments, riparian margins, and terrestrial environments are interlinked. There will be circumstances where better biodiversity outcomes could be achieved by vesting responsibility for some terrestrial biodiversity issues with a regional council.</p> <p>19. One example is the management of braided rivers (which contain both freshwater and terrestrial components). Given the linkages between freshwater and terrestrial environments, splitting responsibility for indigenous biodiversity makes a consistent approach to river management challenging. We prefer retaining the options for regional councils, in consultation with territorial authorities and other partners and stakeholders, to determine who is best placed to manage different indigenous biodiversity issues through a regional policy statement.</p> <p>Policy 7</p> <p>20. For clarity (and if this in the intention of the policy) we suggest that Policy 7 provides explicit direction to apply the effects management hierarchy: for example, “SNAs are protected by <u>applying the effects management hierarchy to avoiding and managing</u> adverse effects of new subdivision, use and development”.</p> <p>Policy 12</p> <p>21. Policy 12 requires indigenous biodiversity to be managed within plantation forestry. Under the National Environmental Standards for Plantation Forestry (NES-PF), rules in a plan may only be more stringent than those in the NES-PF where they give effect to the NPS-FM or New Zealand Coastal Policy Statement (NZCPS). There is therefore an inconsistency between what this proposed NPSIB is trying to achieve and the powers available to councils. We will not be able to manage indigenous biodiversity in plantation forestry unless it is mapped as an SNA in a district plan.</p>
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	22. Policy 12 would be more consistent with 3.14 if it read: "Indigenous biodiversity is managed to maintain threatened or at-risk species within plantation forestry."
8. Do you have any feedback on the workability of provision 3.2: Te Rito o te Harakeke?	23. Refer to comments under question 2.
9. Do you have any feedback on the workability of provision 3.3: Tangata whenua as kaitiaki?	24. We fully support the strengthened recognition and status of tangata whenua as kaitiaki in their rohe, and the central role and responsibility they have to play in protecting indigenous biodiversity and taonga.
10. Do you have any feedback on the workability of provision 3.4: Integrated approach?	[No comment]
11. Do you have any feedback on the workability of provision 3.5: Social, economic, and cultural wellbeing?	25. We support the recognition of the social, economic and cultural wellbeing of people and communities. We do note (as mentioned in response to question 6) that implementation of this provision is likely to conflict with the requirement to protect and maintain indigenous biodiversity in some circumstances. Where this conflict presents it will require resource management practitioners to balance competing objectives.
12. Do you have any feedback on the workability of provision 3.6: Resilience to climate change?	[No comment]
13. Do you have any feedback on the workability of provision 3.7: Precautionary approach?	26. Requiring the use of the precautionary principle where effects are uncertain will be helpful for resource users and practitioners, as it removes doubt in applying the NPSIB.

<p>14. Do you have any feedback on the workability of provision 3.8: Assessing areas that qualify as significant natural areas?</p>	<p>27. We support the removal of the distinction between high and medium SNAs. This change improves workability of the provision.</p> <p>28. The requirement for territorial authorities to identify SNAs, even with the option for requesting regional council help, entrenches the roles and responsibilities of territorial authorities in relation to terrestrial biodiversity. These roles and responsibilities can currently be assigned through a Regional Policy Statement. The current framing of the roles and responsibilities in the NPSIB removes the opportunity to assess the effectiveness of these jurisdictions. A regional approach to terrestrial biodiversity management in some/all instances may be desirable but is precluded by these provisions.</p> <p>29. In Canterbury, this is particularly important for management of braided rivers. The provisions as written would mean management of large components of braided river ecosystems would fall to territorial authorities rather than Environment Canterbury.</p> <p>30. Provision 3.8(3) poses a potentially significant implementation and resourcing challenge. Clearer parameters are needed around the requirement that regional councils provide to a territorial authority, if requested, with regards to the identification of SNAs and their inclusion within district plans and policy statements. The issue of resourcing is likely to be relevant in the Canterbury context as many territorial authorities are currently not well-progressed with SNA identification; are particularly under resourced; or may seek to shift responsibility to the regional councils.</p> <p>31. We are concerned that the resource burden this vague drafting poses may place on Environment Canterbury is unclear (difficult to plan and rate for as part of Annual and Long-Term Planning processes) and potentially significant (Environment Canterbury assuming the full burden of SNA identification).</p> <p>32. These concerns would be alleviated by a nationally delivered SNA identification process as part of an implementation plan. A nation-wide SNA identification process, working closely with landowners, to be undertaken by central government would be more effective and efficient while not overburdening small, under-resourced councils who may host vast areas of SNAs in their districts.</p>
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	<p>33. While we support a holistic approach to SNA identification, we are concerned that public land appears to be captured by these provisions. It is unfair to expect local authorities (territorial or regional) to resource SNA identification on public land (in particular - the conservation estate and land administered by Land Information New Zealand). We note that public conservation land is non-rateable and that it is unacceptable for Councils to ratepayer-fund biodiversity work on public conservation land unless the Crown is making a substantial financial contribution. We are concerned that this is an unfair resourcing requirement to place on local authorities. To address this concern, clarity is required as to how the identification of SNAs on public land will be resourced or implemented (e.g., DOCs role in the identification of SNAs on public conservation land).</p> <p>34. We note the need to build trust with landowners, particularly for the SNA identification process. Some landowners will be concerned about future restriction on their activities resulting from SNA identification. Trust is required to facilitate the identification process and to ensure SNA ownership is viewed as an asset rather than as a liability. We strongly wish to avoid a perverse outcome where indigenous biodiversity is removed or degraded during the period before SNAs are documented in a local authority's plan.</p> <p>35. Splitting the responsibilities to identify SNAs by territorial authorities and highly mobile fauna areas by regional councils will mean that these are split between two different RMA planning documents. We are concerned that this may leave regulatory gaps if there are changes to the category or definition that an area falls into (for example, an area may stop being an SNA, but will not be identified as a highly mobile fauna area until the next Canterbury Regional Policy Statement review.)</p>
15. Do you have any feedback on the workability of provision 3.9: Identifying SNAs in district plans?	36. Refer to comments under question 14.
16. Do you have any feedback on the workability of provision 3.10: Managing adverse effects on SNAs of new subdivision, use, and development?	[No comment]

<p>17. Do you have any feedback on the workability of provision 3.11: Exceptions to clause 3.10?</p>	<p>37. We note that section 3.11(2)(b) provides an exception when there is the functional or operational need for the new use or development to be in that particular location. This is a broad exemption and provides an ability to use the effects management hierarchy (not avoid) for effects on SNAs for almost any reason. We suggest this could be developed further, so a project would be required to document the different options considered (for example: alternate routes, locations and designs) in order to prove that the modification or destruction of an SNA is the only feasible option and how mitigation measures have been considered. We are also concerned that this provision may be used for private development at the expense of indigenous biodiversity.</p> <p>38. Section 3.11(4)(a) uses the term 'significant habitat of indigenous biodiversity'. It is not clear what would be captured here. It is not clear how significance would be assessed, and whether this assessment would use different criteria than those used to identify the area as an SNA. It is also unclear whether 'habitat of indigenous biodiversity' is intended to mean 'habitat of indigenous fauna' or should be interpreted more widely. The wording of this clause needs to be refined or wording should be made consistent with existing defined terms.</p>
<p>18. Do you have any feedback on the workability of provision 3.12: SNAs on Māori lands?</p>	<p>[No comment]</p>
<p>19. Do you have any feedback on the workability of provision 3.13: Geothermal SNAs?</p>	<p>[No comment]</p>
<p>20. Do you have any feedback on the workability of provision 3.14: Plantation forests with SNAs?</p>	<p>39. Under the draft NPSIB, territorial authorities will be required to identify SNAs within plantation forests, but the adverse effects of any new subdivision, use, or development on these SNAs is not required to be avoided or managed (using the effects management hierarchy). Instead, SNAs within plantation forest must be managed only to maintain the long-term populations of any Threatened or At Risk species in the SNA (3.14(1)). We support the use of the effects management hierarchy to ensure SNAs within plantation forests are protected.</p>

	<p>40. If the effects management hierarchy is not applied to SNAs in plantation forests, we seek clarity on what 'maintaining long-term populations' means and would require.</p>
<p>21. Do you have any feedback on the workability of provision 3.15: Existing activities affecting SNAs?</p>	<p>41. This clause offers security for some existing activities to occur where SNAs are present, as long as the effects (including cumulatively) do not increase over time, and do not cause a reduction in the extent or ecological integrity of the SNA.</p> <p>42. We support the inclusion of cumulative effects in this clause: while cumulative effects can be difficult to track, these effects can cause significant indigenous biodiversity losses. However, identifying cumulative effects often requires a recorded baseline as evidence that a change or loss has occurred. The onus will be on the local authority to provide evidence of this. Given the current lack of baseline information about indigenous biodiversity (including in SNAs) across districts and regions, there is a major risk that, in practice, local authorities will not be able to manage the cumulative effects of existing activities from the commencement date of the NPSIB.</p> <p>43. The responsibility to identify which existing activities this clause applies is passed to regional councils (through their regional policy statements): no national direction has been provided about which existing activities, or types of existing activities, should be enabled to continue as permitted activities in SNAs. More consideration needs to be given to whether providing some national consistency around existing activities in SNAs, or limiting the scope of local decision making around some types of existing activities, would better serve the NPSIB objective of protecting, maintaining and restoring indigenous biodiversity, while also providing clarity to resource users and practitioners.</p> <p>44. For example, some existing activities or types of existing activities (for example: forestry, mineral and aggregate extraction) may be highly likely to have adverse effects (including cumulative effects) that do not comply with subclauses 3.15(2)(a) and (b) (will increase over time or will contribute to a reduction in extent of ecological integrity of an SNA). Where this is known, clearer national direction could be provided that these existing activities must be managed in accordance with clause 3.10.</p>
<p>22. Do you have any feedback on the workability of provision 3.16: Maintaining indigenous biodiversity outside SNAs?</p>	<p>45. The NPSIB could be improved by highlighting how, outside the planning review cycle (10 yearly), stochastic or significant changes in biodiversity representativeness might be considered.</p> <p>46. We support provision 3.16(2)(a) which requires effects management to be applied to non-SNA biodiversity through consenting processes. This is important to state explicitly and is consistent with local authority responsibilities under s30 of the RMA.</p>

	<p>47. The areas of indigenous biodiversity that are not SNA's but still require the application of an effects management hierarchy to ensure that they are maintained could also be documented.</p> <p>48. We are unclear why a distinction between the use of the effects management hierarchy for 'irreversible' effects and the use of 'appropriate controls' for other effects (presumably reversible effects) has been made.</p> <p>49. One adverse effect of new subdivision, use and development that the NPSIB does not capture is the cumulative loss of landscape diversity providing indigenous species refugia (both indigenous and non-indigenous refugia). This is critical to the maintenance of biodiversity, and specifically outside of SNAs.</p>
23. Do you have any feedback on the workability of provision 3.17: Maintenance of improved pasture?	<p>50. Additional advice in the NPSIB to describe what would constitute "adequate evidence" to demonstrate that the maintenance of improved pasture is part of a regular cycle of periodic maintenance would add greater clarity. The cycle of maintenance will depend on many factors, including factors such as pests, climatic conditions/drought, pasture species and persistence.</p> <p>51. Explicit clarity on whether the maintenance of improved pasture that is also an SNA is/is not enabled would improve the workability of the NPSIB.</p> <p>52. As mentioned elsewhere, the effective application of this provision as written is likely to require a balancing between the maintenance of improved pasture and the fundamental concepts detailed in provision 1.5.</p> <p>53. We support that the exemption to the improved pasture definition for "depositional landforms" which will be important for maintaining indigenous biodiversity in the Canterbury high country.</p> <p>54. The improved pasture definition could prevent unintentional biodiversity loss by amending the instance of "and" to "or": "improved pasture means an area of land where exotic pasture species have been deliberately sown or <u>and</u> maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.</p> <p>55. It would be beneficial and more workable for the improved pasture definitions and provisions contained in the NPSIB to be consistent with the NPS-FM.</p>
24. Do you have any feedback on the workability of provision 3.18: Māori lands?	[No comment]

<p>25. Do you have any feedback on the workability of provision 3.19: Identified taonga?</p>	<p>[No comment]</p>
<p>26. Do you have any feedback on the workability of provision 3.20: Specified highly mobile fauna?</p>	<p>56. We support the addition of Appendix 2 as a useful addition to this clause. However, further clarity is still required in relation to instances of highly mobile fauna utilising non-indigenous spaces such as urban areas, shelterbelts, or paddocks; and in relation to potential overlaps with SNA schedules in District Plans and the provisions of the NPS-FM (as many of the specified species are wetland and riverine species).</p> <p>57. We note that councils are unlikely to have the necessary data and species management understanding to determine needs to maintain viable populations at landscape scales and across natural ranges.</p> <p>58. There is no direction for the management of highly mobile fauna within plantation forests.</p> <p>59. Appendix 2 includes threatened avifauna and bats. To ensure effective management the habitats of these species require mapping and protection even if their habitats are not SNAs. This burden falls to regional councils, but we suggest a greater role for DOC in this process as they house the necessary information and expertise.</p> <p>60. We seek clarity as to whether the methods anticipated in provision 3.20(3) could provide an avenue for local authorities to protect highly mobile fauna in riverbed habitats such as vehicle bylaws that would apply during the core river bird nesting season.</p> <p>61. We noted in our previous submission that surveying and identifying areas used by specific fauna species is better aligned with the current expertise and responsibilities of DOC. We requested that DOC undertook surveys of highly mobile fauna and provided the relevant information to local government in order to manage adverse effects through planning frameworks. We do not consider this issue has been resolved entirely, and further clarification of roles and responsibilities would be useful.</p>
<p>27. Do you have any feedback on the workability of provision 3.21: Restoration?</p>	<p>62. Clause 3.21(2)(d) prioritises wetland areas 'whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna' for restoration efforts. This description captures wetlands that are excluded from the NPS-FM (Exposure Draft 2022) and will contribute to confusion and conflicting focus of the two policy statements. We have provided additional information in response to Q1.</p>

<p>28. Do you have any feedback on the workability of provision 3.22: Increasing indigenous vegetation cover?</p>	<p>63. We require clarity as to whether public/crown land is included in the targets is required in order to clearly understand the expectations of the NPSIB.</p> <p>64. As this provision requires consideration and priority given to ecosystems that are representative, threatened and rare, there are likely to be regional implementation challenges for ecosystems such as Canterbury coastal and lowland vegetation where less than 10% remains that is highly fragmented.</p> <p>65. The workability of this provision would be improved if it provided direction regarding what 'indigenous vegetation' means in this context, particularly for urban areas. Urban areas will often be of mixed native-non-indigenous plantings or native trees over a predominant exotic grassland park. Such mixed assemblages may be the only viable/feasible outcome for urban areas. Similar implementation concerns are also likely to be raised when looking at stands of or individual indigenous plants on rural or farmland.</p> <p>66. This provision would better achieve the maintenance of indigenous biodiversity, albeit with an added level of complexity if the target for non-urban areas was linked to the ecological district.</p>
<p>29. Do you have any feedback on the workability of provision 3.23: Regional biodiversity strategies?</p>	<p>67. Appendix 5 covers the substantive requirements for a regional biodiversity strategy. Additional commentary is provided at Q40.</p> <p>68. The current Canterbury Biodiversity Strategy was developed in collaboration with community groups. The NPSIB is unclear on what requirements might apply to satisfy the requirement to undertake a collaborative process with the 'community'. It is possible that the proposed approach to the revitalisation of the Canterbury Biodiversity Strategy may need to undergo broader consultation under a strict reading of this provision.</p> <p>69. It would be disappointing if the existing Canterbury Biodiversity Strategy, which has been proactively and collaboratively developed with stakeholders and the community with the investment of considerable effort would be deemed non-compliant with the NPSIB.</p>
<p>30. Do you have any feedback on the workability of provision 3.24: Information requirements?</p>	<p>70. The NPSIB is not clear about what is meant by "an indigenous biodiversity matter" in 3.24(1): "...require that if a resource consent application is required in relation to an indigenous biodiversity matter, the application is not considered unless it includes a [ecological] report...". Guidance on what "an indigenous biodiversity matter" is intended to capture would make the provision more workable.</p>

	<p>71. This provision would be more in line with the NPSIB objectives if broadened as follows: "...require that, if a resource consent application is required in relation to an indigenous biodiversity matter that could have an impact on indigenous biodiversity, the application is not considered unless it includes an [ecological] report that..."</p> <p>72. There is currently no requirement in 3.24(2) to monitor the effectiveness/success of biodiversity offsetting or compensation; it only requires an ecologist to comment on the likely success of the offsetting or compensation plan. Given the importance of ongoing monitoring of biodiversity management actions (as recognised under 3.25 and 3.23/Appendix 5), we suggest adding an obligation for the applicant to monitor the effectiveness/ongoing success of the offsetting or compensation approach undertaken.</p> <p>73. We suggest further information requirements including:</p> <ul style="list-style-type: none"> a. a spatial map of habitats within a development site or effected area b. an assessment of the site's biodiversity values against SNA criteria. This would indicate the presence of a potential SNA.
<p>31. Do you have any feedback on the workability of provision 3.25: Monitoring by regional councils?</p>	<p>74. Regional monitoring plans will need to set clear roles for who will resource and undertake the different aspects of the monitoring plan. Without clear roles and accountabilities, there is a risk that the monitoring plan will not be resourced and implemented.</p> <p>75. Therefore, we suggest adding an explicit requirement for the plan to identify what actions will be undertaken and by whom (similar to the requirements outline for regional biodiversity strategies, in Appendix 5). For example, add a subsection under 3.25(2):</p> <p>"Every monitoring plan must:</p> <ul style="list-style-type: none"> i. record the monitoring actions that will be undertaken by regional councils, territorial authorities, relevant agencies and/or tangata whenua, and record how these actions will be resourced."

	<p>76. In order for regional biodiversity strategies to be effective (and for the regional monitoring plan to create useful information for biodiversity policy and implementation), there needs to be a clear connection between the two instruments. This could be achieved by requiring regional monitoring plans to record monitoring actions and resourcing (aligned with regional biodiversity strategies; see point above) and by basing regional monitoring plans and regional biodiversity strategies on the same biodiversity information types (see response to Question 40).</p> <p>77. In relation to 3.25(2)(d): “Every monitoring plan must: recognise the importance of long-term trends in monitoring results, and the relationship between results and the overall state of indigenous biodiversity”. It is not clear how this should be implemented in a monitoring plan. We request clearer direction about:</p> <ul style="list-style-type: none"> a. how a monitoring plan would “recognise the important of long-term trends”, for example, “by prioritising methods and actions that will provide information on long-term trends” b. how monitoring results should be shared. For example, “Every monitoring plan must: in a specified timeframe, make available to the public [or, report to the public] the results of monitoring and a review of how these results relate to the overall state of indigenous biodiversity in the region and each district”. This would align with council monitoring functions under s35 of the RMA. <p>78. The wording of 3.25(2)(b) is unclear, the workability of this provision would be enhanced if “areas that allow for comparability” were defined or described.</p> <p>79. Provision 3.25(3) could be made more concise, e.g., “Methods and timeframes may differ for monitoring of SNAs and monitoring of identified taonga, but where relevant national monitoring methods are available, these methods must be used”.</p> <p>80. The NPSIB requires that “...if national monitoring methods are available, must use those methods.” It would be preferable for the methods to be established as part of or in conjunction with the NPSIB so that regional monitoring programmes are consistent from the outset and not subject to potentially resource heavy revisions when national methods become available.</p> <p>81. We would seek clarity that national monitoring tools would be appropriate for monitoring indigenous biodiversity at a regional scale, including for smaller SNAs on private land. National monitoring tools should be appropriate, workable, affordable and achievable if they are required to be adopted.</p> <p>82. Further clarity is required to confirm that regional councils are not responsible for the implementation of the monitoring plan on public conservation land.</p>
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<p>32. Do you have any feedback on the workability of the provisions under Part 4: Timing?</p>	<p>83. Where successful SNA identification processes have occurred in Canterbury, building and maintaining relationships with landowners has been critical. Building these relationships takes time and requires skill, expertise and a long-term commitment. Identification of SNAs is heavily dependent on ground truthing which in turn needs good relationships with individual landowners. The exposure draft gives little in the way of incentives to encourage voluntary access by landowners to council staff. Use of powers of entry will erode goodwill and the time and effort required to build trust and gain access to properties should not be underestimated.</p> <p>84. The use of the 'commencement date' as the time for avoiding reduction in biodiversity losses may lead to unintended consequences in the interim. We also seek clarity on a commencement date as implementation at a regional and local level will be greatly improved with this certainty.</p>
<p>33. Do you have any feedback on the workability of provision A: Representativeness criterion?</p>	<p>85. We recommend changing wording of Appendix 1:A(2): "Representativeness may includes commonplace..." and later, "It may also includes degraded..."</p>
<p>34. Do you have any feedback on the workability of provision B: Diversity and pattern criterion?</p>	<p>[No comment]</p>
<p>35. Do you have any feedback on the workability of provision C: Rarity and distinctiveness criterion?</p>	<p>86. We recommend rewording Appendix 1:2(1) to:</p> <p style="padding-left: 40px;">“(1) The context for an assessment of an areas is:</p> <p style="padding-left: 80px;">(a) its ecological district; and</p> <p style="padding-left: 80px;">(b) its land environments.”</p>

	87. The restricted use of land environments (to the context of the rarity assessment only) is at odds with the <u>Land Environments New Zealand Technical Guide</u> . Land environments “defines discrete and relatively uniform areas in environmental space but many of these show wide geographic dispersion. Although some may form one or two discrete geographic patches, others may occur as small patches, often scattered over a considerable area. In this regard, LENZ [land environments] represents more accurately the true character of environmental variation across New Zealand’s landscapes.” (ibid).
36. Do you have any feedback on the workability of provision D: Ecological context criterion?	[No comment]
37. Are there any species which should or shouldn't be on the specified highly mobile fauna list?	[No comment]
38. Do you have any feedback on the workability of Appendix 3: Principles for biodiversity offsetting?	<p>88. We support the commentary that details where offsetting and compensation are not appropriate including where values are ‘irreplaceable’ or ‘vulnerable’.</p> <p>89. Best practice for offsetting and compensation indicates these tools should be restricted for managing impacts on less important biodiversity values.</p> <p>90. We support Principle 8 referring to time lags which links the consent period to the appropriate time in which to achieve the offset.</p>
39. Do you have any feedback on the workability of Appendix 4: Principles for biodiversity compensation?	91. Principle 8 referring to time lags does not link the achievement of the compensation to the consent period, it only requires the time lag to be minimised. This is not consistent with the offsetting principles, and it is not clear why the provisions differ.

<p>40. Do you have any feedback on the workability of Appendix 5: Regional biodiversity strategies?</p>	<p>92. The requirement to spatially identify biodiversity areas (SNAs, identified taonga, restoration areas, areas for increasing indigenous vegetation, and areas that align with national priorities for biodiversity protection) in regional biodiversity strategies has been removed.</p> <p>93. To prepare an effective regional strategy this information will still need to be collated.</p> <p>94. A strategy is more likely to be effective in the long-term if it is measurable. Our strongest opportunity for measuring biodiversity will be through the regional monitoring plan established under the NPSIB. Connecting the regional biodiversity strategy and regional monitoring plan – by basing them on the same biodiversity information – would give the strategy a better chance of being effective.</p> <p>95. We support the newly worded purpose for regional biodiversity strategies: “to promote the landscape-scale restoration of the region’s indigenous biodiversity”. This wording is simpler and clearer than the purpose given in first NPSIB draft (“to promote a landscape-scale restoration and enhancement vision for the region’s indigenous biodiversity”).</p> <p>96. In order for this provision to be clearer the NPSIB should define “landscape-scale” (in 1.6), for clarity: the words “landscape-scale” are commonly used and sometimes with different understandings of what this concept means.</p> <p>97. We are concerned that there is a risk that implementation of 3(a) could result in strategies focusing attention and resourcing on measures “that are intended to implement other objectives”, where the contribution to biodiversity protection or restoration is less effective or strategic than what could be achieved, had the strategy focused on measures designed to protect and restore biodiversity as the primary objective.</p> <p>98. We highlight this risk based on our ongoing experience of the challenge of raising awareness and understanding of indigenous biodiversity, what it is, why it matters, and which management actions are most effective in protecting and restoring biodiversity.</p> <p>99. We suggest changing the wording in 3(a) to reflect that implementation of biodiversity objectives is the primary purpose of the regional strategy, while still allowing for integrated environmental management: e.g., replace 3(a) with: “include measures that will protect and restore indigenous biodiversity while also supporting other objectives, such as climate mitigation, amenity, or freshwater outcomes”.</p>
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	<p>100. We seek clarification of the use of the word ‘others’ in 4(b): “opportunities for partnerships with the QEII Trust, Ngā Whenua Rāhui and others”. Does this mean covenanting/kawenata agencies or something broader?</p> <p>101. We suggest that QEII Trust would be better referred to as “QEII National Trust” or “the Queen Elizabeth the Second National Trust”.</p>
41. Any general feedback on the consultation	<p>102. We strongly support the commentary in the Draft Implementation Plan which states that central government (MfE) will “provide financial assistance to councils for SNA identification, specifically those councils that have not undertaken SNA assessment already”. We note that \$19 million has been allocated for implementation support of the NPSIB but this will not be sufficient to ensure implementation on the scale and timeframe required.</p> <p>103. We seek clarity on whether delivering SNA requirements and terrestrial biodiversity management (in full or part) as a regional function remains in scope.</p> <p>a. Preserving the natural character of rivers, and associated habitats, is a statutory requirement under s6 of the Resource Management Act 1991 (RMA). Braided rivers are unique ecosystems, providing an outstanding habitat for many rare birds, fish, plants and other species. A key part of their makeup is driven by their multiple, shifting channels and banks, varying flows, variety of habitats, and their ability to move over the landscape.</p> <p>b. In braided rivers the freshwater, riparian margins, and terrestrial environments are interlinked and therefore there may be circumstances where regional councils want to retain control over some terrestrial biodiversity issues in order to better manage indigenous biodiversity in freshwater e.g., management of braided river biodiversity. The requirement in clause 3.8 of the NPSIB for territorial authorities to identify SNAs entrenches the roles and responsibilities of territorial authorities in relation to terrestrial biodiversity and removes the opportunity to assess the effectiveness of these jurisdictions. Given the linkages between these environments, splitting responsibilities makes a consistent approach to riverine indigenous biodiversity difficult. A system where regional councils can determine who is best placed to manage different indigenous biodiversity issues via their regional policy statement will likely achieve better outcomes for biodiversity.</p>

	<p>c. Roles and responsibilities in the braided river environment are further complicated by a 2019 Court of Appeal decision (Dewhirst) which upheld a narrower definition of a riverbed than Environment Canterbury had previously used, with territorial authorities now responsible for managing the area of land where many braided river values lie. This issue is exacerbated by proposed changes to provisions in the NPS-FM that seek to replace references to 'river' with 'riverbed'. Narrowing provisions to apply to the 'bed' rather than the river system as a whole (i.e., bed, surface, banks, margins, water) are inconsistent with the fundamental premise of the NPS-FM which is for integrated management of freshwater. This will also make it more difficult for local authorities to justify provisions in plans that avoid the loss of values associated with the broader river system and for regional councils to manage these ecosystems effectively.</p> <p>104. The inconsistencies between policy documents (in particular, the NPSIB and the NPS-FM) can confuse and hinder implementation of policy statements, and such inconsistencies should be resolved (for example wetlands).</p> <p>105. There is a capacity and capability shortfall within councils, particularly territorial authorities, which will have nation-wide implications for implementation of the NPSIB. The current lack of capability and capacity relates to all aspects of implementing the NPSIB including, genuine partnership with tangata whenua, identification of SNAs, maintaining schedules and databases, planning and policy development, consent compliance monitoring and reporting, and biodiversity / land management officers. In addition, the limited availability of both consultant ecologists to undertaking reporting for consenting requirements and council staff to assess and evaluate ecological reports will be challenging.</p> <p>106. The NPSIB Draft implementation plan's list of new support measures (p15), proposes to trial a Regional Biodiversity Coordinator position to support the community to improve biodiversity. This is to be delivered by the Ministry for the Environment in partnership with councils and community hubs. Environment Canterbury supports measures to bring wider stakeholder groups together in a co-ordinated manner at a regional scale. It is something we envisage will occur as part with the revitalisation of the Canterbury Biodiversity Strategy and its ongoing implementation, and we are very supportive of funded positions to accelerate this collective approach.</p> <p>107. There are no incentives identified in the NPSIB or Draft Implementation Plan to assist landowners to protect SNAs or other biodiversity on their land. Effective management of these areas requires pest and weed control and fencing, with costs likely to fall on the individual. In some cases these costs will be substantial and the \$19M allocated does not indicate any direct financial support for landowners.</p>
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	<p>108. We urge the Ministry, through the NPSIB and the supporting material/guidance it provides to be as clear and simple as possible about what is required. Effective implementation of the NPSIB will require buy in, particularly from kaitiaki, landowners, occupiers and other stewards of indigenous biodiversity. Managing relationships is critical for local authorities and getting buy in will be easier if there is clarity:</p> <ul style="list-style-type: none"> a. within the provisions; and b. on the roles and responsibilities of those required to implement its provisions.
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