



27 July 2022

Ministry for the Environment  
PO Box 10362  
**Wellington 6140**

Dear Sir/Madam

**Submission on NPSIB Exposure Draft changes and Implementation Plan**

Thank you for the opportunity to provide comment on the proposed changes to the National Policy Statement for Indigenous Biodiversity (NPSIB) Exposure Draft, and the Implementation Plan.

The three West Coast District Councils (Buller, Grey and Westland), and the West Coast Regional Council (WCRC or the Council) have made a joint submission, which is attached. A joint submission is appropriate given that the NPSIB gives District and Regional Councils responsibilities for protecting and maintaining indigenous biodiversity; and the four Councils are working together with mana whenua to prepare a combined District Plan - Te Tai o Poutini Plan - for all three Districts under an Order in Council.

The Councils consulted with their iwi partners, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu or PNT), who are mana whenua on the West Coast/Tai Poutini, in the development of this submission.

Council have previously consulted with West Coast farmers, miners and infrastructure providers who will be affected by the proposed NPSIB.

We note that the Councils are not opposed to protecting, maintaining or restoring indigenous biodiversity in principle. The West Coast/Te Tai o Poutini differs from most of New Zealand as it is fortunate to have an abundance of diverse and intact ecosystems and vegetation types. There are some terrestrial ecosystems and vegetation types that are under-represented and WCRC acknowledge these are worthy of protection.

The proposed Te Tai o Poutini Plan (TTPP – combined District Plan for the West Coast) indicates a requirement for the identification and protection of terrestrial Significant Natural Areas (SNAs) in the next five years. Some of the proposed changes to the NPSIB Exposure Draft are therefore supported where they will improve implementation of the NPSIB in the West Coast Region.

The Councils support in principle some of the new funding options proposed in the Implementation Plan.

Other changes sought by the Councils in our previous submission have not been accepted, and this submission raises further concerns about the social and economic costs, and the psycho-social impacts inherent around this, on our landowners with terrestrial SNAs and other indigenous biodiversity on their land. The Councils are also concerned about whether there will be adequate financial support from the Government to enable us, as small councils, to fulfil the roles and responsibilities the NPSIB places on us.

However, the Councils strongly believe that there is a way forward. To achieve this in a fair and equitable manner, the Government must provide economic incentives to private landowners with an SNA or native forest/bush on their land, to ensure their SNA or native forest is maintained as a carbon sink. This approach will contribute to reducing New Zealand's emissions and assist with the transition to a low carbon future. This practical and pragmatic approach will make the NPSIB workable for the West Coast and our communities.

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We would be grateful for acknowledgement of receipt of our submission.

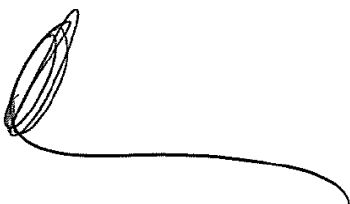
Yours faithfully



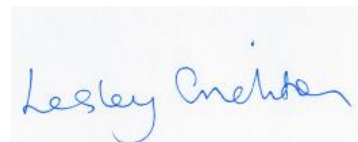
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# West Coast Regional Council Submission on the NPSIB Exposure Draft changes, and the Implementation Plan

## List of Recommendations and Feedback

### Recommendation 1

That the Ministries for the Environment and Climate Change, and the Department of Conservation work together to develop and provide economic incentives for West Coast private landowners. These incentives will encourage landowners to retain their wetlands, SNAs and non-significant native bush/forest. Incentives could be recognizing these areas as carbon sinks for reducing emissions, or compensate for lost productive land where appropriate.

### Recommendation 2

- 1.The Government compensates people who have paid for authorisations to undertake activities affecting SNAs or indigenous biodiversity, where new regulation or government changes to land tenure means they cannot undertake their activities.
- 2.Where the West Coast Councils will lose rates income as a result of rates relief, the Government should subsidise local authorities, as this relief is part of protecting matters of national importance.

### Feedback

The West Coast Councils support the proposed changes listed in the section of this submission titled “Proposed changes supported by the West Coast Councils”.

### Recommendation 3

Remove subclause 1.3 (1)(c) from the NPSIB.

### Recommendation 4

In the definition of “Ecosystem functions”, clarify and consult on what the measures of the “flows” are, or would be, that would be definitive of an ecosystem’s functioning.

### Recommendation 5

Replace “New Zealand’s” with “people’s and communities” in Policy 10, clause 2.2 and clause 3.2(c) Te Rito o te Harakeke.

**Recommendation 6**

In Appendix 1, sub-subclause (3)(1)(d) should be removed.

**Recommendation 7**

- a) Amend clause 3.8(2) to include “where practicable”.
- b) Amend the Implementation Plan to clarify if regional councils will be eligible for additional funding/resourcing if territorial authorities request their assistance for district-wide assessments; and if funding will be available to councils who have partially undertaken SNA identification.

**Recommendation 8**

Add an exemption to 3.9(3) so that existing SNAs which have been reviewed under 3.8(4) do not need to be reviewed again under 3.9(3) within 10 years from when the 3.8(4) review was undertaken.

**Recommendation 9**

- a) Insert a specific clause in 3.11 exempting specific infrastructure, mining, and aggregate quarrying from the avoidance directive.
- b) Provide further interpretation and guidance on avoiding adverse effects on SNAs.

**Recommendation 10**

- a) Add “any water storage infrastructure” to the definition of specific infrastructure in the NPSIB;
- b) Use the same term, either “specified” or “specific” infrastructure in both the NPSIB and NPSFM.

**Recommendation 11**

1. Replace sub-clause 3.15(2)(b) with a reference to adverse effects being managed by the effects management hierarchy.
2. Amend sub-clause 3.15(3) and replace sub-clause (2)(b) to include the same exceptions to 3.10 that are listed in clause 3.11, for adverse effects of existing specific infrastructure, mining, and aggregate quarrying to be assessed using the effects management hierarchy.

**Recommendation 12**

That regions with a high level of indigenous biodiversity present be exempt from the 3.16 requirements for maintaining indigenous biodiversity outside a SNA; or, apply 3.16 to regions with less than 50 or 70% (a figure that can be determined by the Select Committee) of remaining indigenous land cover.

**Recommendation 13**

1. Remove the term “improved pasture from clause 3.17, and make any other amendments need to ensure the NPSIB and NPSFM are consistent with each other.
2. Remove subclause (2)(d) from 3.17 as it is not workable on the West Coast.

**Recommendation 14**

- a) Reconsider clause 3.20 and either delete it, or amend it to be practically achievable, for example, retain the role of maintaining “viable populations” as part of species management as a key role of the Department of Conservation;
- b) Encourage district and regional councils to provide DOC with any information they obtain about specified highly mobile fauna and habitat areas when undertaking implementation of their other roles under the NPSIB; and
- c) Clarify whether highly mobile fauna areas, or land that is used by indigenous biodiversity to move between habitats or feeding areas, will become ecological corridors, and ultimately an SNA or part of an SNA.

**Recommendation 15**

1. Amend 3.21(2) to include that priorities shall reflect the extent or proportion of restoration needed in a region depending on the level of reduction of indigenous biodiversity.
2. Clarify the scope and priority for restoration, and amend 3.21 to reflect councils’ priority of protecting what remains before creating new areas of habitat.
3. Remove subclause 3.21(2)(d) from the NPSIB as the NPSFM and NESF provide for wetland restoration.
4. Remove the reference to “reviewing” consent conditions, to consider whether restoration conditions need to be added or extended, in sub-clause 3.21(4).

**Recommendation 16**

In clause 3.22, clarify the definition of “non-urban environments”, and the scale at which the 10% indigenous cover is to apply, for example, in the LENZ land environment or catchment, or across all non-urban environments in a region.

**Recommendation 17**

Reconsider the requirement for regional biodiversity strategies in terms of how it will fit with the upcoming requirement in the new Natural and Built Environments Bill/Act for Regional Spatial Strategies.

**Recommendation 18**

Subclauses 3.24(b) and (e) should be in a different assessment and not in the qualified ecologists report.

**Recommendation 19**

Amend clause 3.25 so it can be applied where practicable.

**Recommendation 20**

- a) Add “or as soon as practical” to subclause 4.1(2).
- b) Make it clear in the Implementation Plan if/when the NPSIB will be updated to align with the resource management reform changes.

**Recommendation 21**

- a) Amend the NPSIB timeframes in clause 4.2 for notification of SNAs and other NPSIB implementation requirements to be given effect to within 10 years; and
- b) Make the 10-year timeframe flexible to be reviewed taking into consideration timeframes required by other national direction.

**Recommendation 22**

Add “where practicable” to sub-clause 4.3(2) for the timeframe for completing regional biodiversity strategies.

**Recommendation 23**

Remove clause 4.4(2) from the NPSIB.

**Recommendation 24**

- a) Remove sub-clauses (2)(b) and (c) from the compensation principles in Appendix 4.
- b) Reword sub-clauses (2)(b) and (c) in the offset principles in Appendix 3 to be more certain about the risk level being managed, that is, make the frequency of rejection of an offset less likely to be common for specified (significant) infrastructure.
- c) Reword clause (10) in the offset principles in Appendix 3 to ensure stakeholders do not achieve outcomes different to that required by the ecological assessment.

**Recommendation 25**

The Government must fund the changes it wishes to see with regards to district plans. Councils must be funded to include or complete identification of SNAs in their district plans, where they do not already do so.

**Recommendation 26**

Amend the NPSIB and/or the Implementation Plan to remove inconsistent wording, especially substantive differences between “must” and “may”.

**Recommendation 27**

Provide a system of economic ‘credits’ for West Coast landowners similar to the ETS, or using the ETS, where landowners receive an economic return for their indigenous biodiversity carbon sinks.

**Recommendation 28**

- a) Amend the NPSIB, or add a caveat, for small councils to implement the requirements making the best use of available resources;
- b) Amend the Implementation Plan to include increased funding to be made available, similar to the ‘Jobs for Nature’ funding, for West Coast indigenous biodiversity work.

## Introduction

The four West Coast Councils (the Councils) appreciate the opportunity to submit on the proposed National Policy Statement for Indigenous Biodiversity (NPSIB) Exposure Draft changes, and the Implementation Plan.

Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu or PNT), who are mana whenua on the West Coast/Tai Poutini, were asked if they wanted to have input into this submission.....

We note that the Councils are not opposed to protecting, maintaining or restoring indigenous biodiversity in principle. The West Coast/Te Tai o Poutini differs from most of New Zealand as it is fortunate to have an abundance of diverse and intact ecosystems and vegetation types. There are some terrestrial ecosystems and vegetation types that are under-represented and WCRC acknowledge these are worthy of protection. These are generally ecosystems found in the lowland areas of the West Coast/Te Tai o Poutini. Alongside this, parts of the West Coast/Te Tai o Poutini include the last habitats or strongholds of some native species threatened with extinction.

The Grey District Council identified terrestrial SNAs approximately 10 years ago, and the proposed Te Tai o Poutini Plan (TTPP – combined District Plan for the West Coast) indicates through the policy framework identification and protection of terrestrial Significant Natural Areas (SNAs) in the Buller and Westland Districts over the next five years

The TTPP develops one combined District Plan for the three West Coast Districts. All four West Coast Councils therefore have an interest in the NPSIB, in addition to the fact that the NPSIB gives both regional and district councils roles for protecting, maintaining and restoring terrestrial indigenous biodiversity.

The Councils are deeply concerned about the parts of the NPSIB Exposure Draft which will adversely affect West Coast ratepayers. Because the terrestrial vegetation on the West Coast overall is of a high quality, and there is an abundance of it in comparison to other regions, it is likely that a considerable proportion of area will be identified as significant. To make this fair to affected landowners, a Just transition, or clear pathway forward to ensure that our communities and people are treated equitably, must be implemented.

The Councils are further concerned that the proposed Government support and funding outlined in the Implementation Plan will be insufficient, meaning the Councils will be unable to fulfil the requirements of



the NPSIB. In addition, contestable funding does not create a clear funding option, nor transition pathway for our landowners. We do not believe that the adverse impacts on West Coast landowners, arising from implementation of the NPSIB, have been wholly considered or addressed.

The Councils urgently seek a framework to alleviate the negative social, economic and psycho-social impacts of the NPSIB on West Coast landowners. The West Coast Councils have, in previous submissions, sought that the Government provide research and support to develop and provide economic incentives for private landowners to protect and maintain SNAs, (wetlands) and other terrestrial native forest on their land as carbon sinks. This approach would support emissions reductions and help New Zealand transition to a low carbon future. This pathway forward is further explored in the first part of the Council's submission.

The second part of our submission lists the parts of the Exposure Draft that Council supports, followed by a third section with comments on specific provisions in the NPSIB and the Implementation Plan that the Councils are concerned about, or seek further clarity on.

Due to the technical nature of some of the proposed changes, Council obtained advice from consultant Ecologist Dr Vaughan Keesing. We agree with Dr Keesing's advice, and this is included in the third part of our submission.

The Councils have considered the Local Government New Zealand submission and support the majority of it; parts are referred to in this submission where relevant.

A sector submission, prepared via the Regional Councils' Biodiversity Working Group, was also considered in the drafting of this submission. The Councils agree with the sector submission on some matters relevant to the West Coast, but not on others. Those points that the Councils disagree with are mainly relevant to other regions with less indigenous biodiversity.

## **About the Submitter**

The West Coast Regional Council (WCRC) is the local authority, and the three District Councils are the territorial authorities for a region covering a vast area with a sparse population. Extending from Kahurangi Point in the north to Awarua Point in the south, this is the approximate distance from Wellington to Auckland.

**Map of New Zealand to highlight 600km length of West Coast Region compared to distance between Auckland and Wellington**



**The West Coast region stretches the equivalent distance of that between Auckland and Wellington**

The West Coast is predominantly rural.

Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu – PNT) are mana whenua of Te Tai o Poutini (the West Coast). The WCRC’s Mana Whakahono ā Rohe (Resource Management Act - Iwi Participation Arrangement) captures the intent of the WCRC and Poutini Ngāi Tahu to progress our relationship in accordance with the Treaty of Waitangi partnership between iwi and the Crown.

The WCRC and the three territorial authorities (the Buller, Grey and Westland District Councils) work closely together. Outside of the main towns of Westport, Greymouth, Reefton and Hokitika, the region’s relatively small population of approximately 32,600 is spread across smaller settlements and rural communities. It is important that central government priorities for protecting, maintaining and restoring terrestrial indigenous biodiversity are relevant to our unique region, and beneficial to the social, economic, and cultural well-being of all West Coast communities and the natural environment.

The Conservation Estate comprises 84.17% of the West Coast land area, with an additional 1.55% administered by Land Information New Zealand (LINZ).

The higher proportion of terrestrial indigenous biodiversity in the West Coast Region compared to the rest of New Zealand reflects the large amount of rainfall we receive. The West Coast is the wettest region in New Zealand with average yearly rainfall totals of between 1,746mm to 11,228mm<sup>1</sup>, contributing to a relatively rapid rate of native forest regeneration, compared to regions with less rainfall.

The West Coast indigenous forest area contributes from 15 to 25% of New Zealand's pre-1990 forest cover. This is a significant contribution to New Zealand's overall emissions budget, however the West Coast Region receives no economic return for this contribution

## **Impacts of NPSIB Exposure Draft changes on West Coast landowners**

In the Council's 12 March 2020 submission on the Draft NPSIB (released in November 2019), Council sought the inclusion of specific provisions for the West Coast that took into account the high proportion of existing indigenous biodiversity (IB) in the Region. This recommendation has not been incorporated into the NPSIB 2022 Exposure Draft. The West Coast Councils are deeply concerned that when the time comes to undertake ground-truthing and mapping of desktop-identified terrestrial SNAs, to be added to the Te Tai o Poutini Plan (TTPP – the combined District Plan for the West Coast), there will be a high level of angst amongst landowners with a SNA on their land. The WCRC has experienced first-hand the impact such regulation has on landowners who had an identified Schedule 1 or 2 significant, or 'likely to be significant' wetland<sup>2</sup> on their property. This has been further compounded with the addition of natural inland wetlands through new government policy. The following outlines the adverse economic and social impacts, including psycho-social, and other issues for West Coast landowners from having a wetland on their land, that the Councils envisage will happen again with terrestrial SNAs identified on private land, in five years from commencement of the TTPP.

The NPSFM, the National Environmental Standard for Freshwater (NESF), and the NPSIB have restrictions on the use of land with SNAs of terrestrial forest/bush, and natural wetlands, to protect

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<sup>1</sup> West Coast State of Environment Report 2018 - <https://www.wcrc.govt.nz/environment/state-of-environment>

<sup>2</sup> Schedule 1 and 2 wetlands were added to the Regional Land and Water Plan via an Environment Court decision in August 2012 with accompanying objectives, policies and rules to protect them, by restricting earthworks, vegetation disturbance and other activities within these wetlands.

their mainly ecological values. These national restrictions are having, and will continue to have, a significant adverse economic and social impact on rural property values in the region, and on future generations of current private landowners. We are also aware that these national restrictions are impacting on the mental wellbeing of our people and communities. There are a growing number of private landowners with natural wetlands on their land, who had intended to either sell their land for money as an inheritance for their children and grandchildren, or for their own retirement, but are finding that their land has lost monetary value, becoming difficult to sell.

Although natural wetlands on the West Coast have significant national ecological value, landowners are stuck, being unable to develop these areas for economic return (unless sphagnum moss can be harvested). Nor will those features receive enhancement or management as that too costs money and a loss in productive use. This makes the large land areas unsustainable in terms of economic wellbeing of our Community.

Various studies boast of the economic benefits SNAs contribute economically to the tourism sector. This is of little relevance when 84% of the West Coast is already public conservation land (PCL). The additional 7% that is bush on private land is going to make little difference to tourism values in that context.

With Government support through funding initiatives such as the Tai Poutini Regional Growth Study and the Provincial Growth Fund, the West Coast has been promoting the tourism potential of the natural environment as it sought other opportunities to build the economy. However, the global pandemic turned off the international 'tourist tap' virtually overnight. It is likely to take many years before this returns to pre-Covid numbers, if it ever does. In addition to this, many natural wetlands have the same or similar "representative" ecological values, so there are a limited number of wetlands that can provide income from alternative sources such as eco-tourism. Wetland eco-tourism ventures on private land have to compete with tours in larger and potentially more impressive wetlands on public conservation land.

The West Coast is in a unique situation where large land areas are considered ecologically significant due to the make-up of land tenure. Other regions have a more diverse local economy with a range of industry stimulating economic activity. Economic sectors on the West Coast are facing climate adaptation requirements and the agricultural restrictions through the Freshwater Package, further restricting productive opportunities.

There is a question of equitable fairness across the nation. Most regions throughout New Zealand have benefitted economically from clearing vast proportions of their natural areas over time. However, due to the topography, isolation, settlement patterns and other factors, the West Coast did not experience the same level of development and native vegetation clearance. Now the region is economically penalised as the importance of such areas is recognised and legislation and restrictions around development are implemented. West Coast landowners with a SNA (and/or wetland) on their land will/are now shouldering the ongoing protection of these areas which now act as reservoirs for all these species that would otherwise be threatened, endangered or extinct; and as carbon sinks. This public good is being paid for by a loss of economic opportunity for the West Coast. A just transition must be implemented.

A just transition must be implemented for the West Coast as there is no national target or level set for regions to restore their terrestrial indigenous biodiversity to. In effect, there is no requirement for regions with minimal indigenous biodiversity to increase their indigenous vegetation cover and indigenous biodiversity habitat and ecosystems to 90+% of their region, which is what the NPSIB, by implication, requires of the West Coast.

The Government has provided no compensation for the loss of economic value of West Coast wetlands, SNAs and non-significant native bush/forest on private land as a result of the regulation implemented to date or proposed for the future. It is imperative that these areas have a system of economic incentives established for private landowners to receive some benefit from maintaining their natural areas and wetlands for the economic and social wellbeing of West Coast people and communities. Incentives could include, for example, economic credits similar to the Emissions Trading Scheme for carbon sinks, as wetlands and native bush/forest contribute a significant proportion to absorbing carbon emissions.

The Council has submitted on the Government's Draft National Adaptation Plan and Emissions Reduction Plan (ERP) seeking such incentives for West Coast landowners to maintain their wetlands and native bush/forest. Given that the ERP proposes that the biodiversity and climate crises be addressed together, the most pragmatic way to achieve this will be by the Government providing economic incentives to West Coast landowners for maintaining and improving their wetlands' and native bush/forest capacity to remove carbon from the atmosphere.

The Forestry section of the ERP (Pg 284) includes an action: *“To maintain and increase carbon stocks in pre-1990 forests, the Government will: consider opportunities to incentivise and encourage those management activities, including mechanisms to enable the recognition of additional carbon storage in pre-1990 forests”*. Council understands that in the 1990-2019 New Zealand Greenhouse Gas Inventory<sup>3</sup>, *“...all of New Zealand’s forests, both those planted for timber production and natural forests managed for conservation values, are considered managed forests....”*, and the contribution of pre-1990 forest land to carbon stock changes is accounted for in New Zealand’s baseline emissions and removals.

The West Coast indigenous forest area contributes from 15 to 25% of the pre-1990 forest cover. This is a significant contribution to New Zealand’s overall emissions budget, however the West Coast Region receives no economic return for this contribution

### **Recommendation 1**

That the Ministries for the Environment and Climate Change, and the Department of Conservation work together to develop and provide economic incentives for West Coast private landowners. These incentives will encourage landowners to retain their wetlands, SNAs and non-significant native bush/forest. Incentives could be recognizing these areas as carbon sinks for reducing emissions, or compensate for lost productive land where appropriate.

Furthermore, the Stewardship Land Review (SLR) on the West Coast has complicated implementation of the NPSIB. As an example, with wetlands, a mining operator obtains and pays for a mining licence, resource consent, and concession to mine on stewardship land where a wetland is present, but the Stewardship Land Review then recommends that the site be given protection under one of the public conservation land (PCL) tenures (which is likely to be approved). However, there is no indication that mining operators will be compensated for the costs of the licence, consent and concession. The Government needs to provide compensation to resource users who are caught in the transition with implementing the final NPSIB and the final outcomes of the SLR.

There is also the potential future issue of loss of income for West Coast Councils from rates relief, where landowners with a wetland or SNA on their land do not pay rates on areas with these features.<sup>4</sup> The WCRC currently provides rates relief for Schedule 1 and 2 wetland areas on private land. Councils are obliged to

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<sup>3</sup> Ministry for the Environment. 2021. New Zealand’s Greenhouse Gas Inventory 1990–2019. Wellington: Ministry for the Environment. Volume 1, Chapters 1-15, Pages 294-297.

<sup>4</sup> Sections 109 and 110 of the Local Government Act; and Section 3, Part 1 Land fully non-rateable, Schedule 1 Categories of non-rateable land, Local Government (Rating) Act 2002.

provide rates relief under the Local Government Act 2002 as a matter of fairness to landowners where council services are not utilised on land with a wetland or terrestrial SNA. The amount of rates income will significantly decrease in the future on the West Coast as a result of more wetlands and SNAs identified and protected. Where the West Coast Councils will lose rates income as a result of rates relief, the Government should subsidise this as part of protecting matters of national importance.

## **Recommendation 2**

1. The Government compensates people who have paid for authorisations to undertake activities affecting SNAs or indigenous biodiversity, where new regulation or government changes to land tenure means they cannot undertake their activities.
2. Where the West Coast Councils will lose rates income as a result of rates relief, the Government should subsidise local authorities, as this relief is part of protecting matters of national importance.

## **Proposed changes supported by the West Coast Councils**

The Councils support the following proposed changes to the NPSIB Exposure Draft (parts of the NPSIB quoted are shown in italics):

### **1.3 (1)(b) and (c) Application**

*“(d) regional biodiversity strategies may extend to include the coastal marine area and water bodies (see clause 3.23).”*

Comment: Subclause (d) now makes it optional for regional biodiversity strategies to include the coastal marine area and water bodies. The 2019 Draft NPSIB made it mandatory to include these areas. The change to ‘optional’ is an improvement, which the Councils support.

### **1.5 Fundamental concepts**

Comment: (4) Effects management hierarchy: This is a new explanation added to the 2022 Exposure Draft. The focus has shifted from adverse effects in the 2019 version to the management of those effects. The primary change is that the 2019 NPSIB required that effects be avoided where possible, whereas the 2022 NPSIB requires that effects be avoided where practicable (clause (a)). The latter is likely a better formulation. The explanation of the concept provides clarity for consent applicants and Council’s consent staff on how to apply the effects management hierarchy.

See also our comments on issues with the effects management hierarchy in the section of this submission headed “Comments on other proposed changes”.

### **1.6 Interpretation**

The definition of “specific infrastructure” (which is referred to in 3.11(2)(a)(i)) includes regionally significant infrastructure identified in a regional policy statement or regional plan, as well as infrastructure that delivers a service operated by a lifeline utility, and any public flood control, flood protection or drainage works carried out by a local authority for the purposes of s133 of the Soil Conservation and Rivers Control Act 1941. This definition will work for the West Coast Region.

### **2.2 Policies**

Comment: The amendment to Policy 15, which limits the identification and management of highly mobile fauna to those species specified in Appendix 2 is supported. Having said that, refer to our concerns regarding the cost of undertaking this function in the next section of this submission.

### **3.2 Te Rito o te Harakeke**

#### **3.3 Tangata whenua as kaitiaki**

In summary, the mana whenua provisions mean that Councils will need to work with tangata whenua to identify and protect taonga species to the extent that tangata whenua want this to occur. The NPSIB will also establish a more flexible land-use regime for the use and development of Māori land.

Other key changes are:

- Caveats are added to allow tangata whenua to determine the extent to which they wish to be involved;
- Recognition of iwi, hapū, whānau organisational structure for decision-making which local authorities must have regard to;
- Councils must allow for the sustainable customary use of indigenous biodiversity in accordance with tikanga.

Comment: The amended provisions give more certainty on the direction intended and provide a wider application, that is, they are not just limited to indigenous vegetation.

#### **3.8 Assessing areas that qualify as significant natural areas**

Comment: The Exposure Draft has removed Appendix 2 in the 2019 version which required the ranking of SNAs as medium or high, and outlined how effects might be managed relative to that ranking. The



Councils sought this change in our submission on the 2019 NPS. The removal of the former Appendix 2 is appropriate, and the 2022 draft has further removed a number of the attributes from each of the four assessment criteria. These changes are an improvement to implementing the NPSIB.

3.8(5)(b): The 2019 requirement to notify a plan change when a new SNA is identified, for example through a resource consent application, has been removed. The Councils sought its removal in their submission on the 2019 version. It is replaced with a requirement to notify any newly identified SNAs in the next plan or plan change. While some parties may be concerned that newly identified SNAs will remain unlisted in district plans for lengthy periods of time, there are other ways of managing this, such as providing consents and compliance staff with information about newly identified SNAs so that potential effects of activities can be assessed.

#### **Appendix 1: Criteria for identifying areas that qualify as significant natural areas**

Comments: The addition of a context section (2) within Appendix 1 in the scale of an assessment is helpful.

#### **3.10 Managing adverse effects on SNAs of new subdivision, use, and development**

##### **3.11 Exceptions to clause 3.10**

Comment: Sub clause 3.11 (2)(a)(i), (ii) and (iii) has exceptions to the 'avoid adverse effects' requirement in 3.10(2) for new specific infrastructure, mineral and aggregate extraction activities that provides significant national (national and regional for aggregate extraction) public benefit that could not otherwise be achieved domestically. Adverse effects of these activities can be assessed through the effects management hierarchy. The Council's support is qualified by concerns about a potential drafting issue to clause 3.10(3) which is explained on Page 22 of this submission, with a recommended change. If clauses 3.10(3) and/or 3.11(2) are not amended, the Councils revoke their support for these provisions.

##### **3.12 SNAs on Māori lands**

##### **3.18 Māori lands**

##### **3.19 Identified taonga**

*"(4) Local authorities must work together with tangata whenua to protect both acknowledged and identified taonga as far as practicable and involve tangata whenua (to the extent that they wish to be involved) in the management of identified taonga."*

Comment: The Exposure Draft places greater emphasis on the relationship with iwi/hapū, and the treatment of Māori land. Mana whenua are Kaitiaki, and the Councils support this recognition, including that Māori be engaged as much as they want to be engaged. However, the Councils note that our local

iwi are under-resourced and question how the Government will support them to exercise this role effectively.

### **3.21 Restoration**

Comment: The requirement in the 2019 version, that regional councils must record those locations identified by district councils of areas for restoration (with appropriate descriptions) in their regional policy statements, is removed in the Exposure Draft.

### **3.22 Increasing indigenous vegetation cover**

*“(4) Local authorities must promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:....”*

Comment: The term “promote” is an improvement on the 2019 version wording, which had a mandatory implication.

### **Appendix 3 Principles for biodiversity offsetting**

Comment: Subclause (9) provides that *“....the design and implementation of a biodiversity offset is a documented process informed by science and mātauranga Māori where available.”* The 2019 version had a provision which required a “documented process informed by science, including appropriate consideration of mātauranga Māori”. The Councils consider that adding the term “where available” is an improvement as it provides clearer expectations of this principle.

### **Feedback**

The West Coast Councils support the proposed changes listed in the section of this submission titled “Proposed changes supported by the West Coast Councils”.

## **Comments on other proposed changes**

### **Part 1: Preliminary provisions**

#### **1.3 Application**

*(1)(c) “provisions relating to restoration extend to include wetlands (see clauses 3.21 and 3.22); and....”*

Comment: The Councils strongly oppose subclause (c), as wetlands protection, maintenance and restoration is well provided for in the NPSFM and the NESF. Having a wetlands sub-clause in the NPSIB is unnecessary duplication, creating a further layer of regulation for activities potentially affecting wetlands on private land. We believe this will create confusion, and potentially increased cost, for affected

landowners regarding which regulations apply to their wetlands. Trying to explain the difference between terrestrial SNAs protected by the NPSIB and wetlands (as a type of freshwater SNA) protected by the NPSFM is challenging to understand, especially for lay people. Having them managed under separate NPSs will avoid this confusion.

The Biodiversity Working Group's regional sector draft submission states: *"Excluding indigenous biodiversity in the coastal marine area and aquatic indigenous biodiversity from the remit of the NPS-IB creates a substantial gap that undermines the central objective of the NPS-IB. The NPS-FM in particular does not have SNA-equivalent provisions. Therefore, the matters set out in section 6(c) of the Resource Management Act are only partial captured by the restricted scope of the NPS-IB."*

The Councils disagree with this, the NPSFM requires protection of natural wetlands and aquatic threatened species. The NZCPS has a strong directive to avoid adverse effects on coastal indigenous biodiversity. These NPSs do not necessarily need to have freshwater and coastal SNAs. The NPSIB should not provide for indigenous biodiversity protection in the CMA and freshwater. Excluding these from the NPSIB would make it clearer to implement in our regional plans.

### **Recommendation 3**

Remove subclause 1.3 (1)(c) from the NPSIB.

### **1.5 Fundamental concepts**

*(3) Maintenance of indigenous biodiversity:*

Comment: The 'concept' of *"maintenance of indigenous biodiversity"* requires *"...at least no reduction, as from the commencement date, in the following:*

- a) Size of populations of indigenous species*
- b) occupancy across their natural range*
- c) properties and functions of ecosystems and habitats*
- d) a full range of ecosystems and habitats*
- e) connectivity and buffering, and*
- f) resilience and adaptability."*

Some of these metrics, for example b), are laudable but will be unknown in detail and may change naturally as a result of climate change. Others, for example f), are theoretical and do not have a quantitative measure. Others are subjective or again without strong metrics, for example, c) and e). The

measurement of maintenance of indigenous biodiversity then falls to subjective opinion as to an acceptable level of change. It is not at all clear where the authority on those subjective measures will lie.

As an example of the difficulty presented in ensuring no reduction in connectivity between ecosystems, a new definition of connectivity is proffered in the NPSIB: *“the structure or functional links or connections between habitats and ecosystems that provide for the movement of species and processes among and between the habitats and ecosystems”*. Other than a physical distance between vegetation elements of two different habitats, it is unclear what might be measured in this regard to relate the level of connectivity and if it will, or could, change. Connectivity is species and process dependent and there is no acknowledgment of this, let alone what and how to measure any meaningful connectivity. Connectivity will therefore fall to subjective opinion and assessment.

Being asked to maintain ecological aspects that are currently unmeasurable is/will be problematic. The unmeasurable nature of the matters outlined above has relevance on the information requirements stipulated within Subpart 3: 3.24 which requires the reporting ecologist to prepare a report to identify the ecosystem services and assess the ecological integrity and connectivity.

## **1.5 Fundamental concepts**

### *(4) Effects management hierarchy:*

Comment: A new element, minimisation of effects, has been added before remediation, within clause (c). After remediation, the draft wording is clearer in that more than minor residual adverse effects require a biodiversity offset where that is possible and only where such offsetting is not demonstrably possible can a more than minor residual effect then be compensated for. Overall, there appears to be a pathway to consent for some forms of activities. However, Appendices 3 and 4 have offsetting and compensation principles, and the definitions of “biodiversity compensation” and “biodiversity offset” within Section 1.6 Interpretation, stipulates that both the offset and compensation processes must comply with the principles, not be guided by them. This may be an issue for the West Coast Councils, as discussed below. Also refer to the Council’s comments under Appendices 3 and 4 further on in this section of the submission.

## **1.6 Interpretation**

### **Ecosystem functions**

Comment: Another example of interpretation and assessment difficulties is in relation to *“ecosystem functions”*, one of the foci of the NPSIB. Ecosystem functions are defined as *“the abiotic (physical) and*

*biotic (ecological and biological) flows that are properties of an ecosystem.”* The Councils are unsure just what the measures of these “flows” are or would be, that would be definitive of an ecosystems’ functioning. There is nothing quantitative or measurable in the definition that would allow the description or measure of a level of functioning.

#### **Recommendation 4**

In the definition of “Ecosystem functions”, clarify and consult on what the measures of the “flows” are, or would be, that would be definitive of an ecosystem’s functioning.

#### **Specified highly mobile fauna**

Comment: This definition now has a list of threatened and at risk fauna in a new Appendix 2. The limited list could benefit WCRC.

The list outlines birds and bats but does not include any sea bird (which do cross land) or invertebrate or lizard. The NPS does not assist with councils identifying what the habitat types relevant to those species are. This requirement will cause WCRC considerable issues and difficulty in completing the requirement. WCRC assumes aquatic species are left to be managed by the NPSFM.

## **Part 2: Objective and policies**

### **2.1 Objective**

*“(1) The objective of this National Policy Statement is to protect, maintain, and restore indigenous biodiversity in a way that:*

*(a) recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and*

*(b) provides for the social, economic, and cultural wellbeing of people and communities now and in the future.”*

Comment: Key terms from the 2019 Objectives 1, 5 and 6 are merged into one objective. Sub-clause (b) is supported as it provides for people’s wellbeing; the term “provide” is stronger than “allow” which was in the 2019 version.<sup>5</sup> However, it is unclear what happens if sub-clause (b) is not achieved, which is the

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<sup>5</sup> The 2019 version was:

*“to recognise the role of landowners, communities and tangata whenua as stewards and kaitiaki of indigenous biodiversity by:....*

risk with implementing Objective 2.1 on the West Coast without any Government financial support, compensation or economic incentives to landowners with indigenous bush/forest on their land. The proposed wording means that both sub-clauses a) and b) need to be satisfied for the objective to be achieved.

## **2.2 Policies**

*“Activities that contribute to New Zealand’s social, economic, cultural, and environmental well-being are recognised and provided for.”*

The Councils oppose including the term “New Zealand’s” in this new Policy 10 as it could be interpreted to mean that only activities that contribute to the national good/have national benefit will be recognised and provided for. The implication is that activities which do not benefit individual or community wellbeing will not be recognised or provided for. The term “New Zealand’s” is also inconsistent with the Objective’s wording, and the RMA wording of “people and communities”.

## **Recommendation 5**

Replace “New Zealand’s” with “people’s and communities” in Policy 10, clause 2.2 and clause 3.2(c) Te Rito o te Harakeke.

## **Part 3 Implementation**

### **Sub-part 1 – Approaches to implementing this National Policy Statement**

#### **3.2 Te Rito o te Harakeke**

Comment: The following explanation about the Poutini Ngāi Tahu view of terrestrial indigenous biodiversity protection and maintenance is from the TTPP Section 32 Evaluation Report: *“Poutini Ngāi Tahu have provided clear advice to the TTPP Committee around their expectations in relation to indigenous biodiversity provisions in TTPP. This particularly relates to their own lands. Poutini Ngāi Tahu seek to ensure that the indigenous biodiversity (and other natural environment matters) provisions in (the proposed) Te Tai o Poutini Plan reflect the desire of Poutini Ngāi Tahu to exercise tino rangatiratanga on their lands.*

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*b) allowing people and communities to provide for their social, economic and cultural wellbeing now and in the future; and*

*c) supporting people and communities in their understanding of and connection to, nature.”*

*Poutini Ngāi Tahu are specifically opposed to any significant natural areas assessment on their lands and seek that the exercise of tino rangatiratanga and kaitiakitanga of these areas be left in the hands of Poutini Ngāi Tahu.*

*The responsibility of kaitiakitanga is something that Poutini Ngāi Tahu take very seriously and this is reflected in the high biodiversity and ecological values that are found in many Poutini Ngāi Tahu lands. Poutini Ngāi Tahu have and will continue to be excellent kaitiaki of these areas and the many values that they hold. Many of these lands were returned to Poutini Ngāi Tahu under the Ngāi Tahu Settlement Act and it is not acceptable to Poutini Ngāi Tahu that these should be subject to special identification and regulation as significant natural areas in Te Tai o Poutini Plan.*

*Poutini Ngāi Tahu seeks that (the proposed) Te Tai o Poutini Plan include mechanisms that allow Poutini Ngāi Tahu to exercise tino rangatiratanga across their lands. They have identified that an approach which leaves these matters to be managed through an iwi/papatipu rūnanga management plan is preferred for these areas.”*

### **3.5 Social, economic and cultural wellbeing**

*“Local authorities must consider:*

*(a) that the protection, maintenance, and restoration of indigenous biodiversity contributes to the social, economic, and cultural wellbeing of people and communities; and...*

*(c) that people and communities are critical to protecting, maintaining and restoring indigenous biodiversity;....”*

Comment: Clause 3.5 appears to provide for people’s wellbeing, however the change from “Local authorities must recognise” in the 2019 version to “must consider” in the 2022 version is inconsequential. Minor changes to subclause (c) are also not substantive.

Refer to our comments on Objective 2.1 which also apply to Clause 3.5.

### **3.6 Resilience to climate change**

*“Local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by....”*

Comment: The Councils agree with the LGNZ submission, that there are missed opportunities to better integrate climate change into the NPSIB. Maintaining indigenous biodiversity can assist with protection against the effects of climate change, for example, SNAs, wetlands and indigenous forest as carbon sinks;

and wetlands can provide areas to hold flood waters. Refer to our Recommendation 1 for the change that the West Coast Councils seek on this matter.

### **3.7 Precautionary approach**

*“Local authorities must adopt a precautionary approach towards proposed activities....”*

Comment: It is unclear what happens if taking a precautionary approach in plan rules and consent decision-making means that protecting, maintaining, and restoring indigenous biodiversity does not contribute to the economic, social and cultural wellbeing of people and communities. Objective 2.1 and Clause 3.5 will not be met.

## **Sub-part 2 – Significant natural areas**

### **3.8 Assessing areas that qualify as significant natural areas**

#### **Appendix 1: Criteria for identifying areas that qualify as significant natural areas**

The main points of the SNA provisions are that the NPSIB will require all territorial authorities to identify Significant Natural Areas (SNAs) within their district, where they are not already known and mapped. These will need to be identified and notified in district plans or policy statements within 5 years. Councils that have already identified SNAs must demonstrate how their identification meets the requirements of the NPSIB within 4 years.

WCRC are required to take over this function due to the Order in Council for the TTPP.

Comment: The process for the identification of an SNA (as outlined in Appendix 1 of the NPSIB) has changed to a small degree, but still sets a very low bar that will result in most of the remnant or regenerated indigenous features in West Coast private land being identified as Significant Natural Areas (SNAs).

In the 2022 NPSIB, subclause (3) contained a direction for what an assessment must have, and includes (d) key threats management requirements. This reference is not supported and should be removed on the basis that it is not relevant, given that viability and condition is not relevant, to the determination of an SNA.

### **Recommendation 6**

In Appendix 1, sub-subclause (3)(1)(d) should be removed.



The Appendix 1 criteria and the 3.8(2) assessment principles for determining an SNA have not materially changed from the 2019 version, as has the total number of attributes to be considered (16 reduced from 21). The concerns identified in the Council's submission to the 2019 NPSIB remain valid. Specifically, the proposed significance criteria and attributes in the Exposure Draft are focused on:

- Elevating the rarity of indigenous biodiversity, rarity containing 8 (of the 16) individual attributes, any one of which will trigger significance, and those attributes being defined in such a way that little vegetation or habitat on the West Coast will not trigger at least one of them; (LENZ rarity and presence of ecotones and gradients, typical of today, are all attributes that will ensure a feature can be found to be significant).
- The rarity criteria - this diminishes the importance of representativeness, which is traditionally considered by ecologists to be the key criteria for determining significance, and replacing important and measurable qualities with ambiguous and ill-defined phrases;
- Capturing within the criteria common species and modified systems, which are largely on private land and typically consist of native species which are either invasive of pastoral landscapes (bracken, ring fern, tauhinu, mingimingi, manuka, kanuka) or are part of the farming 'infrastructure' (such as shelter belts).

One of the main issues with the NPSIB Appendix 1 criteria A-D is the 'ease' with which the criteria allows an area to be identified as SNA. A stand of native bush or forest qualifies as an SNA if it meets any one of 16 attributes<sup>6</sup> within the four criteria. Because not all attributes refer directly to indigenousness, the attributes as drafted could technically encompass any exotic vegetation that provides habitat for an At-Risk species, a typical suite of indigenous fauna or a function (e.g. A(6)(b), D(3)(c)).

As an example, if exotic forest/scrub provides a link for long tailed bats foraging between two areas of indigenous forest, the exotic vegetation technically meets Appendix 1 D(3)(c) "Attributes of ecological context" for providing a link between important habitats and for providing critical habitat (feeding) for indigenous fauna, and would therefore technically be an SNA.

While an ecologist might question the validity (and value) of such an assessment, technically this assessment is completely correct based on the NPSIB as currently drafted.

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<sup>6</sup> Representativeness criterion Attributes 6. a) and b), Diversity and pattern criterion Attributes 5.a) and b). Rarity and distinctiveness criterion Attributes 6. a) – h). Ecological context criterion Attributes 3.a) – d).

The Councils previously suggested changes to the SNA identification criteria in the 2019 draft NPSIB but these have not been accepted in the Exposure Draft. The Councils refer to Recommendation X seeking an alternative way of addressing the high cost impacts by providing funding to West Coast landowners to maintain SNAs and other indigenous forest habitat via the 'Jobs for Nature' process.

3.8(3): *"If requested by a territorial authority, the relevant regional council must assist the territorial authority in undertaking its district-wide assessment"*.

Comments: It is unclear what type of support the Government has in mind that a regional council could provide to a territorial authority, if requested, with regards to the identification of SNAs and the inclusion of them within district plans and policy statements. The assumption in this clause is that regional councils have the skills, expertise, and resources to assist. Well-resourced regional councils have inhouse ecologists, but the WCRC does not. The WCRC's submission on the Resource Management Reform discussion document in March this year stated: *"This current financial year the Council has had to enact a 30% rates rise, including to cover the extra work required by national direction. This is a significant increase for West Coast ratepayers. A substantial proportion of our current and future increased planning and science costs is implementing the NPSFM and NESF..."*. The NPSIB sub-clause 3.8(3) has the directive "must", however it may be unrealistic for the WCRC to provide assistance to the Buller and Westland District Councils to identify and map SNAs in their Districts without additional funding support. Clause (3) needs to be amended to include "where practicable".

It is also unclear if regional councils will be eligible for additional funding/resourcing if territorial authorities request their assistance for district-wide assessments. The Implementation Plan outlines that funding will be available for councils who have not started their SNA identification and mapping, but it is not clear if the funding will be available for councils like the WCRC who have partially undertaken some identification work. The funding will be critical for us to be able to do it, or it will all fall on the ratepayers.

#### **Recommendation 7**

- a) Amend clause 3.8(2) to include "where practicable".
- b) Amend the Implementation Plan to clarify if regional councils will be eligible for additional funding/resourcing if territorial authorities request their assistance for district-wide assessments; and if funding will be available to councils who have partially undertaken SNA identification.

### **3.9 Identifying SNAs in district plans**

*“... (3) When a territorial authority does its 10-yearly plan review, it must assess its district in accordance with clause 3.8 (1) and (2) to determine whether changes are needed.”*

Comment: This implies that all SNAs identified in the district plan must be reviewed as part of the 10 year plan review. This is onerous for small councils such as those on the West Coast. There is no denying that this will come at a huge expense. A desktop identification of potential SNAs in the West Coast has been undertaken for the proposed Te Tai o Poutini Plan. The estimated cost to ground-truth these SNAs is approximately \$500,000; and this amount is likely to increase in the future. None of the West Coast Councils can afford this expense. The Government, on behalf of New Zealand, will have to support West Coast Councils to review SNAs. The Implementation Plan needs to ensure that it reflects the realistic costs involved in identifying SNAs.

#### **Clauses 3.8(4) and 3.9(3)**

It is unclear how Clauses 3.8(4) and 3.9(3) both work for SNAs already identified. As mentioned in the submission Introduction, the Grey District Council has previously identified SNAs in their District using criteria similar to what is in Appendix 1 of the NPSIB. Clause 3.9(3) requires councils to undertake a district-wide assessment (under 3.8(1)) of SNAs at its 10 yearly plan review to determine if any changes are needed. However, Clause 3.8(4) provides that councils with existing identified SNAs do not need to do a district-wide assessment under 3.8(1) if, within 4 years from commencement of the NPSIB, a qualified ecologist confirms that the existing SNAs meet the criteria in Appendix 1 of the NPSIB. Our submission already raises concerns about clause 3.9(3) being onerous and expensive for small councils. If previously identified SNAs have to be reviewed potentially twice within a 10-12-year period, this is excessive. An exemption should be added to 3.9(3) so that existing SNAs which have been reviewed under 3.8(4) do not need to be reviewed again under 3.9(3) within 10 years from when the 3.8(4) review was done.

#### **Recommendation 8**

Add an exemption to 3.9(3) so that existing SNAs which have been reviewed under 3.8(4) do not need to be reviewed again under 3.9(3) within 10 years from when the 3.8(4) review was undertaken.

### **3.10 Managing adverse effects on SNAs of new subdivision, use, and development**

#### **3.11 Exceptions to clause 3.10**

Comment: Some of the West Coast's regionally significant infrastructure providers, for example, Westpower, Trustpower, Transpower, and Waka Kotahi New Zealand Transport Agency, and mining, and aggregate quarrying, operators will be reliant on the clauses in 3.11(2)(a)(i). A technicality (and

potentially a drafting issue) is that clause 3.11(2) states that clause 3.10(2) (the avoidance of effects) does not apply and instead clauses 3.10(3) & (4) apply. However, clause 3.10(3) states that *“all adverse effects on SNAs of new subdivision, use, or development, other than the adverse effects identified in subclause (3.10)(2), must be managed by applying the effects management hierarchy.”* As 3(10)(3) appears intended to fill a gap with covering adverse effects not listed in 10(2), in the context of 3.11(2), 3.10(3) it could be interpreted to mean that all adverse effects must still be avoided, but other effects can be managed by the effects hierarchy. As currently worded, there is scope for the argument that the avoidance requirement within 3.10(2) still applies. Adverse effects on SNAs to be avoided will likely require further interpretation and guidance.

### **Recommendation 9**

- a) Insert a specific clause in 3.11 exempting specific infrastructure, mining, and aggregate quarrying from the avoidance directive.
- b) Provide further interpretation and guidance on avoiding adverse effects on SNAs.

Subclause 3.11(2)(a)(i) refers to “specific infrastructure” – this should align with the NPSFM 2020 terminology and definition. The Ministry for the Environment (MFE) proposes to add “any water storage infrastructure” to the definition of the NPSFM. This change should correspondingly be made to the NPSIB. Also, the NPSFM refers to “specified infrastructure”. This term should be made the same in both the NPSFM and NPSIB for consistency.

### **Recommendation 10**

- a) Add “any water storage infrastructure” to the definition of specific infrastructure in the NPSIB;
- b) Use the same term, either “specified” or “specific” infrastructure in both the NPSIB and NPSFM.

### **3.13 Geothermal SNAs**

*“(1) ....must work with tangata whenua to make or change its policy statements and plans to include objectives, policies, and methods that, in relation to any new subdivision, use, and development:*

*(a) provide a level of protection of the geothermal SNA:....”*

Comment: Clause 3.11(1) says *“Clause 3.10 does not apply to the following....geothermal SNAs”,* but 3.13 (1)(b) requires the decision-maker on any resource consent application to:

*“....(i) have particular regard to the adverse effects described in clause 3.10(2) when managing adverse effects on the geothermal SNAs;....”*

This is confusing and seems to be contradictory.

### 3.15 Existing activities affecting SNAs

*“(1) Regional councils must identify in their policy statements the existing activities, or type of activities, that this clause applies to.*

*(2) Local authorities must make or change their plans to ensure that the existing activities identified in relevant regional policy statements may continue as long as the effects on any SNA (including cumulative effects):*

*(a) are no greater in intensity, scale, or character over time than at the commencement date; and*

*(b) do not result in the loss of extent or degradation of ecological integrity of the SNA;*

*(3) If an existing activity does not meet the conditions described in subclause (2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10.”*

The main points of clause 3.15 are that existing land use will be provided for, except where the activity will result in the degradation of the ecological integrity of the SNA, and where the cumulative effects are no greater in intensity, scale or character over time than at the commencement date of the NPSIB. Subclause (1) requires that regional councils must identify in their RPS the existing activities, or types of activities, that this IR applies to.

Comment: Notwithstanding the interpretation and application issues with Section 3.15 and that it does not apply to land use, subclause (2)(b) proposes that an activity that exists could only continue if it *“does not result in the loss of extent or degradation of ecological integrity of the SNA”*. On face value, the regular or periodically repeated disturbance or reduction due to, for example, maintenance clearance (maintaining a track or a transmission line, a road edge, water reservoir footprint) should not in theory be problematic given the definition of ecological integrity (that is, the activity can maintain ecological composition, structure and functions). However, where regeneration has occurred over an old works area or track that has not had regular maintenance, then clause 3.15 (3) would arguably not be applicable to a range of, for example, infrastructure maintenance activities that could occur on the West Coast. It will depend largely on the regularity of the maintenance and the size of the area. This may be an issue that WCRC will have to manage with some of its critical infrastructure, mining and aggregate quarrying clients.

Sub-clause (2)(b) should be replaced with a reference to adverse effects being managed by the effects management hierarchy. Sub-clause (3) should be amended to include the same exceptions to 3.10 that are listed in clause 3.11, for adverse effects of existing specific infrastructure, mining, and aggregate quarrying to be assessed using the effects management hierarchy.

### **Recommendation 11**

1. Replace sub-clause 3.15(2)(b) with a reference to adverse effects being managed by the effects management hierarchy.
2. Amend sub-clause 3.15(3) and replace sub-clause (2)(b) to include the same exceptions to 3.10 that are listed in clause 3.11, for adverse effects of existing specific infrastructure, mining, and aggregate quarrying to be assessed using the effects management hierarchy.

### **3.16 Maintaining indigenous biodiversity outside SNAs**

*“(2)(a) apply the effects management hierarchy to any adverse effects on indigenous biodiversity of a new subdivision, use, or development that may be irreversible; and:*

*(b) providing appropriate controls to manage other adverse effects on indigenous biodiversity of a new subdivision, use and development.”*

The main points of clause 3.16 are that this clause is amended so the requirement to apply the effects management hierarchy only applies to adverse effects that may be irreversible. There is also an additional requirement to ‘provide appropriate controls’ to all other adverse effects.

The requirement to treat an area as an SNA if it is assessed as significant indigenous vegetation and significant habitat of indigenous fauna is removed.

This clause does not apply to Maori lands.

Comment: Clause 3.16 has wide application and requires that indigenous biodiversity (other than SNA’s) must be maintained by the Councils. This will be a considerable undertaking on the West Coast and the very good condition overall of the indigenous biological diversity on the West Coast does not warrant this lower level of management to non-SNA, given the extent that is already protected in public conservation land (PCL), QEII covenant, and other protection mechanisms. These provisions are onerous for the West Coast as they will have the effect of treating non-SNA areas as if they are SNAs. Any adverse effects on an area of indigenous biodiversity not classified as an SNA will have to be managed applying the effects management hierarchy, and then it is caught by the ‘no net loss’ provision. Of note, the application of the effects management hierarchy applies regardless of the scale or significance of the adverse effects, that may be irreversible. As mentioned earlier in our submission, there is no requirement for regions with minimal indigenous biodiversity to increase their indigenous vegetation cover and indigenous biodiversity habitat and ecosystems to approximately 90+% of their region, which is what clause 3.16, in tandem with other provisions, by implication, requires of the West Coast.

### **Recommendation 12**

That regions with a high level of indigenous biodiversity present be exempt from the 3.16 requirements for maintaining indigenous biodiversity outside a SNA; or, apply 3.16 to regions with less than 50 or 70% (a figure that can be determined by the Select Committee) of remaining indigenous land cover.

### **3.17 Maintenance of improved pasture**

Comment: The term “improved pasture” should be removed from this clause. It is proposed to be removed from the NPSFM definition of natural wetlands as there is ambiguity in the interpretation of “improved”.<sup>7</sup> The policy rationale for removing the term from the NPSFM is “The intent is to exclude wetlands within pasture areas, where the wetland is dominated by exotic pasture species, so those areas can continue to be used for agriculture.” The same change should be made to the NPSIB to make these NPSs consistent with each other.

*“...(2) Local authorities must allow the maintenance of improved pasture to continue if:....*

*(d) the land is not a depositional landform that has not been cultivated; and....”*

Comment: Sub-clause (2)(d) should be removed. All of the West Coast is a depositional landform, where material from mountains and hills (formed by tectonic uplift) has, over time, been eroded and deposited on flatter land, forming lowlands.

### **Recommendation 13**

1. Remove the term “improved pasture from clause 3.17, and make any other amendments need to ensure the NPSIB and NPSFM are consistent with each other.
2. Remove subclause (2)(d) from 3.17 as it is not workable on the West Coast.

## **Subpart 3 – Specific requirements**

### **3.18 Māori lands**

*“(1) Local authorities must work in partnership with tangata whenua and Māori landowners to develop, and include in policy statements and plans, objectives, policies, and methods that, to the extent practicable:....”*

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<sup>7</sup> Ministry for the Environment. 2022. *Managing our wetlands: Policy rationale for exposure draft amendments 2022*. Wellington: Ministry for the Environment. Page 10.

### **3.19 Identified taonga**

*“...(4) Local authorities must work together with tangata whenua to protect both acknowledged and identified taonga as far as practicable and involve tangata whenua (to the extent that they wish to be involved) in the management of identified taonga.”.....*

*.....“(6) Local authorities must make or change their policy statements and plans as necessary to ensure that the sustainable customary use of identified taonga by tangata whenua in accordance with tikanga and in a manner consistent with the protection of the identified taonga is provided for.”*

### **Sub-part 3 Specific requirements**

#### **3.20 Specified highly mobile fauna**

*“(1) Every regional council must record areas outside SNAs that are highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), territorial authorities in its region, and the Department of Conservation.*

*(2) If it will help manage specified highly mobile fauna, regional councils must include in their regional policy statements (where possible) a map and description of each highly mobile fauna area in its region.”*

*“(3) Local authorities must include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.”*

*“(4) Local authorities must provide information to their communities about:*

*(a) specified highly mobile fauna and their habitats; and*

*(b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.”*

Comments: A change is made to sub-clause (2), that regional councils must include a map and description in their RPSs. It is unclear why this role is transferred to regional councils, In the 2019 version, this role was given to territorial authorities.

The purpose of clause 3.20 – protecting habitat for the purposes of maintaining “viable populations” - potentially encroaches on species management, which is a key role of the Department of Conservation. For the WCRC to achieve the purpose will also require a good understanding of the population dynamics of the species listed in Appendix 2, which is currently lacking.



The NPSIB requires that regional councils record and map areas (other than SNA's) that are highly mobile fauna areas, and then ensure viable populations (across their natural range, that is, the national scale) of those mobile species are maintained. The Councils understand that all species listed in Appendix 2 are Threatened or At Risk, and many species are riverine, wetland, or coastal birds. This makes it confusing in terms of whether these species are managed under the NPSFM/NESF, or the New Zealand Coastal Policy Statement, and respective regional freshwater and coastal plans.

The WCRC has serious concerns with how clause 3.20 will be interpreted and applied and how a regional council such as WCRC will manage to effectively undertake their responsibilities in identifying the abundance (populations) of those listed species in Appendix 2 of the NPSIB, understanding the current variance from time to time in those populations and the array of habitat occupancy of all those listed species. The West Coast Councils do not necessarily have the information and expertise to undertake this role.

The interpretation of 3.20 during a consent application is that from an effects point of view, proof that the removal of non-SNA features will not reduce the population viability of any indigenous species listed in Appendix 2 will be very difficult and largely subjective. The WCRC is unlikely to be in a position to judge if an applicant's effects do or do not impact on a population (does that include the loss of one bird), or remove habitat of any of those listed species.

At a site, this will be near impossible because local or regional and often national populations are not known, many populations are considered not currently viable (hence they are threatened and therefore are already below the threshold), and the current local population trends are unknown and the effects of non-SNA habitat reduction will not be known.

Thus, what is a viable population, of which species, at what scale, and what the current trend and viability is of that species, will not be known for potentially many years, if ever, and this will lead to a necessary, very conservative and precautionary approach by regional councils assessing applications involving effects on non-SNA features, which may include exotic vegetation features that have any one of the listed highly mobile species recorded at any time.

Furthermore, new subclause (3) is unworkable for the West Coast Councils as we cannot guarantee that viable populations of highly mobile fauna will be maintained across their natural range when there are

other threats to species' populations that are outside the WCRC's control. For example, domestic cats and dogs.

The requirement for regional councils to identify, record and map specified highly mobile fauna areas (HMFA) could overlap with identifying SNAs in the Te Tai o Poutini Plan (combined District Plan for the West Coast), causing confusion and potential duplication if a potential HMFA has already been recognised as an SNA. There is also potential overlap with the NPSFM wetland mapping requirements for specified highly mobile fauna whose habitat is wetlands. See our comments opposing the inclusion of wetlands in the NPSIB under clause 3.21 Restoration.

Implementation of 3.20(3) raises the question of whether highly mobile fauna areas, or land such as a paddock between an SNA and DOC land for example, that is used by indigenous biodiversity to move between habitats or feeding areas, will become ecological corridors, and ultimately an SNA or part of an SNA. This is not clear in the NPSIB, and should be clarified. The West Coast is not lacking ecological corridors, and there is the potential for many 'corridors' to become restricted for land use activities due to their ecological or conservation values.

#### **Recommendation 14**

- a) Reconsider clause 3.20 and either delete it, or amend it to be practically achievable, for example, retain the role of maintaining "viable populations" as part of species management as a key role of the Department of Conservation;
- b) Encourage district and regional councils to provide DOC with any information they obtain about specified highly mobile fauna and habitat areas when undertaking implementation of their other roles under the NPSIB; and
- c) Clarify whether highly mobile fauna areas, or land that is used by indigenous biodiversity to move between habitats or feeding areas, will become ecological corridors, and ultimately an SNA or part of an SNA.

#### **3.21 Restoration**

*"(2) The objectives, policies, and methods must prioritise all the following for restoration:....*

*(2)(d) wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:...."*

*"(4) Local authorities must consider imposing or reviewing restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration."*

Comments: The Councils agree with the regional sector submission that more clarity is needed on scope and priority for restoration. Clause 3.21 does not reflect the differences between regions where restoration is extremely necessary due to a low level of indigenous biodiversity remaining in a region, and where, conversely, there is a high level of remaining biodiversity and a reduced priority for restoration in regions like the West Coast. The priority for regional councils is protecting what remains before creating new areas of habitat.

The Councils strongly oppose subclause (2)(d) as wetlands protection, maintenance and restoration is well provided for in the NPSFM and the NESF. MFE have recently released an Exposure Draft of the NESF which proposes changes to the wetland restoration regulations to make restoration activities a permitted activity rather than requiring resource consent. This is intended to be an incentive to encourage wetland restoration. Having a wetlands restoration sub-clause in the NPSIB is unnecessary duplication and a waste of council's and landowners' time and resources. It will create confusion for wetland landowners in terms of whether the NPSIB or NPSFM provisions apply.

Re subclause (4), the reference to "reviewing" restoration or enhancement conditions on resource consents suggests that councils will be required to apply or extend retrospective conditions on consents called in for review under s128 of the Resource Management Act. This will potentially be unworkable for the West Coast. Given the high proportion of existing indigenous biodiversity, the cost of reviewing consents to consider whether restoration conditions need to be added or extended would be difficult to justify.

#### **Recommendation 15**

1. Amend 3.21(2) to include that priorities shall reflect the extent or proportion of restoration needed in a region depending on the level of reduction of indigenous biodiversity.
2. Clarify the scope and priority for restoration, and amend 3.21 to reflect councils' priority of protecting what remains before creating new areas of habitat.
3. Remove subclause 3.21(2)(d) from the NPSIB as the NPSFM and NESF provide for wetland restoration.
4. Remove the reference to "reviewing" consent conditions, to consider whether restoration conditions need to be added or extended, in sub-clause 3.21(4).

### **3.22 Increasing indigenous vegetation cover**

The main points of clause 3.22 are that it requires regional councils to assess the percentage of indigenous vegetation cover in its urban and non-urban areas, in collaboration with the District Councils, set a target of at least 10% cover, and promote an increase in cover in the RPS and regional & district plans.

Comment: The Councils agree with the regional sector submission, that clarity is needed for the definition of “non-urban environments”. It is also unclear as to the scale at which the 10% indigenous cover is to apply, for example, in the LENZ land environment or catchment, or across all non-urban environments in a region.

#### **Recommendation 16**

In clause 3.22, clarify the definition of “non-urban environments”, and the scale at which the 10% indigenous cover is to apply, for example, in the LENZ land environment or catchment, or across all non-urban environments in a region.

### **3.23 Regional biodiversity strategies**

*“(1) Every regional council must prepare a regional biodiversity strategy that complies with Appendix 5 in collaboration with territorial authorities, tangata whenua, communities and other identified stakeholders.”*

Comment: It is unclear how the requirement for regional biodiversity strategies will integrate with the upcoming requirement in the new Natural and Built Environments Bill/Act for Regional Spatial Strategies, and the existing national Aotearoa New Zealand Biodiversity Strategy (ANZBS). This is tacitly acknowledged in the Implementation Plan (IP, Page 17), and it will be undertaken following the review of councils’ progress with implementing the NPSIB, and the IP. Other reviews may be needed when appropriate – for example, to improve alignment with other significant work programmes, such as the ANZBS. The assumption is that it applies to all regional policy statements and local authority plans – but this is not clear. The cost of implementation is considered high, as any Regional Spatial Strategy will require review of indigenous biodiversity provisions.

#### **Recommendation 17**

Reconsider the requirement for regional biodiversity strategies in terms of how it will fit with the upcoming requirement in the new Natural and Built Environments Bill/Act for Regional Spatial Strategies.

### **3.24 Information requirements**

*“(1) Every local authority must make or change its policy statements or plans to 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 report that:*

*(a) is prepared by a qualified and experienced ecologist; and....*

*(2) The report by the ecologist must:....*

*(b) identify any effects on identified taonga; and....*

*(e) include mātauranga Māori and tikanga Māori assessment methodology, where relevant; and....”*

Comment: Clause 3.24(1)(a) will essentially require an ecology report for any activity involving indigenous vegetation/habitat. Notwithstanding the resourcing issues, such a requirement is not efficient or effective and does not simplify the resource consent process.

From a practical perspective, the requirement that the report be prepared by an ecologist (a qualified and experienced one), and that the report must identify taonga (a human values system), identify ecological services and assess integrity and connectivity, and include mātauranga Māori and tikanga Māori, does not reflect the reality that ecologists are not cultural advisors and most are not Māori nor versed or an expert in those cultural aspects.

### **Recommendation 18**

Subclauses 3.24(b) and (e) should be in a different assessment and not in the qualified ecologists report.

To make clause 3.24 workable on the West Coast, Councils would need to have more permitted activity rules with tighter controls, and no controlled rules. Controlled status under 3.24(1)(a) requires an ecologist’s report, but the cost of this may not be justified for a controlled activity that has ‘known to be’ minor adverse effects. Unless there are ecologists who are willing to develop a low-cost, basic, streamlined assessment process for activities with known minor effects on indigenous biodiversity. This could be a function WCRC support by way of ecology reports supporting SNA knowledge.

Clarity is needed on the terms “qualified and experienced ecologists”. This wording potentially restricts the availability of ecologists and has resourcing implications.

### **3.25 Monitoring by regional councils**

*“(1) Regional councils must work with territorial authorities, relevant agencies and tangata whenua to develop a monitoring plan for indigenous biodiversity in their regions and each of their districts.*

*(2) Every monitoring plan must:....*

*(d) recognise the importance of long-term trends in monitoring results, and the relationship between results and the overall state of indigenous biodiversity; and*

*(e) establish methods, such as action plans, for responding to monitoring that indicates the objectives of this National Policy Statement will not be met.”*

Comment: Given the high numbers, size and remoteness of some SNAs on the West Coast, clause 3.25 will not be fully workable for the region’s Councils without substantial Government funding to implement monitoring on private land.

Note that work on Public Conservation Land (PCL) by DOC is largely exempt from this provision.

Regarding subclause (2)(d), even the DOC West Coast Conservancy does not have information on all of the indigenous biodiversity within, and the ecological integrity of all significant habitats and species, on private and public conservation land (PCL), let alone having long-term monitoring information on species’ numbers to determine if indigenous biodiversity is being maintained. This also applies to subclause (2)(e). Without a clear and firm commitment from Government to provide funding, the West Coast Councils will not be able to fulfil clause 3.25. The reason for the NPSIB not being met may be outside of Council’s control, for example, lack of predator control. Subclause (e) needs changing.

#### **Recommendation 19**

Amend clause 3.25 so it can be applied where practicable.

### **Part 4: Timing**

#### **4.1 Timing generally**

*“(2) Local authorities must publicly notify any changes to their policy statements and plans that are necessary to give effect to this National Policy Statement within 8 years after the commencement date.”*

Comments: The Councils agree with the LGNZ submission, that the timeframes proposed by Government are unrealistic and are likely to result in undesirable outcomes. This is because:

- There are capacity and resourcing issues relating to both ecologists – who are essential in the identification and treatment of SNAs – and councils, who are already stretched amid an uncertain resourcing environment due to the Government’s broader reform programme; and
- Some regions need to build the political will with their community to enact change.

The West Coast Councils are currently dealing with a plethora of other legislative, policy and regulatory directives coming from central Government, namely:

- The National Planning Standards to be implemented in RMA plans by April 2029;
- Regional policy statement and plan changes to give effect to the freshwater policies and regulations must be notified by 31 December 2024 and follow a separate planning process, meaning the freshwater plan process is likely to continue until any appeals are resolved, potentially in 2027/28;
- Separate plan change processes may be needed for non-freshwater matters;
- The emissions reduction and national adaptation plan directives which may need to be reflected in regional and district plans;
- The Resource Management Reform requiring regional and district plans to focus on outcomes and limits, and be merged into one plan per region;
- Stewardship Land Review.

Bear in mind that only freshwater changes can go through the freshwater planning process, so separate plan change processes will be needed to implement air quality, climate change mitigation/adaptation, managed retreat, highly productive land, drinking water supplier or indigenous biodiversity national direction. There is also a national shortage of planners in New Zealand, and a limited number of hearing commissioners and ecologists which compounds these issues. The workload will affect smaller resourced councils significantly. See the Recommendation under clause 4.2 below.

The Implementation Plan (Pg 5 Timeline) says “As soon as practical or by 2030”, to notify changes to RPSs and regional plans. This is different to what clause 4.1(2) of the NPSIB says. There is no “as soon as practical” in the NPSIB 4.1(2), but it should be included.

The Government should also make it clear in its implementation Plan if/when the NPSIB will be updated to align with the resource management reform changes.

#### **Recommendation 20**

- a) Add “or as soon as practical” to subclause 4.1(2).
- b) Make it clear in the Implementation Plan if/when the NPSIB will be updated to align with the resource management reform changes.

#### **4.2 Timing for planning provisions for SNAs**

The NPSIB requires that public notification of the inclusion of SNAs and other related provisions in regional policy statements and plans must occur within 5 years of the commencement date of the NPSIB. This timeframe is likely to be the end of 2027, around the same time as regional councils will be going through their freshwater plan processes, and potentially at the hearings stage if there are not enough freshwater commissioners available to hold hearings, deliberate and release recommendations for all regional councils at an earlier time. These NPSIB timeframes need to be flexible to work in with timeframes required by other national direction. Extending the timeframe for notification to be undertaken may also help to integrate the NPSIB within the new resource management framework.

#### **Recommendation 21**

- a) Amend the NPSIB timeframes in clause 4.2 for notification of SNAs and other NPSIB implementation requirements to be given effect to within 10 years; and
- b) Make the 10-year timeframe flexible to be reviewed taking into consideration timeframes required by other national direction.

#### **4.3 Timing for regional biodiversity strategies**

*“(2) A regional council that, at the commencement date, has not prepared or begun to prepare a regional biodiversity strategy must initiate preparation of a strategy within 3 years after the commencement date, and must complete it within 10 years after the commencement date.”*

Comment: The timing of this will likely coincide with changes to regional policy statements and regional and district plans to give effect to the Resource Management Reform legislation, as well as freshwater plan changes. These timeframes need to be amended to be more flexible and take into account the high workload on councils over the next 10 years that will be generated by all of the central government national resource management direction.

#### **Recommendation 22**

Add “where practicable” to sub-clause 4.3(2) for the timeframe for completing regional biodiversity strategies.

#### **4.4 Existing policy statements and plans**

*“(2) In case of dispute, the onus is on the local authority to show that, despite the different wording or terminology used, their policy statement or plan does implement this National Policy Statement.”*



Comment: The Councils strongly oppose this provision as we believe this to be unjust and unworkable. It encourages legal challenges from, for example, environmental NGOs. It implies that submitters seeking more protective indigenous biodiversity provisions in proposed plan changes or on resource consent applications will always have better information or judgement that is superior to what a council puts forward. Clause 4.4(2) does not give any recognition of local knowledge held by communities, or the district or regional context, being valid.

### **Recommendation 23**

Remove clause 4.4(2) from the NPSIB.

### **Appendices 3 and 4 Principles for biodiversity offsetting, and biodiversity compensation**

Comment: The principles proposed in Appendices 3 and 4 are fairly common and typical, and are generally common across the NPSFM and NPSIB (noting one exception under item 3 and a minor difference in 7). There is flexibility, although the need to prove effective stakeholder participation may be problematic and may cause issues where the ecological offset or compensation does not meet the stakeholder expectations. For example, stakeholders may not agree with a 'like for like' net gain offset proposed by a consent applicant or their ecologist. Similarly, if a solution is suggested by an applicant, a stakeholder may want something different. Stakeholder participation can create uncertainty for finding a solution.

Under limits to offsetting, that is, when it is not appropriate - Appendix 3(2)(b) and (c) could potentially remove the consent pathway afforded specified or significant infrastructure where "*effects on extent or values are uncertain, unknown or little understood*". There will often be cases where this will be the case. In effect this caveat within the offsetting principles not only removes the offset but is another direction to avoid the effect. Some of the West Coast's required activities and infrastructure may be adversely affected by this issue.

Appendix 3(2)(c) also states that where there is no technically feasible option – that is, options have been tried and not proven to secure the required gains in an acceptable timeframe, then an offset is also rejected. The principle does not suggest what is an acceptable timeframe or who has the authority to make that determination. The clause therefore introduces a large degree of uncertainty and subjectivity to the principle, which the Councils must unfairly carry.

If no offset is available, then compensation is the final rung in the hierarchy. However, in Appendix 4 the same criteria (as outlined above in relation to Appendix 3) are present to disallow compensation. This is in both the NPSIB and the NPSFM.

#### **Recommendation 24**

- a) Remove sub-clauses (2)(b) and (c) from the compensation principles in Appendix 4.
- b) Reword sub-clauses (2)(b) and (c) in the offset principles in Appendix 3 to be more certain about the risk level being managed, that is, make the frequency of rejection of an offset less likely to be common for specified (significant) infrastructure.
- c) Reword clause (10) in the offset principles in Appendix 3 to ensure stakeholders do not achieve outcomes different to that required by the ecological assessment.

#### **NPSIB Implementation Plan**

General comments: The Councils agree with the LGNZ submission, that Central Government support for indigenous biodiversity is overstated in the Implementation Plan (IP). For example, the \$40m Sustainable Food and Fibres Futures does not clearly align or integrate well with the NPSIB. The IP further does not outline how the funding will be allocated amongst regions, districts, cities or unitary authorities, or when.

The Councils also share LGNZ's concern that the IP is silent on how the NPSIB will be integrated into the RMA reforms, and what this will mean for councils trying to meet their statutory requirements (either under the RMA or future resource management system). The legal status of the IP is unclear, and there is uncertainty around how committed the Central Government funding will be beyond Budget 2022, given election cycles, pandemics, economic recessions etc.

#### **Recommendation 25**

The Government must fund the changes it wishes to see with regards to district plans. Councils must be funded to include or complete identification of SNAs in their district plans, where they do not already do so.

#### **Roles during NPSIB implementation**

Pg 10, Table 2 of the IP says "*Regional councils may assist TAs, landowners and others with implementation.*" However, in the NPSIB, clause 3.8(3) requires that regional councils "must" assist

territorial authorities if requested. These inconsistencies between the NPSIB and the Implementation Plan need to be rectified.

### **Recommendation 26**

Amend the NPSIB and/or the Implementation Plan to remove inconsistent wording, especially substantive differences between “must” and “may”.

### **Existing support measures**

The Councils share LGNZ and the regional sector concerns about the Implementation Plan’s proposal, which states that councils and mana whenua will receive \$19m. It is doubtful that this funding will be sufficient, and will likely lead to delays in implementing the NPSIB. It is unclear whether the assistance for SNA identification will extend to planning and policy development needs, and how much councils will receive. The Councils believe that the costs of identifying SNAs and making plan changes will exceed the \$19m allocated by the Government, and this ambiguity is reflected in the wording of Budget 2022.

The list of existing support measures (Pg 11) may be useful for landowners who are not negatively impacted by the regulations for having a SNA on their property. However, for those who are financially, socially or culturally adversely impacted by having an SNA or other indigenous biodiversity on their property, the ‘support’ measures do not provide for these landowners’ wellbeing, and so the 2.1 Objective may not be met.

The Implementation Plan (IP, Pg 12) refers to a number of Government funds that are available to support implementation by councils of the NPSIB. However, in the WCRC’s experience, the Nature Heritage Fund is not a guaranteed support measure. The amount of funding available is inadequate for the number of applications lodged each year. We are aware of one West Coast landowner who applied, and although DOC had identified a wetland on this person’s land that is “likely to be significant”, the wetland did not meet the Fund’s criteria for significance, and other sites were considered to be more significant in other regions. It is unreasonable to expect landowners to keep applying each year to the Fund in case their wetland or SNA is lucky enough to be the most significant in a particular year. Applying for funding takes time and energy, and repeated declines of applications diminishes landowner morale.

The new Budget 2022 funding appears to be a positive sign of financial support, provided that it is allocated equitably across regions. However, the diagram on Pg 12, and Table 3 on Page 14 focusses on clear communication. It does not explain what the messaging will be, but it appears to be linked to SNA identification. As mentioned above, this may not necessarily be the most effective tool to achieve the NPSIB Objective on the West Coast. The IP also does not explain who will manage these funds and how they will be allocated or spent. This raises questions about how 'just' the proposed transition will be.

### **New support measures**

The following new support measures (Pg 11) could be useful for West Coast Councils:

- increasing council biodiversity funds to support indigenous biodiversity on private land
- direct support to assist councils with SNA identification and mapping
- pilots of new biodiversity incentives / support measures and exploration of further measures.

In terms of the first bullet point, the Councils are unsure what is involved with "*increasing council biodiversity funds*". Note that this is now a function of the West Coast Council Regional Council and we do not currently have such a fund. If there is likely to be conditions around the Government's direct support, for example, that councils contribute funding to SNA identification, the Government's contribution may not in reality be sufficient for the West Coast Councils.

Direct support to assist with SNA identification and mapping could be helpful to avoid further rates rises to pay for the work. We know that these requirements will have a significant negative impact on ratepayers, and will not achieve clause (b) of the 2.1 Objective. If the direct support is insufficient, this could mean that West Coast Councils will potentially have to put on hold other workstreams such as climate change implementation; the work we believe is critical for our region.

The Biodiversity Incentives Pilots programme as outlined in the information sheet could be useful to landowners who are willing to protect and maintain a SNA or indigenous bush/forest on their land. However, for those landowners who do not want these ecological values on their land and are losing income, these Pilots would not provide the support required.

As explained in the earlier part of this submission titled "Impacts of NPSIB Exposure Draft changes on West Coast landowners", the most practical way to achieve maintenance and restoration of SNAs and native bush/forest on the West Coast is for the Government to provide economic incentives to private

landowners with an SNA or native bush/forest on their land to retain them as carbon sinks. This will recognise the national benefits that West Coast SNAs and native bush/forest contribute to reducing carbon. Such incentives could be via a system similar to the Emissions Trading Scheme (ETS), or using the ETS, where landowners receive an economic return for their carbon sinks.

MFE and DOC need to work with the Ministry for Climate Change to take a collaborative and integrated approach to providing economic incentives to West Coast landowners. This will achieve both emissions reductions and biodiversity protection and maintenance. Refer to Recommendation 1 on this matter.

### **Recommendation 27**

Provide a system of economic 'credits' for West Coast landowners similar to the ETS, or using the ETS, where landowners receive an economic return for their indigenous biodiversity carbon sinks.

### **Other comments on Implementation Plan**

A number of clauses in the NPSIB will require changes to the West Coast Regional Policy Statement, and regional and district plans. This will create costs for drafting RMA/Natural and Built Environment Act plan changes, as well as the cost to implement and administer workstreams such as for specified highly mobile fauna, regional biodiversity strategies and monitoring plans.

The NPSIB could be made more workable for the West Coast if the requirements are amended, or a caveat included, for small councils to implement the requirements making the best use of available resources. This assumes a more targeted directive within available work programme budgets. WCRC does not currently intend to increase its biosecurity budget due to other higher priority matters such as hazard and freshwater management. The Councils urge the Committee to be mindful of the ratepayer burden and resourcing issues when considering how best to implement the NPSIB. If Councils are given more responsibilities for protecting/maintaining/restoring indigenous biodiversity at the local/regional level, Councils will need more resourcing. A 'one size fits all' approach is not workable and untenable to councils such as ours.

If the NPSIB requirements involving field work were to be resourced similar to the 'Jobs for Nature' funding, then there may be an advantage to the WCRC, and indirectly to the region's District Councils.

Achieving indigenous biodiversity protection is directly influenced by available resourcing. The recent 'Jobs for Nature' funding illustrates this. Work for South Westland people who lost jobs during the Covid Pandemic over the last 2.5 years provided funding for additional staff to undertake recording/monitoring work. This resulted in identification of bat colonies and increased numbers of Mohua (yellowhead) that were previously unknown.

The other major contributor to indigenous biodiversity protection and maintenance on the West Coast is predator control. The increase in the Mohua population was attributed to predator control work undertaken.

**Recommendation 28**

- a) Amend the NPSIB, or add a caveat, for small councils to implement the requirements making the best use of available resources;
- b) Amend the Implementation Plan to include increased funding to be made available, similar to the 'Jobs for Nature' funding, for West Coast indigenous biodiversity work.

This ends our feedback.