

JOINT SUBMISSION ON DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Submitter: Central Otago District Council, Clutha District Council, Queenstown Lakes District Council and Waitaki District Council (together, **the Councils**)

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*This submission addresses Section B of MfE's submissions form (**Form**): "Identifying important biodiversity and taonga".*

Introduction

1. This is a joint submission made by Central Otago District Council, Queenstown Lakes District Council, Clutha District Council and Waitaki District Council (**the Councils**) on the Draft National Policy Statement for Indigenous Biodiversity (**NPSIB**) released for consultation in November 2019. It also considers the NPSIB Discussion Document and section 32 made available alongside the NPSIB.
2. Part 3 of the NPSIB, Implementation Requirements, sets out what local authorities must do to implement or give effect to the objectives and policies of the NPSIB, including in particular the maintenance of indigenous biodiversity (Objective 1) and the identification and protection of areas of significant indigenous vegetation or significant habitat of indigenous fauna, by identifying and managing them as SNAs (Policy 6).
3. The Councils support the concept of providing national direction on the management of indigenous biodiversity. There is a need to strike a balance between protection of indigenous biodiversity and providing for sustainable land use, which appears to be the intent of the draft NPS.
4. The Councils' submission focuses on SNA identification/mapping, and suggests a different method which would lessen the burden on TAs.

This Summary corresponds to the "overall thoughts about section B" box of MfE's Form.

5. The Councils submit that the NPSIB be amended to require a national process for identifying and mapping Significant Natural Areas (**SNAs**) and preparing schedules describing the SNA's respective attributes and other information as required in Appendix 1, Clause (4). That national assessment should be carried out by Central Government led with Department of Conservation (**DoC**) expertise, or a similar national agency. This is as opposed to the proposed territorial process to be carried out by territorial authorities (**TAs**).
6. The Councils are concerned that identification and mapping of SNAs by each TA throughout New Zealand will cause a number of issues, inefficiencies and inconsistencies, including:
 - a. There will be competition for, and disparity of access to, the necessary resources (expert and GIS) resulting in fragmented approaches to identification of SNAs and inconsistent mapping across the region.

- b. Tangata whenua and other landowners whose properties may not be confined to the jurisdiction of a single TA will potentially have to coordinate with multiple TAs following different processes.
 - c. Requiring TAs to individually map SNAs places an onerous financial and administrative burden on them. The NPSIB will require some councils with small numbers of rate payers yet large land areas, to spend rate payers' money on the assessment process, rather than making decisions as to what the best use of rate payers' money is, in their respective district.
 - d. This significant burden will be put on TAs at the same time as they are expected to implement National Policy Standards, meet their statutory obligations in on-going plan reviews, convert paper plans to e-plans, and engage in the significant Resource Management reforms that are underway.
7. National identification and mapping of SNAs will enable each TA to carry out the objectives of the NPSIB much more effectively. A key goal of the NPSIB is to form a nationally coordinated response to the decline in New Zealand's indigenous biodiversity which threatens the existence of many species and ecosystems. Accordingly, identification and mapping of SNAs should be a nationally coordinated exercise in order to reduce uncertainty and nationwide inconsistency. It could then result in a streamlined Schedule 1 process, in order to get the mapping into district plans.

Re Question 10 of the Form "What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?"

8. Requiring TAs to individually map SNAs places an onerous financial and administrative burden on them. Competition for necessary resources such as ecologists will raise costs, placing significant financial strain on smaller TAs, particularly those with less ratepayers and larger geographic areas. As a result, some TAs will have greater access to resources than others. While the NPSIB sets out detail on how to undertake the assessment process in Appendix 1, there is still the potential for lack of resources to impact on the identification and mapping of SNAs, resulting in inconsistent processes and outcomes.
9. Some TAs may also have greater access to private property than others or be better able to access smart technology for more accurate mapping. This disparity in resources has the potential to result in significant variation in the quality of identification, mapping and scheduling of SNAs from district to district. A nationally coordinated strategy and method for mapping SNAs would reduce the likelihood of such an outcome.
10. Under the current proposal ecologists and other such resources involved in the process will have to coordinate with large numbers of TAs to map SNAs. The same is true of tangata whenua and landowners whose interests and properties may not be confined to an individual TA's jurisdiction. This will create a fragmented and time consuming process.
11. A government agency undertaking this SNA mapping on a national level would have ease of access to DoC reports such as Protected Natural Area (**PNA**) surveys and ecological reports from government tenure review processes. This would allow for a much more informed and comprehensive method of SNA mapping than the proposed territorial approach. TAs could provide the information they hold, to the national agency.
12. Under Schedule 1 of the RMA, TAs are required to publicly notify SNA maps and schedules for submissions. The Councils accept that public consultation may be useful in gaining understanding of the location, boundaries of SNAs and values/attributes to be protected. However, the Councils respectfully submit that a coordinated national approach would better utilise available expertise and provide a better opportunity for the consultation process to be streamlined. It could then allow for a streamlined Schedule 1 process, for

example one hearing and no appeal rights except on points of law (similar to the Christchurch District Plan approach). It could possibly be completed by region.

13. If all TAs in New Zealand are required to publicly notify, over 70 different SNA plan changes will be notified and open for submission, resulting in a significant number of hearings, producing decisions which may then be subject to appeal. This could place a significant burden on the Environment Court.
14. Regional Councils will likely need to be involved in the plan changes for each of the councils within their jurisdiction. A region approach could streamline this approach.
15. The standard Schedule 1 approach will result in a time-consuming process with TAs already having to balance multiple competing interests. This risks SNA mapping being done in such a way that waters down or undermines the NPSIB's key objectives. National mapping and a streamlined RMA process would avoid such an issue.
16. Avoiding this potentially expensive and time-consuming 'two-stage' process under Schedule 1 of the RMA will allow councils to focus on the protection of indigenous biodiversity through the creation of district-appropriate plans. They will be much less likely to get caught up in potential confusion and inconsistencies around applying the criteria for identifying SNAs and litigation that may flow from this. The Section 32 report notified alongside the NPSIB explains that SNA identification:

“Has long been a challenging and contentious issue and improving consistency in this area is one of the key drivers for the NPSIB.”¹

17. Further, TAs would be able to focus more time and energy on better facilitating the objectives of the NPSIB by planning district-appropriate methods for protecting indigenous biodiversity. By achieving more consistent outcomes, national SNA mapping will reduce the amount of controversy and litigation involved. This consistency will lead to clarity around SNA boundaries, giving TAs more confidence in their ability to appropriately balance the needs of both indigenous biodiversity and development in each area. In support of this, the Report states that:

“The NPSIB provisions seek to provide clear direction... likely to be an effective approach to achieving the NPSIB objectives by ensuring subdivision, use and development occurs in appropriate locations, forms, and within appropriate limits, in order to maintain indigenous biodiversity.”²

Thus, national SNA mapping links directly to a key driver of the NPSIB by facilitating efficiency and consistency across the country. This method will also better achieve Policy 4 of the NPSIB, to improve the integrated management of indigenous biodiversity within and between administrative boundaries.

Re Question 11 of the Form- “Of the following three options, who do you think should be responsible for identifying, mapping and scheduling SNAs? Why?”

- A collaborative exercise between TAs and Regional Councils
- Regional Councils
- Territorial Authorities
- Other (please specify)

18. Other. The Councils submit that identification and mapping of SNAs should be done at the national level by Central Government, for example coordinated by the Ministry for the Environment with expertise by the Department of Conservation. TAs are less equipped than a central government organisation to access key resources such as smart technology

1 NPSIB - Section 32 Evaluation and Cost Benefit Analysis. October 2019.

2 NPSIB - Section 32 Evaluation and Cost Benefit Analysis. October 2019 at page 3.

and leading experts, which are important in carrying out consistent and accurate SNA mapping across New Zealand. Further, a government organisation would have access to PNA surveys, tenure reports and other such useful government resources.

19. The Councils accept that the SNA identification process has been a positive one in a number of districts, helping to forge better relationships between the council and landowners.³ The Councils also consider that Appendix 1 of the NPSIB is helpful in setting out more detail on how to approach an assessment. However, the Councils respectfully submit that it has also been a very contentious process in many areas and a national approach would improve the clarity and consistency of the process.

Question 12 of the Form of the Form is not relevant to this submission and does not require a response.

Re Question 13 of the Form- "Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs? Why/ why not?"

20. The Councils agree with the principles and approaches outlined in part 3.8(2) of the NPSIB but respectfully submit that it is not territorial authorities that are best suited to utilising these in mapping SNAs. The principles are partnership, transparency, quality, access, consistency and (natural) boundaries. In particular, principles c) quality and e) consistency would be better fulfilled by national mapping of SNAs. The quality of SNA identification and mapping will be significantly better if done using a consistent nationwide process, avoiding duplication of processes across the country and region.
21. A nation-wide process for SNA identification would also avoid potential inconsistencies in the interpretation of Appendix 1 of the NPSIB. Appendix 1 provides the criteria for identifying SNAs and while helpful in providing more detail/parameters around assessment, still has the potential to be interpreted differently from district to district due to the use of broad terms such as "representativeness," "diversity" and "distinctiveness."
22. The Councils accept that these criteria are supported in the NPSIB by guidance but respectfully submit that this is insufficient to eliminate the likelihood of inconsistent interpretation across different TAs.
23. In addition, the Councils consider there is uncertainty in Appendix 2 as to how a 'High' or 'Medium' rating is to be allocated to each SNA, and then whether the limited exception in Policy 6 applies. It is understood that just one 'High rating' of an attribute, means the SNA is overall a 'High'. The Councils expect that this added complexity in rating a SNA as high or otherwise, is likely to increase the litigation around the mapping and schedules for SNAs.

Questions 14 - 18 of the Form are not directly relevant to this submission and do not require a response.

3 Ministry for the Environment. 2019. *He Kura Koiora i hokia: A discussion document on a proposed National Policy Statement for Indigenous Biodiversity*. Wellington: Ministry for the Environment at 32.