

Report No:	REP11-04-03
File No:	B120
Date:	14 April 2011
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: 21 April 2011
Subject: Proposed National Policy Statement on Indigenous Biodiversity
Report Author: Lindsay Vaughan, Biosecurity Coordinator

EXECUTIVE SUMMARY

This report describes the implications of the Proposed National Policy Statement on Biodiversity for the Council and attaches a draft submission to the Ministry for the Environment

RECOMMENDATION/S

That the Environment and Planning Committee accepts the report and approves the draft submission.

DRAFT RESOLUTION

THAT the Environment and Planning Committee receives the report on the Proposed National Policy Statement on Indigenous Biodiversity {report no.} and approves the submission to the Ministry for the Environment.

Report No:	REP11-04-03
File No:	B120
Report Date:	14 April 2011
Decision Required	

Report to: Environment & Planning Committee
Meeting Date: 21 April 2011
Subject: Proposed National Policy Statement on Indigenous Biodiversity
Report Author: Lindsay Vaughan, Biosecurity Coordinator

1. Purpose

To describe the implications of the Proposed National Policy Statement on Biodiversity for the Council and to approve a submission to the Ministry for the Environment

2. Background

The Proposed National Policy Statement on Indigenous Biodiversity arises from the widespread loss of indigenous biodiversity on the lowlands outside the conservation estate and the importance of protecting the remnants that remain. It is based on the premise that nationally, the principal risk to indigenous biodiversity on private land is from habitat loss or modification and this provides a greater risk than pest animals and weeds.

The government response to biodiversity decline has been through the RMA with the inclusion of Section 6c (protection of areas of significant indigenous vegetation and significant habitat of indigenous fauna) in 1991, the development and introduction of a Biodiversity Strategy in 2000, the 2003 amendment to the RMA to clarify council's responsibilities, the 2007 Statement of National Priorities, increased funding and support for covenanting through QEII National Trust and other agencies, and the establishment of the Biodiversity Advice and Condition Funds to provide assistance to councils, community groups and landowners.

The RMA gives councils responsibility for managing biodiversity on private land and this has been handled in different ways by different councils. In the last eight years, Tasman District Council has done the following:

- Commissioned biodiversity overviews on flora and fauna to identify the ecosystems and species most at risk
- Updated the aerial inventory of wetlands

- Negotiated vegetation clearance rules with stakeholders that ensure the most important ecosystems are protected
- Developed criteria that is being used to provide a framework for assessing the significance of natural areas.
- Negotiated with stakeholders to set up a voluntary programme (Native Habitats Tasman programme) to visit willing landowners to survey the natural areas on their land and provide them with an ecological report on and provide council with a copy of this report. Over the last 2.5 years, 200 reports have been completed.
- Landowners have received assistance with fencing to exclude stock and assistance with herbicide to treat pest weeds.
- Supported landowners and community groups involved in controlling animal and plant pests with technical advice, maps, letters of support, loans of traps, and animal control workshops.
- Developed a database to store information as it comes to hand
- Worked with Nelson City to prepare a Waimea Estuary Strategy and supported the establishment of the Waimea Estuary Forum

3. Present situation/Matters to be considered

3.1 What the proposed National Policy Statement requires?

The Objective of the proposed National Policy Statement is to promote the maintenance of indigenous biodiversity by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, and to encourage protection and enhancement of biodiversity values. It covers all land outside the conservation estate and includes wetlands and riparian margins, the freshwater habitat of threatened and endangered species. It excludes all DOC land, the coastal marine area and areas of indigenous vegetation planted for commercial harvesting (e.g. indigenous production forests).

It is presented in eight policies.

1. Relationship to s 6c of the RMA. Section 6c is about the protection of areas of significant indigenous vegetation and significant habitat of indigenous fauna and this policy expands the interpretation of significance to include areas or habitat that contributes to the maintenance of biodiversity.

2. Standard criteria for identifying significant vegetation and habitat. This uses the criteria outlined in the 2007 Statement of National Priorities and includes naturally uncommon ecosystems, sand dunes, wetlands, and natural areas on land environments with <20% of indigenous vegetation cover, and habitats of threatened and at risk species.
3. Regional Policy Statements. This requires RPSs that are notified after the NPS takes effect to include these standard criteria, apart from habitats of threatened and at risk species.
4. Areas and habitats in plans. This policy requires plans to identify these areas using (where practicable) maps or schedules, but other means of identification (e.g. describing the vegetation types) can be used where it may not be practicable to map them.
5. No net loss of biodiversity. This establishes the obligation of councils to manage the effects of resource use to ensure that there is no net loss of indigenous biodiversity within significant areas and habitats and includes the use of methods outside plans such as public ownership and covenants on titles. It also establishes the effects management hierarchy (avoid>remedy>mitigate>offset residual effects).
6. Supporting maintenance and enhancement of biodiversity. This promotes the protection and enhancement of biodiversity on all sites, not just the most significant sites, to enhance the robustness and resilience of existing indigenous ecosystems. It encourages the use of appropriate incentives to assist landowners with management of natural areas (e.g. management of pest animals and weeds).
7. Tangata whenua. This recognises the relationship of Maori to biodiversity and clarifies council responsibilities in areas where particular cultural values are involved.
8. Consultation. This is a requirement for Councils to consult with all affected landowners prior to any plan changes.

3.2 Where are the gaps?

There are gaps in the information that we have on indigenous biodiversity on private land and these will exist for a number of years. The Native Habitats Programme has been running for about 2.5 years with co-funding from the Biodiversity Advice Fund, using a voluntary approach to landowners with natural areas on their land. During that time, our contract ecologist has visited about 200 sites and provided 175 ecological reports, concentrating on the Motueka and the Moutere ecological districts. He estimates that it will take about at least seven years to cover the most significant sites within Tasman District in the most intensively developed areas where there is less than 20% of the original indigenous vegetation remaining. We have little information on the “naturally uncommon ecosystems” would require a significant investment in

additional resources to map these at a property level, although Tasman probably contains only 16 of the 34 ecosystems listed.

3.3 What are the problems?

The requirement to publish all significant area in maps or schedules (where practicable) is an area of concern. The NHT programme was based on developing a relationship of trust with the landowner. Access to these properties to collect this information could only be achieved with the agreement of the landowners. The NHT Programme had collected this information on the basis that individual properties

would not be identified in the public reports on biodiversity for each of the ecological districts that would synthesise information from a many different property reports. Publishing these sites could be seen as a breach of trust.

The assumption that land clearance is the major threat to biodiversity does not apply to natural areas in Tasman District where the major threats are pest plants and pest animals. While the RMA can be used to control land clearance activities, it cannot be used to control threats from pests which are a consequence of landowner inactivity.

3.4 What are the solutions?

- The requirement to publish these sites may be able to be achieved by the use of ecosystem descriptions in the TRMP.
- The information gap on indigenous biodiversity significant natural areas could be closed more quickly by increasing the amount of surveying being undertaken. This would require additional resources.
- The mapping of “naturally uncommon ecosystems” is a separate exercise that would require additional resources.
- Ask central government to make more resources available for this work

4. Financial/Budgetary Considerations

None at this stage. However if the NPS is approved in its current form there will be financial implications arising from having to “give effect” to the NPS.

5. Significance

This is not a significant decision according to the Council’s Significance Policy

6. Recommendation/s

That the Council receive this report and approve the sending of a submission.

7. Draft Resolution

THAT the Environment and Planning Committee receives the report on the Proposed National Policy Statement on Indigenous Biodiversity {report no.} and approve the sending of a submission



Lindsay Vaughan
Biosecurity Coordinator

Appendices:

1. Draft Submission on the Proposed National Policy Statement on Indigenous Biodiversity

INTRODUCTION

1. Tasman District Council (TDC) thanks the Ministry for Environment (MfE) for the opportunity to make this submission in relation to the Proposed National Policy Statement (NPS) on Indigenous Biodiversity.

RECOMMENDATIONS

2. TDC makes the following recommendations:
 - The distribution of remaining indigenous vegetation and habitat of indigenous fauna does not fall uniformly across all districts and regions. Funding should be considered to support the protection and enhancement of biodiversity to assist council, communities and landowners in areas with low population levels and natural areas with high biodiversity values.
 - Broadening the definition of habitat beyond that in the National Priorities creates an unreasonable expectation of local authorities. Amend the definition of habitat to be consistent with the definition in *“Protecting Our Places: National priorities for protecting rare and threatened native biodiversity on private land”* (MfE, 2007) i.e. *“The place or type of area in which a living thing naturally occurs”*.
 - Amend Policy 1 to reflect the objective.
 - Retain the exclusion of habitats of threatened and at risk species from Policy 3.
 - Amend Policy 2 (d) to refer to indigenous vegetation associated with land environments defined by Land Environments of New Zealand (LENZ) at Level IV that have 20 per cent or less remaining in indigenous vegetation cover.
 - Rewrite Policy 4 to ensure clarity of policy requirements.
 - Retain the application of Policy 4 to the criteria of Policy 2(a) – (d).
 - Retain the application of the five-year time frame in Policy 4 for inclusion of the criteria in a regional policy statement (RPS).
 - Provide guidance for Policy 5 that includes the core principles of offsetting and clear guidance on application.
 - Amend Policy 6(e) to separate pest management to acknowledge the critical role that pest management plays in biodiversity protection.

COMMENTS

General Comments

3. Tasman District Council is generally supportive of the Proposed NPS on Indigenous Biodiversity. We acknowledge that New Zealand has international obligations for the protection of biodiversity and believe that can NPS assist NZ to meet these obligations. The requirement to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna is challenging for local authorities and the existence of an NPS should result in better outcomes for biodiversity
4. In districts like Tasman, with a low rating base and a large number of sites on private land with high biodiversity values, the cost of protecting these sites is usually carried locally while the benefits may be local, regional and national. This should be formally acknowledged and consideration given to how to support local authorities and communities and landowners who bear an unequal share of the protecting New Zealand's biodiversity.

Detailed comment on interpretation, objectives and policies

Part 6 Objective

5. The role that councils play in the protection of biodiversity should be formally acknowledged and consideration be given to how to support councils like Tasman who bear an unequal share of the cost of protecting New Zealand's biodiversity. The Biodiversity Advice and Condition Fund are managed by the Department of Conservation (DoC) to enhance management of indigenous biodiversity outside public conservation lands. These funds have provided assistance to the Council in supplementing the resources that have been allocated for identifying and surveying natural areas and in assisting community groups and landowners to protect high-value sites.

Decision Sought

6. Assist councils, community groups and landowners by providing additional funding to the Biodiversity Advice and Condition Fund to protect and enhance biodiversity.

Part 7 Policies

Policy 1

7. Policy 1 seeks to acknowledge that the protection of areas of significant indigenous vegetation or significant habitat of indigenous fauna is recognised as important for the maintenance of indigenous biological diversity. According to the explanation document, this is to ensure that the proposed NPS does not cut across other measures of significance that councils might have under section 6(c) of the Resource Management Act (RMA). As written however, Policy 1 is more a definition than policy and should be reworded.

Decision sought

8. Amend Policy 1 to reflect the objective of the NPS.

Policy 2 and 3

9. We note that Policy 2 should be considered in conjunction with Policy 3 which requires RPSs (notified after the NPS) to include criteria for the identification of areas of significant vegetation and significant habitat of indigenous fauna with Policy 2(a)-(d) as a minimum.
10. Tasman District Council supports the specific exclusion of the habitats of threatened and at risk species from Policy 3. This will enable application on a case by case basis where information on these habitats is available.

Decision sought

11. Retain the exclusion of habitats of threatened and at risk species from Policy 3.
12. Amend Policy 3 to provide for instances where it is agreed to develop criteria to identify significant indigenous vegetation and significant habitat of indigenous fauna outside of the regional policy statement process
13. Amend Policy 2 (d) to include reference to indigenous vegetation associated with land environments defined by LENZ at Level IV that have 20 per cent or less remaining in indigenous vegetation cover.

Policy 4

14. Policy 4 appears to require district plans and relevant regional plans to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna using “(where practical) maps and/or schedules”, within five years of the NPS taking effect. Our understanding is that this is not the intention. Accordingly, the policy needs to be more clearly written.
15. There is sufficient ambiguity in the way the policy is written to question whether the directive to include in plans (within five years of the NPS taking effect) applies to the criteria to identify significant indigenous vegetation and significant habitats, or to maps/schedules. Careful reading of this policy is required to determine that in fact the application of the five year time frame applies to criteria to identify significant areas beyond those captured in Policy 2(a) – (d).
16. We note the application of this policy (2(e)) is limited to where there is existing information for habitats of threatened and at risk species. This acknowledges the cost of ecological surveys to determine the presence of these species. Local Authorities are strongly supportive of the provision to limit identification of these areas to where there is existing information on the habitats of threatened and at risk species.

17. Acknowledging the inclusion of “*where practical*”, and the limited application for habitats of threatened and at risk species, implementation of Policy 4 raises a number of questions with regards to mapping and the potential for unintended outcomes. Clearly there will be financial implications for local authorities as the identification of sites for inclusion in plans is an extremely time and resource hungry exercise.
18. Tasman District Council is uncomfortable with the provisions in Policy 4 where it has already been surveying natural areas of indigenous vegetation on private land. This work has been undertaken on the understanding with landowners that this information will not be publicly available. This can lead to better outcomes for the maintenance or protection of the biodiversity values at that site. Policy 4, arguably, precludes the option of working with landowners where there is good will as landowners are effectively required to have an ecological survey undertaken.

Decision sought

19. Rewrite policy 4 to ensure clarity of policy requirements.
20. Retain the application of Policy 4 to the criteria of Policy 2(a) – (d).
21. Retain the application of the five year time frame in Policy 4 to inclusion of the criteria in RPS.

Policy 5

22. We acknowledge the clarity provided in Policy 5 in establishing a hierarchy of decision making to manage the effects of activities on biodiversity of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
23. There is concern about the effectiveness of biodiversity offsetting policy however, given the lack of documented success, both nationally and internationally. To meet the purpose and principles of the RMA, and the objective of the proposed NPS, the procedural application of biodiversity offsets needs to be extremely rigorous, guided by defensible principles, and applied in a highly transparent manner.
24. The NPS does not adequately define the geographical extent of “*no net loss*”. Schedule 2 (5) Landscape context states that the offset design will demonstrate that “*it contributes to and complements biodiversity conservation priorities/goals at the landscape and national level*”. Given the distribution of remaining indigenous vegetation and habitat of indigenous fauna does not fall uniformly across all districts and regions, however, does this mean that an off-set could be established in another district or region, assuming it meets other assessment criteria such as “*like-for-like-or-better*”.

25. We are aware that DoC leads cross-departmental research into biodiversity offsetting in New Zealand and this is due for completion in 2012. This research covers ecological measurement and comparison of impact and offset sites; establishment of an appropriate offset currency; and development of effective implementation techniques and would presumably form the basis of a useful guide to local authorities. It is fundamental however, that the core principles of offsetting are explicitly stated within the policy in order to provide clear guidance as to their application.

Decision sought:

26. Provide guidance for Policy 5 that includes the core principles of offsetting and clear guidance on application.

Policy 6

27. We note the focus of Policy 6 is on promoting the maintenance of biodiversity outside areas of significant indigenous vegetation and significant habitats of indigenous fauna to support the biodiversity resilience. Application of this policy will enable local authorities to reflect community aspirations where they exceed the requirements of the NPS as set out in Policy 2, including where community aspirations include threatened species.
28. Given the value of pest management in maintaining biodiversity and the role regional councils play in plant and animal pest control, this should warrant more attention than apparent in 6(e). The current wording is complicated and mixes several management methods (planting, pest control, creation of habitat) with best practice (eco-sourcing). The components captured by 6e should be addressed in their own right.

Decision sought

29. Amend Policy 6(e) to separate pest management in acknowledgement of the role pest management plays in biodiversity protection.

Policy 7 and 8

30. Policy 7 and Policy 8 state what is regarded as good practice for the development and implementation of local policies and plans.
31. Policy 8 re-states expectations for consultation already apparent in the RMA, but reinforces the need to consult early in the process i.e. prior to notification of plans. Given the requirement in Policy 4 to (where practical) map or use schedules, to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, it seems a given that there will be early dialogue with landowners.