

Submission to the Ministry for the Environment

The Draft National Policy Statement for Indigenous Biodiversity

March 2020

Introduction

1. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We welcome the opportunity to submit on the draft National Policy Statement for Indigenous Biodiversity (NPS-IB).
3. This submission is divided into a primary submission (below), and Appendix 2 containing Straterra's answers to questions posed in He Kura Koiora i hokia, the accompanying discussion document.

Executive Summary

Support for national direction

4. Straterra supports the management and protection of indigenous biodiversity, via a national policy statement.
5. We agree with the **Explanatory Note** to the draft National Policy Statement for Indigenous Biodiversity (NPS-IB), which says "Aotearoa New Zealand's biodiversity is in decline", and that the NPS-IB must ensure "the decline is halted".
6. Biodiversity is important; there is a need to protect it. This is not about putting the economy and jobs ahead of biodiversity. In terms of enabling economic development, the discussion is about "no net loss", or "net gain", and achieving the best outcomes for biodiversity.

Extractives and biodiversity

7. In this submission, Straterra argues for a case-by-case approach to minerals / aggregate extraction, using the effects management hierarchy, as intended by the "carve out" provided in **Part 3.9**. Each project needs to be judged on its own merits. This already occurs under the RMA, and already delivers

good outcomes for biodiversity. The NPS-IB should provide a way through for mining to continue to deliver benefits, while doing no harm – in a no net loss sense – to biodiversity.

8. Councils should be able to trigger resource consent applications under the NPS-IB. Activities do not have to be prohibited or prevented, as part of managing and protecting biodiversity. They may fail to gain resource consent if proposals for managing effects are inadequate to meet the purpose of the RMA, e.g. if biodiversity to be affected is irreplaceable.
9. Mining and quarrying proponents routinely apply for resource consent. Ours is a closely regulated industry, accustomed to being exposed to scrutiny. The resource consent process achieves that, and that is appropriate.
10. Continuing to apply a case-by-case approach to extractives will not open the flood gates to earthworks everywhere. GNS Science has estimated the footprint of mining and quarrying at 0.02% of New Zealand's land area.

Problem definition needs amendment

11. The weight of the scientific evidence is that, overwhelmingly, by far the greatest threats to indigenous biodiversity in New Zealand today are exotic animal pests and weeds.
12. Concerns that changes in land use, such as land clearance, are a threat to biodiversity, should be restricted to unconsented land uses, e.g. permitted activities.
13. The draft NPS-IB implies the RMA resource consenting system is at fault for ongoing biodiversity loss in New Zealand. In our view, where underperformance on resource consents has occurred, poor implementation may be the most likely cause. This is not a criticism of the system *per se*.

Shortcomings of the NPS-IB

14. Unfortunately, the NPS-IB will prevent almost all land use and development in New Zealand outside of urban boundaries because almost all indigenous biodiversity will meet a classification of significant and of high value, in which adverse effects specified in **Part 3.9** must be avoided.
15. This cannot be the government's intent because the Hutia Te Rito framework includes people within it, and because many provisions in the NPS-IB are intended to recognise and provide for economic development, consistent with managing biodiversity, e.g. **Part 3.7 (b) and (c)**.
16. Without developers' contributions, resourcing of animal pest and weed control will always be too small to halt the decline, even with volunteer support, and even with some additional central government funding for pest and weed control.

The way forward

17. Straterra's solutions for a workable and fit-for-purpose NPS-IB are, in summary:

- Councils should identify, map and schedule Significant Natural Areas, including with mandatory ground-truthing for accuracy;
- Amend the significance criteria in **Appendix 1** because the bar for significance has been set very low as written, diminishing the meaning of the term “significance”;
- Remove all reference to high and medium value in relation to significance, because almost all significant biodiversity will be of high value, making the distinction redundant;
- Provide for the effects management hierarchy to apply to all mineral and aggregate extraction, including for existing activities, and brownfields and greenfields activities;
- Amend **Appendix 3** on biodiversity offsets and **Appendix 4** on compensation for workability in achieving no net loss of, or net gain in biodiversity from land use and development;
- Strengthen incentives for landowners and users to support biodiversity management and protection, e.g. fencing, animal pest and weed control, plantings of indigenous species;
- Provide for the NPS-IB to take precedence in all matters concerning biodiversity over all other national policy statements to avoid regulatory duplication.

18. Refer to Straterra’s recommendations for workability of the NPS-IB later in this submission.

Submission

Retain the carve out for mineral and aggregate extraction

19. Much of this submission concerns **Objective 6** of the NPS-IB: “to recognise the role of landowners, communities and tangata whenua as stewards and kaitiaki of indigenous biodiversity by allowing people and communities to provide for their social, economic and cultural wellbeing”.
20. Within that, **Policy 8** recognises “the locational constraints that apply to specific subdivisions, uses and developments”.
21. Mineral and aggregate extraction has other special characteristics in that it is the highest-value use of land, has New Zealand’s highest labour productivity, contributes to regional development, is conducted over a relatively small footprint, is a temporary use of land over time, which is repurposed following mine / quarry closure, and the minerals produced are either essential to the domestic economy or contribute to exports. All of these attributes are recognised in the Minerals and Petroleum Resources Strategy for Aotearoa New Zealand 2019-2029.
22. **Part 3.9 Managing adverse effects on SNAs** specifies that “all adverse effects of a new subdivision, use or development must be managed using the effects management hierarchy”, subject to a number of criteria.

23. This provides a *carve out* for “mineral and aggregate extraction” from a requirement for developers to avoid a set of specified adverse effects, which are comprehensive in their scope, to the extent that almost all development would be prevented.
24. Straterra welcomes the provision of this carve out, which recognises the importance of minerals in the New Zealand economy, and the nature of minerals activities, consistent with the Minerals and Petroleum Resources Strategy.
25. Straterra agrees with the government that the adverse effects of mineral and aggregate extraction are amenable to consideration under the effects management hierarchy.
26. This is also the case for existing activities, covered under **Part 3.12** of the NPS-IB. Existing mineral and aggregate extraction activities are subject to change or variation, as part of the normal process of mining and quarrying, and need to be treated the same as a new activity. As well, mineral and aggregate extraction includes prospecting and exploration, and brownfields and greenfields activities. This needs to be explicitly recognised in the NPS-IB.
27. That said, the carve out is largely prevented because of **Part 3.9 (2) (a)**, which narrows the application of the effects management hierarchy to “an SNA classified as Medium”.
28. In Appendix 1 of this submission, we argue that almost all indigenous biodiversity in New Zealand will meet a classification of significant, and that almost all of this biodiversity will meet a standard of high value.
29. Therefore, the carve out will almost never apply for mineral and aggregate extraction, contrary to the government’s clear policy intent.
30. This is a major problem for the future of extractives in New Zealand. The solutions lie, Straterra considers, in making enabling changes to the NPS-IB, without undermining its overall intent.

Councils to map SNAs

31. The first part of the approach to solutions concerns significant biodiversity and SNAs. Councils should identify, map and schedule SNAs in districts and regions, including public conservation land, to provide the necessary spatial context for consideration of resource consent applications.
32. Mandatory ground-truthing is necessary to ensure accuracy. Note that this will impose significant resourcing costs on most councils, and it could take many years to map SNAs.
33. When extractives companies assess actual and potential effects on biodiversity, this is done within the footprint of the proposed activity. Proposals for managing and protecting significant biodiversity under the effects management hierarchy ideally need to take into account the broader spatial context. Mapping SNAs will establish this context.

Amend the significance criteria

34. Almost all biodiversity in New Zealand will be significant under the NPS-IB. This disregards the nature of biodiversity, which is that it forms a continuum in terms of quality or ecological integrity ranging from very low significance to very high significance. This is evident to a casual observer and, has a basis in science. We provide supporting arguments in Appendix 1 of this submission.
35. The further up the significance scale, the more challenging it will be for project proponents to manage and protect biodiversity under the effects management hierarchy. At the point at which biodiversity is irreplaceable no offset or compensation will be possible. That is as it should be and, is consistent with the purpose of the effects management hierarchy. Its applicability should extend to all biodiversity, and at least for the activities listed in the **Part 3.9** carve out.
36. Straterra proposes that the **Appendix 1** criteria should be amended to reflect that biodiversity comprises a continuum or spectrum of quality and ecological integrity.

Remove all reference to medium and high value in relation to significance

37. As already argued in this submission, in almost all cases where biodiversity is identified as significant, it will meet a standard of high value, under **Appendix 2**. For this reason, and because biodiversity occupies a continuum, the distinction between high and medium is close to meaningless. We propose removing all reference to high value and to medium value, including by deleting **Appendix 2**.
38. That done, including by deleting **Part 3.9 (2) (a)**, the carve out will be restored, thereby meeting the government's policy intent for mineral and aggregate extraction, and certain other activities.

Other unnecessary provisions

39. The material in **Policy 13** and **Part 3.15** on highly-mobile fauna – birds, bats, fish – is unnecessary and should be deleted because it is already covered within the broader ambit of the NPS-IB.
40. The material on the “precautionary approach” in **Policy 2** and **Part 3.6** should be deleted because it could be interpreted so as to prevent almost all development and land use in New Zealand outside of urban boundaries. That would be contrary to the government's intent in relation to the carve out, and it is unnecessary in any case, given the robust scope of the NPS-IB.

Maintaining biodiversity

41. Straterra supports **Objective 1** “to maintain biodiversity”. In the fundamental concepts section, **(3) maintaining indigenous biodiversity** should be expanded to include qualitative descriptions because quantitative metrics or measurements cannot always be made. The quantitative is, then, a subset of the qualitative.

Effects management hierarchy

42. The proposed effects management hierarchy, in the definitions section and **Appendices 3 and 4**, is supported in principle, as providing an appropriate framework for project proponents to seek resource consent for activities.
43. The case law is a confusing area of study. For example, the case law arising from the resource consenting of the Transmission Gully highway project provided a different characterisation of mitigation versus offsetting / compensation than did the case law on Bathurst Resources' Escarpment coal mine project.
44. The proposals in the NPS-IB for the effects management hierarchy are generally sound, though require amendment for workability.
45. **Principle 2** of **Appendix 3**, and of **Appendix 4**, specify limits to offsetting. This should not operate upfront as a locked gate for significant biodiversity. Biodiversity offsets and compensation are effective in managing and protecting biodiversity; however, it is acknowledged that this will not always be the case. The design process for offsets and compensation will reveal whether or not biodiversity at a site is offsettable or can be compensated for, while meeting the sustainable management purpose of the RMA. That should be the meaning of limits to offsetting.
46. The term "socially acceptable" in **Principle 2** is vague in meaning, is inappropriate in this context, and should be deleted.
47. **Principle 5, Appendix 3**, requires a "like for like" swap between biodiversity affected and biodiversity enhanced or created, while **Principle 9** provides for "trading up" of biodiversity, subject to conditions. The two principles are in direct conflict and need to be resolved.
48. **Principle 9** on trading up should provide for most biodiversity to be eligible for trade-ups as part of an offset. As worded, the applicable threat classifications are very broad, and in practice will exclude almost all biodiversity from being traded up. This exclusion should be limited to the highest threat categories, nationally critical and nationally endangered. In such situations, if offsetting is possible, it should be like for like (**Principle 5**). Where high-value biodiversity is concerned, the opportunity to trade up will be limited because it would have to be of even higher value.
49. **Principle 12**. Mātauranga Māori is defined differently in different parts of the NPS-IB. Clarification is required. If it is science done by Māori, then it is science, because science, by definition, transcends cultures and languages.
50. On the topic of compensation, note that this can deliver highly-beneficial outcomes. Instead of trading up losses to a tussockfield, for example, research on endangered species may well be a better way of spending biodiversity management funds.

Preservationism will not protect biodiversity

51. In offering solutions for NPS-IB workability, Straterra shares the government's concern over ongoing decline in biodiversity in New Zealand.
52. Straterra is firmly of the view that protecting significant biodiversity, i.e. preserving almost all biodiversity from development, is no solution to the government's concern.
53. At issue is that exotic animal pests and weeds are managed only at places a small minority of New Zealand's land area, and that DOC and councils are under-resourced to an extreme degree to respond to this challenge. Even if central government introduced extra resourcing, this could only ever deliver an incremental improvement to the situation.

Enabling landowner and land user participation

54. Volunteer commitment to conservation in New Zealand is welcome, however, is also only a small fraction of the level of effort needed. Furthermore, if landowners or occupiers are prevented from using land, they will be less willing and able to help with biodiversity conservation.
55. The NPS-IB could be worded more explicitly than in **Part 3.7 Social, economic and cultural wellbeing** to promote different strands of society working together to manage biodiversity in their localities and regions. The matter is also covered under **Policies 7, 8, 10 and 11**, and there is relevant content in **Part 3.16 and Part 3.18**.
56. In the language of economics, volunteer biodiversity management by landowners is a positive externality, in which the total marginal benefit to society is greater than the marginal benefit to the landowner. This means that less of this work occurs than should or could occur. Hence a role for incentives.
57. That should include the enabling of development, subject to the effects management hierarchy, and this approach would be consistent with the RMA's purpose, the Treasury's Living Standards framework, and Hutia Te Rito, in which "people are part of and dependent upon, the natural environment and ecosystems".
58. **Part 3.18** and **Appendix 5** on regional biodiversity strategies is a potential area of text in the NPS-IB where the role of landowners, land users, and developers of land could be included in strategies for managing and protecting biodiversity at a local or regional scale.

Overlap with other RMA national direction

59. In introducing the NPS-IB, an overlap is created with the New Zealand Coastal Policy Statement, the NPS for Freshwater Management, and potentially, other national direction. To avoid regulatory duplication and confusion, Straterra suggests explicit text to clarify that the NPS-IB, having biodiversity as its prime focus, logically and properly takes precedence over all other national policy statements, as regards biodiversity.

Addressing other government concerns

60. The discussion document notes concern over a relative lack of local government monitoring, compliance and enforcement of resource consent conditions. This is not a failure of the RMA but of local government. This suggests reform of, e.g. the Local Government Act, to address this issue, and more resourcing of councils that need it to adequately discharge these functions.
61. Government habitually speaks of the need for certainty under the RMA and that firms desire certainty; however, the certainty provided by preventing development is not what firms want. If the concern is around poor decision-making under the RMA, then the focus should be on decision-making and decision-makers, not the RMA. Again, that may be an issue under the Local Government Act. The preservationist approach of the NPS-IB as currently worded is not a valid solution, as argued above.
62. If there is a concern over the litigious aspects of the RMA, developers are willing to take the risk around success or otherwise in applying for resource consent. Experience shows that some opponents of projects are at least as well-resourced as their proponents. Generally, the Environment Court provides for robust outcomes. Further rights of appeal should be retained.

Recommendations

63. Straterra proposes that the desired outcomes of the NPS-IB should be to manage and protect biodiversity while providing for economic development. Straterra calls on the government to adopt all of the following 17 recommendations in their entirety, as an integrated package, to achieve the desired outcomes:

RECOGNITION OF EXTRACTIVES

Recommendation 1: Retain Part 3.9 (2) (b), (c) and (d), and Policy 8, which recognise the importance of, and special characteristics of certain activities, including “mineral and aggregate extraction” (3.9 (2) (d) (ii)), and appropriately provides for them, in the RMA context.

PROVIDING FOR THE CARVE OUT

Recommendation 2: Note that Part 3.9 (1) (a) (i) – (iv) comprehensively describes adverse effects on biodiversity, to the extent that almost all land use / development outside of urban boundaries will be prevented, unless enabled via the carve out intended to be provided in Part 3.9 (2).

Recommendation 3: Delete Part 3.9 (2) (a) because little or no significant biodiversity will meet a standard of “medium value” under the NPS-IB, and, unchanged, will all but nullify the intent of Part 3.9 (2), which is to provide a carve out from Part 3.9 (1) for certain activities (as per Rec. 1).

Recommendation 4: Further to the above, delete all reference in the NPS-IB to high-value and medium-value, in relation to significant biodiversity (Part 3.8 (1) (b); Part 3.8 (5); and Part 3.8 (8) (c)), and delete Appendix 2, also because almost all significant biodiversity will meet a standard of high value, making the distinction largely redundant or irrelevant.

SNAs

Recommendation 5: Amend the criteria for determining significance to avoid having almost all biodiversity being classified as significant under Appendix 1.

Recommendation 6: Delete Policy 13; and Part 3.19 (d) in relation to highly-mobile fauna, because these provisions are unnecessary, being covered elsewhere in the NPS-IB.

NO TO PRECAUTIONARY APPROACH

Recommendation 7: Delete all reference to the precautionary approach (Policy 2; and Part 3.6) because it could be interpreted in a way that prevents all land use and economic development in New Zealand outside of urban boundaries, which is not the intent of the NPS-IB, and because it is unnecessary to achieve the objectives of the NPS-IB.

MAINTAINING BIODIVERSITY

Recommendation 8: In the lead paragraph of (3) Maintenance of indigenous biodiversity, under fundamental concepts, insert “or loss of overall quality” alongside “no reduction”, and add into limb (a) the size “or quality” of populations of indigenous species. This for the maintenance of biodiversity to be tractable in a practical sense.

EFFECTS MANAGEMENT HIERARCHY

Recommendation 9: Note Straterra’s support for the effects management hierarchy as the appropriate framework for managing the adverse effects of activities on biodiversity.

Recommendation 10: Provide for all extractives projects to be considered under the effects management hierarchy, consistent with other Recommendations.

Recommendation 11: Shorten Principle 2 of Appendix 3 and Appendix 4 to read: “Biodiversity offsets (or Biodiversity compensation) are an effective tool for managing the residual adverse effects of activities on biodiversity, acknowledging that an offset (or compensation) may not always be possible for meeting the Objectives of the NPS-IB”. This is to avoid ill-defined terms such as “socially acceptable”, and to place limits to offsetting and compensation into an appropriate context.

Recommendation 12: Add to the end of Principle 5 (like-for-like swaps) the following text: “, except where Principle 9 applies” to avoid a conflict between both principles, the latter providing for trade-ups.

Recommendation 13: Remove from Principle 9 the following text “, At-risk or Data deficient” to enable trade-ups to occur in practice, which is the intent of this principle.

RESOURCING COUNCILS

Recommendation 14: Provide more explicitly for stakeholders, local government and iwi to combine forces at places to enhance the conservation of specific, threatened biodiversity, e.g. by strengthening Part 3.16 on restoration and enhancement, and Part 3.18 on regional biodiversity strategies.

Recommendation 15: Strengthen monitoring, compliance and enforcement of resource consent conditions via reforms, e.g. to the Local Government Act, and resourcing those councils that need it to adequately discharge these functions (relevant to Part 3.20).

NPS-IB TO TAKE PRECEDENCE ON BIODIVERSITY

Recommendation 16: Replace the wording in Part 1.6, “the New Zealand Coastal Policy Statement prevails” with the “National Policy Statement for Indigenous Biodiversity prevails”, because the NPS concerned specifically with biodiversity should logically prevail over all other national instruments, in relation to biodiversity.

Recommendation 17: Insert into Part 3.4 Integrated Approach, a limb (d) containing the following text: “the NPS-IB takes precedence in relation to biodiversity over every other RMA instrument of national direction”.

Appendix 1: Significance and biodiversity

1. The RMA does not define the term “significant”, and this has led to many attempts during the life of the RMA to arrive at a meaning. The proposals made in the NPS-IB are comprehensive, and in Straterra’s view will lead to the following outcomes:
 - Almost all indigenous biodiversity in New Zealand will meet a classification of **significant**; and
 - Almost all of this biodiversity will meet a standard of **high value**.
2. This Appendix has been prepared to underpin this assertion.

Appendix 1 of the NPS-IB:

3. Only one attribute / criterion of the following content needs to be met for a site to qualify as “significant indigenous vegetation” and / or “significant habitat of indigenous fauna”. Traversing the list below, the conclusion is inescapable that almost all of New Zealand’s land area outside of urban boundaries will meet a classification of significant.

A. Representativeness

- A site does not have to be pristine to qualify as significant – it can be degraded – and this criterion includes “commonplace indigenous vegetation”. That covers much indigenous habitat, especially on private land, throughout New Zealand.
- Seral forest is regenerating forest and is a snapshot in time of a naturally-changing forest. Such vegetation is very common throughout New Zealand, e.g. mahoe / rangiora scrub evolving into native forest.
- “Degraded indigenous vegetation, ecosystems and habitats that are typical of what remains in depleted ecological districts” – These are by definition typical of themselves, so will cover all degraded indigenous vegetation, ecosystems and habitats, of which there is much in New Zealand.
- Sites that support typical indigenous fauna characteristic of the habitat type and range of species - Most sites will contain such fauna, e.g. species of lizard and bird.

B. Diversity and pattern

- Variations at sites in “geology, soils / substrate, aspect / exposure, altitude / depth, temperature and salinity” – Such variations are very common throughout New Zealand. Many or most sites will qualify as diverse under this definition, which will include the edges of wetlands, and shrubland in farm gullies.
- The attribute referring to the diversity of species, vegetation and habitats of indigenous fauna – most sites will contain this level of diversity.

C. Rarity and distinctiveness

- At-risk species include pipit, which are widespread throughout much of New Zealand, in particular, in the high country, near coasts, and open farmland. Longfin eels are found in most waterways in New Zealand.
- “Indigenous vegetation that has been reduced to less than 30 per cent of its former extent in the ecological district, region or land environment” – This is a criterion applying to almost all lowland indigenous vegetation and habitats, and on private land.
- The attribute that refers to habitat for an indigenous species listed as Threatened or At-risk – these categories cover a very large variety of species, and many or most sites will contain these species.

D. Ecological context

- “Size, shape and configuration” are not defined, and, for this reason and generally, the contribution of ecological context to maintaining indigenous biodiversity will likely apply to almost all indigenous biodiversity.
- “Well buffered relative to remaining habitats in the ecological district” - This criterion will apply to many areas of regenerating forest surrounded, for example, by introduced plant species such as gorse, blackberry, barberry, hawthorn, broom, and sweet briar.
- The attribute that refers to providing a link or buffer between other important habitats or SNAs - sites are essentially a “dot” within the broader habitat, and given that most/all areas will be SNAs, then every habitat will always be a link or buffer to another SNA.

Appendix 2 of the NPS-IB

4. If one attribute of significant biodiversity meets a threshold of high value, then the entire SNA is of high value. Once more, the conclusion is inescapable that almost all significant biodiversity will meet a standard of high value.

A. Representativeness

- “Ecological unit(s) present that is typical of the indigenous character of the ecological district and which retains a high level of ecological integrity in the context of what remains in the ecological district.” – On this basis, almost all indigenous vegetation and habitat will be of high value because everything is typical of itself, and because even degraded ecosystems will have high ecological integrity in that context.
- “Habitat that supports a typical suite of indigenous fauna that is characteristic of the habitat type in the ecological district and retains the majority of species expected for that habitat type in the ecological district” – As above, regardless of whether the habitat is degraded, it will have in its context a typical suite of indigenous fauna.

B. Diversity and pattern

- “A high diversity of indigenous species, vegetation, habitats of indigenous fauna, or communities within the context of the ecological district” – This criterion will apply to most vegetation in New Zealand.
- “Presence of important ecotones and/or complete gradients or sequences” – Much of remnant or other biodiversity in lowland New Zealand and on private land has ecological gradients that could be considered important, e.g. the edges of wetlands, and indigenous vegetation in farm gullies.

C. Rarity and distinctiveness

- “Provides habitat for a Nationally Threatened, or two or more At Risk indigenous species as identified in the New Zealand Threat Classification System lists.” – New Zealand has high speciation of, e.g. miniature land snails (hundreds of species), bryophytes (ferns, mosses, liverworts), fungi, and butterflies and moths, to name some types of biodiversity. Butterflies / moths provide a good example of the issue; the threat classification system lists 202 nationally-threatened and at-risk species. As discussed elsewhere, pipits and longfin eels are classified as at risk, and are present throughout much of New Zealand. In summary, it is considered that a very small proportion of New Zealand’s land area will have fewer than two at-risk species present.
- “An indigenous species or plant community at its distributional limit” – This could be challenging to determine with accuracy, and almost everywhere in New Zealand would qualify, for one species or another, as an inherent aspect of ecology.
- “Indigenous vegetation that has been reduced to less than 20% of its former extent in the ecological district, region or land environment” – Much of lowland biodiversity in New Zealand would qualify.

D. Ecological context

- “Large size and a compact shape in the context of the ecological district” – This could apply to most indigenous vegetation in New Zealand.
- “Well-buffered relative to remaining habitats in the ecological district” – As discussed above, many sites are buffered with introduced vegetation, so this criterion could apply to many areas of biodiversity.
- “Provides critical habitat for indigenous fauna, including important feeding, breeding, refuge or resting habitat” – Areas where certain species of bird, for example, habitually land on the branch of a tree, or find habitat would qualify as high value. Once more, this criterion applies to much of New Zealand’s indigenous vegetation and habitat.

Appendix 2: Answers to questions

Discussion document questions	Straterra answers
Q1. Do you agree a National Policy Statement for Indigenous Biodiversity (NPS-IB) is needed to strengthen requirements for protecting our native plants, animals and ecosystems under the Resource Management Act 1991 (RMA)?	Yes, but not in its current form. Refer to Straterra’s primary submission for an explanation of the problems with the draft, and our recommendations for fixing these problems to achieve the NPS-IB’s objectives.
Q2. The scope of the proposed NPS-IB focuses on the terrestrial environment and the restoration and enhancement of wetlands. Do you think there is a role for the NPS-IB within coastal marine and freshwater environments?	Yes, but only if the NPS-IB is written to take precedence over the New Zealand Coastal Policy Statement, and the NPS for Freshwater Management, to avoid regulatory duplication. Applications for resource consent could result in new case law being required to resolve conflicts between these two instruments. The NPS-IB is about biodiversity, so should logically take precedence over other national direction, in relation to biodiversity.
Q3. Do you agree with the objectives of the proposed NPS-IB?	Yes. It is important to manage and protect biodiversity.
Q4. Hutia te rito recognises that the health and wellbeing of nature are vital to our own health and wellbeing. This will be the underlying concept of the NPS-IB. Do you agree?	Yes, in principle. There is a concept of reciprocity to consider – that if the people have wealth, we will be in a better position to better manage biodiversity in Aotearoa / New Zealand. The statement in NPS-IB, “people are part of and dependant on the natural environment and ecosystems” supports this view.
Q5. Does the proposed NPS-IB provide enough information on Hutia te rito and how it should be implemented? Is there anything else that should be added to reflect te ao Māori in managing biodiversity?	Not answered.
Q6. Does the NPS-IB appropriately take into account the principles of the Treaty of Waitangi?	Yes, in principle, subject to the above comments.
Q7. What opportunities and challenges do you see for the way in which councils would be able to work with tangata whenua ... ?	Not answered.
Q8. Local authorities will need to consider opportunities for tangata whenua ... customary use.	Not answered.
Q9. What specific information, support or resources would help you implement the provisions in this section?	Not answered.
Q10. Territorial authorities will need to identify, map and schedule Significant Natural Areas (SNAs) in partnership with tangata whenua, landowners and communities. What logistical issues do you see with mapping SNAs, and what has been limiting this mapping from happening?	There is the issue of resourcing and cost. Nonetheless, mapping is important. Adequate time and resourcing needs to be made available for local government to carry it out.
Q11. Of the following three options, who should be responsible for identifying and mapping and scheduling of SNAs ... ?	Not answered.
Q12. Do you consider the ecological significance criteria in Appendix 1 of the proposed NPS-IB appropriate for identifying SNAs?	The key issue Straterra raises with Appendix 1 is that almost all indigenous biodiversity in New Zealand will meet a classification of significant. Refer to Appendix 1 of our submission for detailed reasoning. The criteria need to be amended to raise the bar for determining significance.

Q13. Do you agree with the principles and approaches territorial authorities must consider when identifying and mapping SNAs.	Yes, in principle, and subject to our answer, above.
Q14. The NPS-IB propose SNAs are scheduled	See above.
Q15. We have proposed a timeframe of five years for the identifying and mapping of SNAs ...	For parts of New Zealand, this task could take 20 years, e.g. the West Coast, and Southland.
Q16. Do you agree with the proposed approach to identifying and managing taonga species and ecosystems?	Not answered.
Q17. Part 3.15 of the proposed NPS-IB requires regional councils and territorial authorities to work together and manage highly-mobile fauna outside of SNAs. Do you agree with this approach?	No. It is not necessary to make special provision for highly-mobile fauna because this is already covered under the NPS-IB. Policy 13 and Part 3.15 should be deleted.
Q18. What specific information, support or resources would help you implement the provisions in this section?	See above.
Q19. Do you think the proposed NPS-IB provides an appropriate level of protection of SNAs?	No. Refer to our primary submission.
Q20. Do you agree with the use of the effects management hierarchy as proposed to address adverse effects on biodiversity instead of the outcomes-based approach recommended by the Biodiversity Collaborative Group?	Yes. This should be the tool used for considering development and land use outside of urban boundaries. Refer to our primary submission for suggested improvements to the effects management hierarchy in Appendices 3 and 4, for workability.
Q21. Are there any other adverse effects that should be added to Part 1.7 (4) to be considered within and outside of SNAs?	Not answered.
Q22. Do you agree with the distinction between high and medium-value SNAs as the way to ensure SNAs are protected while providing for new activities?	No. In practice almost all significant biodiversity will meet a standard of high value, rendering the distinction between high value and medium value largely redundant. As well, biodiversity occupies a continuum between low and high value in terms of quality or ecological integrity. The solution is to delete Appendix 2 and all reference to medium and high value in the NPS-IB. The effects management hierarchy should be the mechanism for the management of adverse effects of activities that are more than minor.
Q23. Do you agree with the new activities the NPS-IB provides for, and the parameters within which they are provided for?	Yes. Mineral and aggregate resources have special characteristics that need to be recognised in the NPS-IB, and under the RMA, generally. They include: location-constrained, relatively small footprint, temporary use of land, highest-value use of land, highest labour productivity, contribution to regional development, and supply of essential materials for the domestic market, and contribution to exports. We suggest inserting a definition of mineral and aggregate extraction into the NPS-IB, by making specific reference to the definition of mining in section 2 of the Crown Minerals Act 1991 and adding to that brownfields and greenfields activities. No, in relation to the parameters. A carve out for mineral and aggregate extraction is intended by government, for reasons supported by Straterra; however, in practice, this is not provided. As argued above, and in our primary submission, almost all biodiversity will meet a classification of significant and a standard of high value. That will prevent mining and quarrying projects

	<p>being able to access the effects management hierarchy. This is contrary to the intent of the draft NPS-IB.</p> <p>As stated elsewhere in this submission, to solve the problem identified above, Straterra recommends: removal of references to high-value and medium-value, and having the effects management hierarchy available for all minerals and aggregate extraction and / or all biodiversity.</p>
Q24. Do you agree with the proposed definition for nationally-significant infrastructure?	Not answered.
Q25. Do you agree with the proposed approach ... plantation forests?	Not answered.
Q26. Do you agree with managing existing activities and land uses, including pastoral farming, proposed in Part 3.12 of the proposed NPS-IB?	No. For existing mineral and aggregate extraction activities, an expansion or variation of footprint subject to resource consent conditions is usually an integral part of mine / quarry planning. This needs to be provided for. We suggest extending the application of the effects management hierarchy to existing activities in relation to mineral and aggregate extraction, being consistent with the intent in the NPS-IB to provide a carve out for these activities in Part 3.9 (2).
Q27. Does the proposed NPS-IB provide the appropriate level of protection for indigenous biodiversity outside SNAs with enough flexibility to allow other community outcomes to be met?	Not answered.
Q28. Do you think it is appropriate to consider both biodiversity offsets and biodiversity compensation (instead of considering them sequentially) for managing adverse effects on indigenous biodiversity outside of SNAs?	Straterra supports the high-level description or characterisation of the effects management hierarchy. Refer to our primary submission for comment and recommendations on the detail, in particular, Appendices 3 and 4.
Q29. Do you think the proposed NPS-IB adequately provides for the development of Māori land?	Not answered.
Q30. Part 3.5 of the proposed NPS-IB requires territorial authorities and regional councils to promote the resilience of indigenous biodiversity to climate change. Do you agree with this provision?	Not answered.
Q31. Do you think the inclusion of the precautionary approach in the proposed NPS-IB is appropriate?	No. The problem is that the precautionary approach could be interpreted by councils to prevent all development in areas outside of urban boundaries. It could also be used to prevent biodiversity enhancement, e.g. by DOC, because it is always possible to have more information about biodiversity being affected than there is available. Straterra recommends the deletion of all reference to the precautionary approach in the NPS-IB.
Q32. What is your preferred option for managing geothermal ecosystems?	Not answered.
Q33. We consider geothermal ecosystems to include ...	Not answered.
Q34. Do you agree with the framework for biodiversity offsets set out in Appendix 3?	Yes, in principle. Refer to our primary submission for detailed recommendations for workability and improvement.
Q35. Do you agree with the framework for biodiversity compensation set out in Appendix 4?	As per the above.

<p>Q36. What level of residual adverse effect do you think biodiversity offsets and biodiversity compensation should apply to</p>	<p>More than minor residual adverse effects. That is because the procedure of avoid, remedy, mitigate will have achieved its purpose, under the RMA, if residual effects are no more than minor. Therefore, the consideration of biodiversity offsets and compensation only come into play if residual adverse effects are more than minor, after application of the first part of the effects management hierarchy.</p>
<p>Q37. What specific information, support or resources would help you implement this section?</p>	<p>Not answered.</p>
<p>Q38. The proposed NPS-IB promotes the restoration and enhancement of three priority areas: degraded SNAs; areas that provide important connectivity of buffering functions; and wetlands. Do you agree with these priorities?</p>	<p>No. This is applying a blunt instrument to all of New Zealand. The biodiversity enhancement priorities in the Waikato region will be very different to those of the West Coast region, for example. The requirement to prioritise ecological restoration of “former wetlands” is deeply problematic. There needs to be more flexibility in Part 3.16 to provide more explicitly for stakeholders, local government and iwi to work together to achieve priority biodiversity outcomes in regions. Part 3.18 is a further opportunity, in relation to biodiversity strategies.</p>
<p>Q39. Do you see any problems in wetland protection and management being driven through the Government Action for Health Waterways package while wetland restoration occurs through the NPS-IB?</p>	<p>Yes. In Straterra’s view, parts of the freshwater package are unimplementable in any practical sense. For example, the requirement for councils to identify every wetland of at least 22 metres x 22 metres (0.05 hectares) will be all but impossible for regional councils such as West Coast, and Southland. A general issue is a lack of integration between the biodiversity and freshwater packages. The inevitable result is numerous inconsistencies between the two policy streams. This is not unusual for New Zealand. Since the Wildlife Act 1953 a series of environment-related laws have been passed with little or no attempt at coherence, logic or integration. This is a serious flaw in New Zealand’s resource management system.</p>
<p>Q40. Part 3.17 of the proposed NPS-IB requires regional councils to establish a 10 per cent target for indigenous, urban vegetation, and separate indigenous vegetation targets for non-urban areas. Do you agree with this approach?</p>	<p>In general, yes. Note the flexibility provided in Part 3.17, which is appropriate, in contrast to Part 3.16. Refer to the above submission points.</p>
<p>Q41. Do you think regional biodiversity strategies should be required under the proposed NPS-IB, or promoted under the New Zealand Biodiversity Strategy?</p>	<p>The latter option. Strategies for biodiversity management and protection may not need to be at a regional scale for example, and may not be needed in every region of New Zealand.</p>
<p>Q42. Do you agree with the proposed principles for regional biodiversity strategies set out in Appendix 5 of the proposed NPS-IB?</p>	<p>Yes, in general. There should be specific mention of the roles of landowners, land users, and developers of land, recognising that a vision for biodiversity in a region or part of a region needs to take into account the role of economic development, consistent with the purpose of the RMA.</p>
<p>Q43. Do you think the proposed regional biodiversity strategy has a role in promoting other outcomes (e.g. predator control or preventing the spread of pests and pathogens)?</p>	<p>Not answered.</p>
<p>Q44. Do you agree with the timeframes for initiating and completing the development of a regional biodiversity strategy?</p>	<p>Not answered.</p>

Q45. What specific information, support or resources would help you implement the provisions in this section?	Not answered.
Q46. Do you agree with the requirement for regional councils to develop a monitoring plan ... ?	Not answered.
Q47. Part 4.2 requires the Ministry for the Environment to undertake an effectiveness review ...	Not answered.
Q48. Do you agree with the proposed additional information requirements within Assessments of Environmental Effects for activities that impact indigenous biodiversity?	Yes, in principle. Editing of Part 3.19 would be needed for consistency with other recommendations. For example, the presence of highly-mobile fauna (species of flying bird, bats, fish) would be considered in any event in an AEE.
Q49. Which option for implementation of the proposed NPS-IB do you prefer?	Not answered.
Q50. Do you agree with the implementation timeframes in the proposed NPS-IB, including the proposed requirement to refresh SNA schedules in plans every two years?	These time frames are unrealistic, from a resourcing point of view.
Q51. Which of the three options for identifying and mapping SNAs on conservation land do you prefer ... ?	Territorial authorities identify and map all SNAs including public conservation land. This is because not all conservation land contains biodiversity of high significance.
Q52. What do you think of the proposal for identifying and mapping SNAs on other public land that is not conservation land?	As above.
Q53. Part 3.4 requires local authorities to manage indigenous biodiversity and the effects on it of subdivision, use and development in an integrated way. Do you agree with this provision?	Yes.
Q54. If the proposed NPS-IB is implemented, then two pieces of national direction – the NZCPS and the NPS-IB – would apply in the landward coastal environment. Part 1.6 of the proposed NPS-IB states if there is a conflict between these instruments the NZCPS prevails. Do you think the proposals in the NPS-IB are clear enough for regional councils and territorial authorities to adequately identify and protect SNAs in the landward coastal environment?	No. The NPS-IB should be the instrument of national direction where biodiversity matters reside, because it specifically concerns biodiversity. The NPS-IB should take precedence over the NZCPS, as regards biodiversity, and over all other national direction.
Q55. The indicative costs and benefits of the proposed NPS-IB for landowners, tangata whenua, councils, stakeholders, and central government are set out in Section 32 Report and Cost Benefit Analysis. Do you think these costs and benefits are accurate? Please explain, and please provide examples of costs/benefits if these proposals will affect you or your work.	No. As the text stands, almost all land use and development in New Zealand will be prevented outside of urban boundaries, in our view, so the costs will far outweigh the benefits of the NPS-IB. Therefore, the premises on which the Section 32 report are based are incorrect, and the consideration of areas of New Zealand is incomplete. On this basis, the Section 32 report should be rescinded.
Q56. Do you think the proposed NPS-IB should include a provision on use of transferable development rights?	Yes. This is connected to text around integrated management.

<p>Q57. What specific information, support or resources would help you implement the provisions in this section?</p>	<p>Not answered.</p>
<p>Q58. What support in general would you require to implement the proposed NPSIB? Please detail. a. Guidance material b. Technical expertise c. Scientific expertise d. Financial support e. All of above. f. Other (please provide details)</p>	<p>f. Other Straterra seeks the adoption of all of our recommendations as an integrated package, aimed at consistency with Hutia te rito, and guidance material prepared in light of a new text.</p>
<p>Q59. Do you think a planning standard is needed to support the consistent implementation of some proposals in the proposed NPSIB? If yes, what specific provisions do you consider are effectively delivered through a planning standard tool?</p>	<p>No. The purpose of the NPS-IB is to provide national direction. It is not clear what additional direction a national planning standard would provide. The answer would depend on the level of detail the national planning stand would traverse. The problem here is illustrated by the example of councils developing monitoring plans. If this is done in collaboration with tangata whenua, these may be slightly different from one region to another. If a national planning standard were to prevent these differences from occurring, there may be a breach of the Treaty principles.</p>
<p>Q60. Do you think there are potential areas of tension or confusion between the proposed NPSIB and other national direction?</p>	<p>Yes. Some are more manageable than others. If the NPS-IB were amended as submitted above, it would generally be consistent with the NPS for highly productive land. As submitted above, the NPS-IB must clarify that it takes precedence over the NZCPS in relation to biodiversity management and protection.</p>
<p>Q61. Do you think it is useful for RMA plans to address activities that exacerbate the spread of pests and diseases threatening biodiversity, in conjunction with appropriate national or regional pest plan rules under the Biosecurity Act 1993?</p>	<p>Not answered.</p>