

# **Biodiversity Collaborative Group**

**Introductory reading:**

## **The Policy Landscape**

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# 1 Document purpose

To assist the collaborative process for developing a National Policy Statement (NPS) on Biodiversity, we have prepared this document on the policy landscape surrounding biodiversity management in New Zealand. This is not an exhaustive list of all the information, but focusses on providing a concise summary of existing policy that relates to biodiversity to support the development of an NPS and complementary/ supporting measures. We hope that it will provide a useful context and reference point for the group's work by providing introductory reading to support the development of policy options.

As discussions progress, the collaborative group may decide to commission more specific information on key areas. Feedback and further sources of information are welcome and will be made available to all group members to complement the information contained in this document.

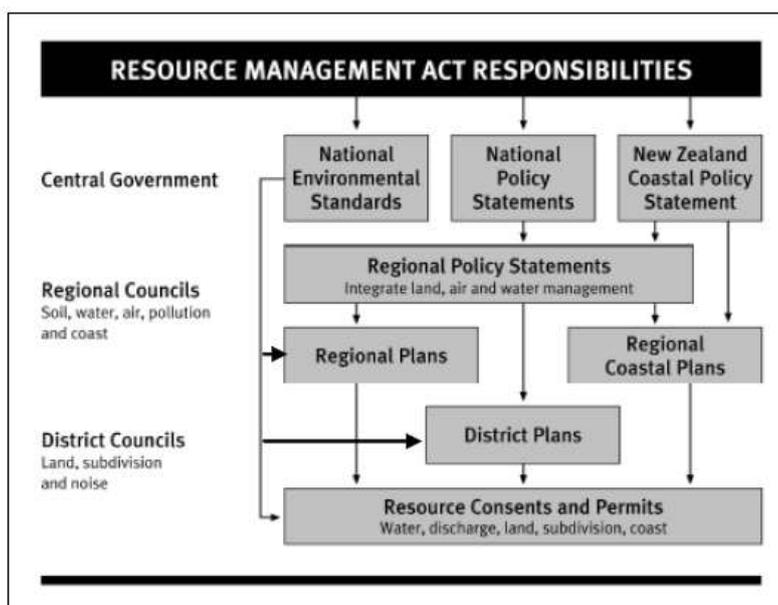
## 2 A National Policy Statement on Indigenous Biodiversity

### 2.1 What is a National Policy Statement?

A National Policy Statement (NPS) is an instrument of national direction promulgated by central government under the RMA. A NPS sets out objectives from a national perspective, and identifies policies to achieve those objectives. A NPS is given effect by the amendment of lower order planning documents (e.g. Regional Policy Statement, Regional Plans, etc.), and territorial authorities must amend existing policy statements and plans to “give effect to” the NPS within the times specified in the NPS (if any).

The phrase “give effect to” means “implement”. It is a strong directive that creates a firm obligation on the part of those subject to it. In a practical sense, the requirement will be more prescriptive if the document to be given effect to is framed in a specific and unqualified way

A NPS is not a regulation but it does have the force of regulation. Unlike a National Environmental Standard (NES) it cannot prescribe rules to direct resource users.



The purpose of an NPS has three components (s 45(1) RMA) that must be fulfilled:

- i. Stating objectives and policies
- ii. For matters of national significance
- iii. That are relevant to achieving the purpose(s) of the RMA

Although a NPS does not contain strict rules in the sense defined in the RMA, some policies of NPSs will have the effect of mandatory rules and may include bottom lines that must be given effect to. A NPS can therefore be highly specific and leave little discretion as to what councils can specify in planning documents. As a result NPSs can significantly affect resource management practices in New Zealand.

In developing the content of a proposed NPS, the following needs to be considered:

- What is the matter of national significance that the NPS is addressing?
- The influence of a NPS will always be restricted to decisions that are made within the RMA planning and decision making framework (regional policy statements, regional and district plans, resource consents and Environment Court decisions). The objectives of a NPS should focus on what can be achieved through RMA processes.
- An NPS prescribes both objectives and policies:
  - **Objectives** describe what you are trying to achieve. The ultimate success of the instrument will be measured according to whether the objectives are met. Explaining these clearly will help people to implement the policies to achieve them.
  - **Policies** are the course of action to achieve or implement the objective (i.e. the path to be followed to achieve a particular environmental outcome).
- There are a variety of approaches that could be taken. For example a NPS could be:
  - broad in scope, covering many aspects of the issue
  - narrow in scope, dealing with a very specific part of a problem
  - very directive, specifying particular constraints on resource users
  - directive only at a high-level, providing a flexible decision-making framework for councils
  - a package approach, including supporting measures e.g. a NPS and NES, guidelines, or information provision.
- NPSs currently apply nationally, although particular policies can apply to specified circumstances.

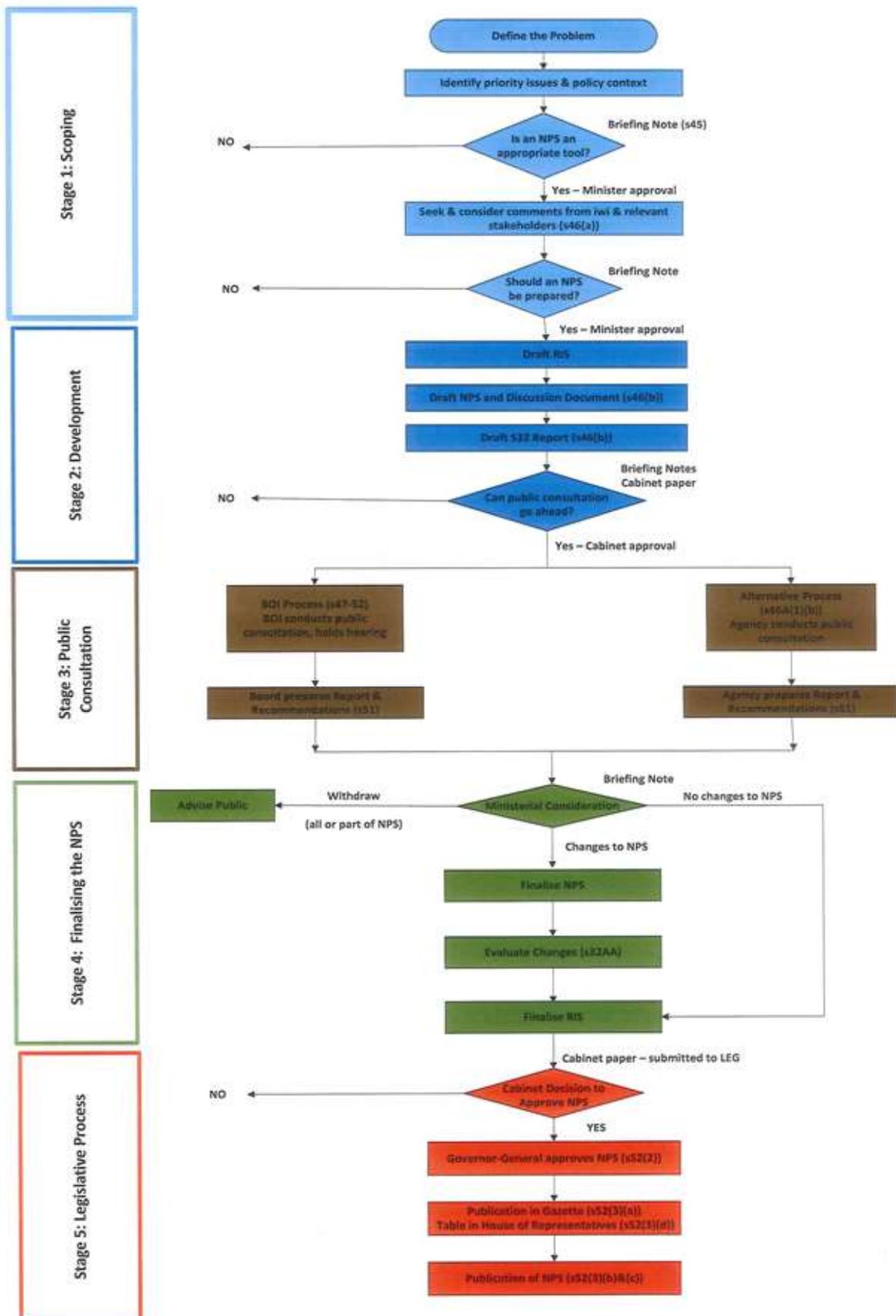
### **2.1.1 Process for the Development of the NPS**

The process requirements for developing a NPS are prescribed by s 46-52 of the RMA, and are managed by the Ministry or Minister for the Environment. The collaborative group's role in this process is to:

- Define the problem to be addressed
- Identify priority issues for the NPS and complementary measures
- Document their analysis in a way that can support Regulatory Impact Statement (RIS) requirements that the Ministry must fulfill
- Document analysis that can contribute to a section 32 evaluation report.

The Ministry is responsible for managing the consultative process and managing the subsequent stages of the development of the NPS.

The diagram below sets out the procedure of developing a NPS. The process for the collaborative group differs to what is outlined here, however, the role of the collaborative group generally follows stages 1 and 2 (outlined in blue).



### 2.1.2 Resource Legislation Amendment Bill

The Resource Legislation Amendment Bill (RLAB) contains a number of proposed amendments that affect NPSs. These include:

The proposals include three changes to the processes for developing NPSs:

- A combined development process for NPSs and NESs, through joint consultation, development and publication, to streamline the implementation of national direction
- Clarified scope for NPSs to give more specific direction about how objectives and policies should be implemented in plans
- Allowing NPSs to be developed in relation to a specific area to address a local resource management issue that has national significance.

The RLAB is at the following stage:

- The Resource Legislation Amendment Bill (RLAB) was publicly consulted on through the Select Committee process, and submissions were heard from April to June 2016.
- The Select Committee received two departmental reports, in August and November 2016. These outline significant improvements the Government has agreed to make to the original Bill proposals. The departmental reports are on the parliamentary website here: [https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/00DBHOH\\_BILL67856\\_1/tab/submissionsandadvice](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/00DBHOH_BILL67856_1/tab/submissionsandadvice)
- Select Committee is currently due to report back to the House by 10 May 2017, although it may choose to report back earlier. Timing of Royal Assent of the RLAB will depend on when the Select Committee reports back and the timeliness of the final stages of the Parliamentary process.

## 2.2 History of NPS on Indigenous Biodiversity

*2000*

- The NZ Biodiversity Strategy 2000-2020 is released
- The Minister for the Environment announces a package of measures to address biodiversity decline on private land

*2001*

- Work commences on an NPS for Indigenous Biodiversity, focussing on 'at risk' ecosystems

*2003*

- Minister Hobbs agrees to recommended names for a Board of Inquiry

*2004*

- The Ministry commences a review of council practice relating to biodiversity

*2005*

- A draft NPS is considered by Cabinet in 2005, and it is questioned whether further consultation is required
- The Labour Party commits to the development of a NPS for rare and endangered ecosystems

2006

- Discussion between Ministers over a possible NPS or guidance
- NPS in its current form is opposed by private landowners and some councils
- New Zealand Biodiversity Strategy reviewers see an NPS as low priority because most councils have already progressed biodiversity issues the NPS will address
- Non-statutory guidance seen as faster than an NPS and providing assistance
- Decision is made not to proceed with NPS and to develop non-statutory guidance instead

2007

- A Statement of National Priorities for protecting rare and threatened native biodiversity on private land is released

2009

- The Environment Minister agrees with Māori Party to progress work on a Biodiversity NPS as part of the broader agreement on the Emissions Trading Scheme

2011

- In January, a proposed NPS Indigenous Biodiversity and Section 32 evaluation were released for consultation via the alternative process. The proposed NPS has a focus on conservation of biodiversity on private land.
- In February-April, 17 public consultation meetings were held
- Summary of submissions publicly released in December and a number of issues were identified in consultation

2016

- Environment Minister publicly announces support for collaborative group to develop a NPS in August
- In December, the Conservation Minister releases a new Biodiversity Action Plan 2016-2020

## **3 National policy framework**

### **3.1 Resource Management Act 1991**

The Resource Management Act 1991 (RMA), is New Zealand's primary legislation outlining how to manage the environment. The RMA was created to achieve a more coordinated, streamlined, and comprehensive approach to environmental management. The Act came into force in October 1991, and replaced or amended more than 50 other laws relating to town planning and resource management.

Central government has responsibilities to administer the RMA, provide national direction and respond to national priorities to do with managing the environment and environmental issues.

Under the RMA, the Minister for the Environment is responsible for:

- recommending the making of national policy statements and national environmental standards

- deciding whether a matter is of national significance, and deciding whether to use any of the ministerial powers of intervention, which include the power to call in proposals of national significance and referring such proposals to a Board of Inquiry or the Environment Court for decision
- deciding if applications for requiring authority status and heritage protection authority status are approved or not
- deciding whether an application to make or amend a water conservation order be referred to a special tribunal, and deciding whether or not to recommend that a water conservation order be issued
- monitoring the effect and implementation of the RMA, including any regulations in force under it, national policy statements and water conservation orders
- monitoring the relationship between the functions, powers and duties of central government and local government
- monitoring and investigating matters of environmental significance
- considering and investigating the use of economic instruments.

The Minister for the Environment has additional powers to:

- investigate and make recommendations on the exercise or performance of local authorities' functions, power or duties
- direct a regional council to prepare or change a regional plan to address a resource management issue in a region or direct a territorial authority to change its district plan to address a resource management issue
- request a local authority, a heritage protection authority or a requiring authority to supply information at no cost to the Minister, if they hold that information and it is related to their functions, powers or duties under the RMA.

And has limited powers to:

- appoint people to carry out the functions of a local authority if the Minister considers that it is not performing to the extent necessary to achieve the purpose of the RMA
- make grants and loans to help achieve the purpose of the RMA.

The Ministry for the Environment is responsible for administering the RMA, including investigating complaints on local issues, and developing national policy statements and national environmental standards. The Ministry cannot reverse local council decisions, it can only write to a local council about the complaint.

### **3.1.1 Roles and responsibilities of Regional Councils and Territorial Authorities**

The following summary prepared by Beca Limited and Wildlands Consultants Ltd in 2016<sup>1</sup>, describes the roles and responsibilities of Regional Councils and Territorial Authorities under the RMA as outlined in Part 2 of the Act.

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<sup>1</sup> Beca Limited and Wildland Consultants Ltd 2016 Report- Ministry for the Environment- Biodiversity planning and Management Research pg 4-5

Section 5 of the RMA outlines the purpose of the Act which is to:

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
  - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
  - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The term “biodiversity” is not directly used, however, it is indirectly managed through all matters of Section 5(2).

Section 6 of the RMA outlines matters of national importance:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;
- (f) the protection of historic heritage from inappropriate subdivision, use, and development;
- (g) the protection of protected customary rights.

The term “biodiversity” is not included in this list of matters, although it is indirectly managed by protecting *natural character, outstanding natural features and landscapes*, and the protection of *indigenous vegetation and habitats of indigenous fauna*. The term ‘outstanding natural features and landscapes’ is not defined by the RMA.

Section 7 outlines other matters that particular regard has to be given to:

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:

- (b) the efficient use and development of natural and physical resources:
- (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) [Repealed]
- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

“Biodiversity” is also not specifically mentioned, but again, it is indirectly managed through the *maintenance and enhancement of the quality of the environment* (Section 7(f)) and partially through the *intrinsic values of ecosystems* (Section 7(d)) which refers to biological diversity within its definition under the Act.

#### *The role of Regional Councils*

Section 30(1) of the RMA outlines the functions of regional councils for the purpose of giving effect to the Act in its region. Subsection (ga) states that:

“(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region

- (ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity;

In accordance with section 30(1) of the RMA, Regional Councils must contain rules to manage biodiversity.

#### *The role of Territorial Authorities*

The functions of Territorial Authorities under the RMA are described in subsection (1)(b)(iii):

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

- (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—
- (iii) the maintenance of indigenous biological diversity.

In accordance with Section 31(1) of the RMA, a District Plan must contain rules to control any potential effects of development or use activities on the maintenance of biodiversity.

### **3.1.2 Regional Policy Statements**

A Regional Policy Statement (RPS) provides a summary of resource management issues and sets policy at a regional level giving effect to NPSs. In turn, Regional and District Plans then give effect to

the policy direction set by RPSs. A review by Beca and Wildlands in 2016<sup>2</sup> found differences across the country in how biodiversity is addressed through the policy direction provided by RPSs. The authors noted that some RPSs contained clear objectives and policies on biodiversity, while others delegated responsibilities to different authorities.

### **3.2 New Zealand Biodiversity Strategy 2000-2020**

The New Zealand Strategy Biodiversity, published in 2000 was developed in part, to fulfil New Zealand's international commitment under the Convention of Biological Diversity. This strategy sets national goals as part of a framework to stop the decline of biological biodiversity. Biodiversity is considered more comprehensively within the document than in previous policy, as the strategy aims to manage genetic, species and ecological (ecosystem) diversity.

The Strategy contains the following goals:

- Goal One: Community and individual action, responsibility and benefits
  - Enhance community and individual understanding about biodiversity, and inform, motivate and support widespread and coordinated community action to conserve and sustainably use biodiversity; and
  - Enable communities and individuals to equitably share responsibility for, and benefits from, conserving and sustainably using New Zealand's biodiversity, including the benefits from the use of indigenous genetic resources.
- Goal Two: Treaty of Waitangi
  - Actively protect iwi and hapū interests in indigenous biodiversity, and build and strengthen partnerships between government agencies and iwi and hapū in conserving and sustainably using indigenous biodiversity.
- Goal Three: Halt the decline in New Zealand's indigenous biodiversity
  - Maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, enhance critically scarce habitats, and sustain the more modified ecosystems in production and urban environments; and do what else is necessary to maintain and restore viable populations of all indigenous species and subspecies across their natural range and maintain their genetic diversity.
- Goal Four: Genetic resources of introduced species
  - Maintain the genetic resources of introduced species that are important for economic, biological and cultural reasons by conserving their genetic diversity.<sup>3</sup>

This strategy identifies strategic priorities and mechanisms for implementation by central government.

### **3.3 New Zealand Biodiversity Action Plan 2016-2020**

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<sup>2</sup> Beca Limited and Wildland Consultants Ltd 2016 Report- Ministry for the Environment- Biodiversity planning and Management Research

<sup>3</sup> The New Zealand Biodiversity Strategy 2000

The New Zealand Biodiversity Action Plan 2016-2020 outlines actions for biodiversity management, setting targets toward greater protection for, and sustainable use of biodiversity. These targets are designed to achieve progress towards the goals outlined in the New Zealand Biodiversity Strategy 2000-2020. National actions which sit within the context of this plan include:

- Predator Free 2050 - with an aim to rid New Zealand of the most damaging introduced predators
- War on weeds - with a focus on 12 weeds causing particular problems in different parts of the country
- Battle for the Birds - manging predators through the use of 1080 bait and trapping to protect native bird populations most at risk

The following National Targets and associated Key Actions are of particular relevance:

- National Target 3- Biodiversity is integrated into national and local strategies, policies, plans and reporting.
  - Key Actions:
    - By 2020, we will fully implement a new national environmental reporting series, including the synthesis report *Environment Aotearoa*, in which biodiversity is a cross-domain theme.
    - By 2017, natural resources are recognised in New Zealand's Long Term Fiscal Statement underlining the importance of the natural resource base to New Zealanders' living standards.
    - By 2017, investigate the need and potential to produce New Zealand environmental-economic accounts.<sup>4</sup>
- National Target 7- of biodiversity is promoted through improved national guidance, information and industry practice
  - Key Actions:
    - By 2020, a National Policy Statement on Indigenous Biodiversity will provide national direction to councils on managing biodiversity under the Resource Management Act 1991.
    - New Zealand will continue work to improve the efficiency of agricultural production systems by improving decisions around land use, maintaining soil and water health, and enhancing flexibility in land management and farming practices.
    - By 2018, a National Environmental Standard for Plantation Forestry will be implemented to improve consistency and reduce negative impacts in the management of plantation forestry.<sup>5</sup>

### **3.4 New Zealand Coastal Policy Statement 2010**

The New Zealand Coastal Policy Statement 2010 (NZCPS) outlines national policies to achieve the purpose of the RMA in relation to New Zealand's coastal areas. Regional policy statements and plans

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<sup>4</sup> New Zealand Biodiversity Action Plan 2016-2020, pg 14

<sup>5</sup> New Zealand Biodiversity Action Plan 2016-2020, pg 22

and district plans must give effect to the NZCPS. The Objectives of the NZCPS relating specifically to biodiversity are as follows:

Objective 1: To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;
- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and
- maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.

Objective 2: To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and encouraging restoration of the coastal environment.

Objective 6: To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
- functionally some uses and developments can only be located on the coast or in the coastal marine area;
- the coastal environment contains renewable energy resources of significant value;
- the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;
- the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
- the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and
- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

Objective 7: To ensure that management of the coastal environment recognises and provides for New Zealand's international obligations regarding the coastal environment, including the coastal marine area.<sup>6</sup>

Policy 11 of the NZCPS refers specifically to indigenous biological diversity, providing national direction on the protection of coastal biodiversity:

- To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

- (i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
- (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
- (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
- (v) areas containing nationally significant examples of indigenous community types; and
- (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and

(b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

- (i) areas of predominantly indigenous vegetation in the coastal environment;
- (ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
- (iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
- (iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- (v) habitats, including areas and routes, important to migratory species; and
- (vi) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.<sup>7</sup>

There are also policies (e.g. policies 13, 14 and 15) in which biodiversity conservation and management is addressed indirectly through references to preserving and restoring natural character, features and landscape.

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<sup>6</sup> New Zealand Coastal Policy Statement pg 9-10

<sup>7</sup> New Zealand Coastal Policy Statement 2010 pg 16

### 3.5 National Policy Statement for Freshwater Management 2014

The National Policy Statement for Freshwater Management 2014 (NPS-FM) is about recognising the national significance of fresh water and Te Mana o te Wai (the mana of the water). It provides direction about how local authorities should carry out their responsibilities under the RMA for managing fresh water. It's particularly important for regional councils, as it directs them to consider specific matters and to meet certain requirements when they are developing regional plans for fresh water. In a nutshell, the NPS-FM directs regional councils to establish what water bodies are 'valued' for, set freshwater objectives (water quality attributes i.e. phosphorus) for the state their communities want for their water bodies now and in the future (to ensure the values are maintained) and to set limits (defined as the maximum amount of resource use available) to meet these objectives. Full implementation of the NPS-FM is required by 31 December 2025; however, the implementation timeframe may be extended to 2030 if the 2025 timeframe will affect plan quality or it would be impracticable for the council to fully implement the NPS-FM by 2025.

Some of the key requirements of the NPS-FM are to:

- safeguard fresh water's life-supporting capacity, ecosystem processes, and indigenous species
- safeguard the health of people who come into contact with the water through recreation
- maintain or improve the overall quality of fresh water within a region
- protect the significant values of wetlands and outstanding freshwater bodies
- follow a specified process (the national objectives framework) for identifying the values that tāngata whenua and communities have for water (which must include the compulsory values of ecosystem health), and using a specified set of water quality measures (called attributes) to set objectives
- set limits on resource use (e.g., how much water can be taken or how much of a contaminant can be discharged) to meet freshwater objectives and ensure they continue to be met over time
- determine the appropriate set of methods to meet the objectives and limits
- take an integrated approach to managing land use, fresh water, and coastal water
- involve iwi and hapū in decision-making and management of fresh water.

To implement the NPS-FM, regional councils define Freshwater management units (FMUs) at an appropriate spatial scale for management. A FMU may be made up of a group of water bodies that are similar, both physically and/or socially. Similar freshwater bodies can be grouped and be effectively managed as one FMU. Alternatively, an individual freshwater body or a part of a freshwater body could be set as a FMU.

Appendix 1 of the NPS-FM lists the national values of freshwater. Policy CA2 directs councils to consider the entire list of values in Appendix 1 and how they apply to local and regional circumstances. The list contains both compulsory national values and additional national values. Te Hauora o te Wai/ the health and mauri of the water is listed as a compulsory national value:

*“Ecosystem health – The FMU supports a healthy ecosystem appropriate to that freshwater body type (river, lake, wetland, or aquifer). In a healthy freshwater ecosystem ecological processes are maintained, there is a range and diversity of indigenous flora and fauna, and there is resilience to change. Matters to take into account for a healthy freshwater*

ecosystem include the management of adverse effects on flora and fauna of contaminants, changes in freshwater chemistry, excessive nutrients, algal blooms, high sediment levels, high temperatures, low oxygen, invasive species, and changes in flow regime. Other matters to take into account include the essential habitat needs of flora and fauna and the connections between water bodies. The health of flora and fauna may be indicated by measures of macroinvertebrates.”

Freshwater objectives for ‘Ecosystem health’ must be set in regional plans for each freshwater management unit because ‘Ecosystem health’ is a compulsory value. For rivers and lakes, these objectives must be set using the attributes provided in Appendix 2 plus any others the councils considers appropriate. For wetlands and groundwater, councils must set objectives using attributes the council considers appropriate. If a council decides that any of the additional national values are also relevant, then the council must set objectives in the regional plan for them as well.

### **3.6 Proposed National Environmental Standard for Plantation Forestry**

The proposed National Environmental Standard for Plantation Forestry (NES-PF) describes how local authorities are to manage activities and resources for forestry, replacing the majority of existing activity rules that relate to plantation forestry in local plans. The Ministry for Primary Industries (MPI) is the lead government department on the development of the NES-PF. MPI’s publicly available information on the NES-PF is available on their website.<sup>8</sup>

Several aspects of the NES-PF relate to biodiversity through the forestry industry’s interaction with particular ecosystems. The following explanation of the NES-PF’s environmental impact is lifted from Section 6 of the Regulatory Impact Statement available at the MPI website:

The Proposed Standard will introduce a permitted activity regime for forestry activities that occur in areas with a low risk of adverse environmental effects, provided that robust permitted activity conditions can be met. In areas with a higher risk of adverse environmental effects, or if permitted activity conditions cannot be met, the requirement for consent and the activity status changes.

The risk of adverse environmental effects will be assessed using targeted environmental risk assessment tools (i.e. the Erosion Susceptibility Classification, Fish Spawning Indicator and Wilding Tree Risk Calculator), which are based on local biophysical conditions and geomorphology. The risk of adverse environmental effects in the area where the forestry activity is to occur will determine the level of control applied to that activity (i.e. whether activities are permitted or consent is required).

### **3.7 National Policy Statement on Urban Development Capacity 2016**

The National Policy Statement on Urban Development Capacity 2016 (NPS-UDC) is about recognizing the national significance of:

- urban environments and the need to enable such environments to develop and change

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<sup>8</sup> <https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-plantation-forestry/>

- providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments.

The NPS-UDC was developed by the Ministry for the Environment and the Ministry of Business, Innovation and Employment and directs local authorities to provide sufficient development capacity in their resource management plans for housing and business growth to meet demand.

Development capacity refers to the amount of development allowed by zoning and regulations in plans that is supported by infrastructure. This development can be “outwards” (on greenfield sites) and/or “upwards” (by intensifying existing urban environments).

Sufficient development capacity is necessary for urban land and development markets to function efficiently in order to meet community needs. In well-functioning markets, the supply of land, housing and business space matches demand at efficient (more affordable) prices.

The NPS-UDC includes the following objectives, relating broadly to biodiversity as a factor of environmental wellbeing:

*Objective Group A- Outcomes for planning decisions*

- OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.

*Objective Group B – Evidence and monitoring to support planning decisions*

- OB1: A robustly developed, comprehensive and frequently updated evidence base to inform planning decisions in urban environments.

*Objective Group C- Responsive planning:*

- OC1: Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.
- OC2: Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.

## **4 International environmental agreements**

This section provides information on existing international agreements that relate to biodiversity.

### **4.1 International Plant Protection Convention**

The aim of the International Plant Protection Convention, 1952 is to promote actions which protect the health of plants, both cultivated and wild, and plant products from the introduction and spread of pest plants. It also describes measures for plant pest control. New Zealand has been party to the agreement since its inception.

### **4.2 Convention on Wetlands of International Importance**

The Convention on Wetlands of International Importance, otherwise known as the Ramsar Convention, is an agreement between governments that provides a framework for conservation and sustainable use of wetlands and their resources. The convention was initiated in 1971 and came into force in New Zealand in 1976. By signing the convention New Zealand has agreed to promote sustainable use of wetlands, nominate wetlands to be listed as Wetlands of International Importance (Ramsar Sites) and ensure they are managed appropriately. There are currently six listed sites covering a surface area of 56,639 hectares.

### **4.3 Convention Concerning the Protection of the World Cultural and Natural Heritage**

The preservation and protection of cultural and natural heritage 'of outstanding value' for future generations is the aim of the Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention). The Convention was established by UNESCO in 1972 and New Zealand became party to it in 1984. By signing, New Zealand has committed to the nomination and subsequent conservation of World Heritage Sites and to preserve our national heritage. To do this signatories are encouraged to include protection of cultural and natural heritage in regional plans, undertake educational and research activities at World Heritage Sites and promote heritage as a mainstream concept.

New Zealand has identified three established World Heritage Sites:

- Te Wahipounamu South West New Zealand
- Tongariro National Park
- Subantarctic Islands

and eight proposed Sites:

- Auckland Volcanic Fields
- Waters and seabed of Fiordland (Te Moana O Atawhenua)
- Kahurangi National Park, Farewell Spit and Canaan karst system
- Kerikeri Basin historic precinct
- Kermadec Islands and Marine reserve
- Napier Art Deco historic precinct
- Whakarua Moutere (North East Islands)
- Waitangi Treaty Grounds historic precinct

### **4.4 Convention on International Trade in Endangered Species of Wild Fauna and Flora**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments, established in 1975 to manage the trade of endangered species, to maintain their survival into the future. New Zealand became a party to the Convention in 1989, introducing the Trade in Endangered Species Act 1989.

### **4.5 Convention on the Conservation of Migratory Species of Wild Animals**

The Convention on the Conservation of Migratory Species of Wild Animals, also known as the Bonn Convention, was developed in 1979 and ratified in New Zealand in 2000. The Convention's purpose is to facilitate a globally coordinated approach to the preservation of migratory species, their habitats and migration paths. New Zealand, as a signatory to the Convention has committed to:

- undertake and support scientific research into migratory species
- protect species threatened with extinction
- develop international agreements, often at a regional scale, for species for which cooperative management interventions are required.

This means that migratory species are protected by the Wildlife Act and the Marine Mammals Protection Act for example, while in New Zealand's territory.

#### **4.6 Convention for the Protection of the Natural Resources and Environment of the South Pacific Region**

The Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, otherwise known as SPREP or the Noumea Convention, was developed in 1986 and deals with the protection, management and development of the coastal and marine environment of the South Pacific Region. New Zealand is one of 10 parties to the Convention, ratifying the agreement in 1990 and committing to prevent, minimise and manage pollution by taking all suitable actions complying with international law and to guarantee appropriate environmental management and natural resource development. Measures identified include developing laws and regulations supporting the Convention's objectives and international co-operation to prevent, minimise and manage pollution. The Convention contains two Protocols focused on dumping and pollution emergencies.

#### **4.7 Convention on Biological Diversity**

In 1993, New Zealand ratified the Convention on Biological Diversity (CBD) 1992, which has the following overarching aims:

- The conservation of biological diversity
- The sustainable use of the components of biological diversity
- The fair and equitable sharing of the benefits arising out of the utilization of genetic resources

As outlined in Article 8 of the Convention, signatories agree to:

- a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;
- b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;
- c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

- d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;
- e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;
- f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, inter alia, through the development and implementation of plans or other management strategies;
- g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
- h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;
- i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;
- j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;
- k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;
- l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities;

Regular meetings of the governing body of the Convention (Conference of the Parties, or COP) are held to discuss progress and make decisions to facilitate implementation, with nations often agreeing to further conservation commitments.

Beneath the CBD sits the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. In 2010, the CBD adopted an updated Strategic Plan for Biodiversity 2011-2020, which includes the Aichi Biodiversity targets which have the following goals:

- Strategic Goal A: Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society
- Strategic Goal B: Reduce the direct pressures on biodiversity and promote sustainable use
- Strategic Goal C: To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity
- Strategic Goal D: Enhance the benefits to all from biodiversity and ecosystem services
- Strategic Goal E: Enhance implementation through participatory planning, knowledge management and capacity building

## **4.8 United Nations Framework Convention on Climate Change**

The 1992 United Nations Framework Convention on Climate Change (UNFCCC) develops a global response to stabilising greenhouse gas concentrations in the atmosphere. New Zealand ratified the Convention in 1993. The UNFCCC enables countries to collectively consider how to mitigate climate change and cope with its impacts.

With regard to biodiversity, the UNFCCC set a specific objective to prevent dangerous anthropogenic (human) interference with the climate system. It states that “such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner”.

Other important factors are that the UNFCCC:

- Put the onus on developed countries to lead the way.
- Directed new funds to climate change activities in developing countries.
- Set up a process to monitor the problem and action being taken to deal with it.
- Charted the beginning of a path to strike a balance between economic development and mitigating climate change.
- Began formal consideration of adaptation to climate change.

#### **4.8.1 The Kyoto Protocol**

The international community recognised that more urgent action, with more powerful and legally binding measures than what was required under the UNFCCC, was needed. Negotiations on a subsidiary agreement under the UNFCCC, now known as the Kyoto Protocol, began in 1995 and the Protocol came into force in 2005.

New Zealand ratified the Kyoto Protocol in December 2002. New Zealand’s obligations under the Kyoto Protocol include:

- a responsibility emissions reduction target for the first commitment period to reduce greenhouse gas emissions to their 1990 levels. New Zealand has met this target
- submitting an annual inventory of greenhouse gas emissions to the UNFCCC
- formulating, implementing and publishing regular updates to national and regional programmes that contain measures to mitigate climate change and facilitate adequate adaptation to climate change
- cooperating internationally in relation to policies and measures and facilitating public awareness and access to information on climate change.

On 30 November 2015, New Zealand accepted the Doha Amendment to the Kyoto Protocol, which creates a second commitment period which runs from 2013 until 2020 and only comes into force when 144 parties under the UNFCCC have accepted it. As of 18 July 2016, 66 parties had accepted the Doha Amendment.

#### **4.8.2 The Paris Agreement**

In 2009 the Government decided that New Zealand would take an emissions reduction commitment for the period 2013-2020 under the UNFCCC rather than under the Kyoto Protocol itself. This positions New Zealand well for the Paris climate change agreement due to come into force after 2020. The Paris Agreement is to apply to all countries with equal legal force.

The Paris Agreement is the new global agreement on climate change. It was adopted by Parties under the UNFCCC on 12 December 2015. It commits all countries to take action on climate change and will take effect from 2020.

## 5 References and further reading

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<http://bch.cbd.int/protocol/background/>
- Nagoya Protocol on Access and Benefit-Sharing

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<https://www.cbd.int/sp/>