14 July 2022

Environmental Policy Update

A suite of proposed or amended national planning documents are under development. This article provides an update on the proposed:

- **National Policy Statement for Indigenous Biodiversity (NPS-IB)**
- **Amendments to the National Policy Statement for Freshwater Management 2020 (NPS-FM) and the National Environmental Standards for Freshwater 2020 (NES-F)**
- **National Policy Statement for Highly Productive Land (NPS-HPL)**

National policy statements provide national direction for matters of national significance that are relevant to achieving the purpose of the Resource Management Act 1991 (RMA), being to promote the sustainable management of natural and physical resources. Regional and district plans must give effect to national policy statements.

National environmental standards are regulations made under the RMA that set out technical standards, methods or requirements relating to environmental matters and provide nationally consistent rules for certain specified activities.

Proposed National Policy Statement for Indigenous Biodiversity

The objective of the proposed NPS-IB is to protect, maintain, and restore indigenous biodiversity in a way that:

a. recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and

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

The NPS-IB will apply to all land tenures, and will affect the management of indigenous biodiversity on Māori, public and private land, including farmland.

It will require councils to undertake a district-wide assessment to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna which qualify as Significant National Areas (**SNAs**). Assessment criteria for identifying SNAs are prescribed in order to achieve consistent and comprehensive identification of SNAs.

The proposed NPS-IB includes provisions to avoid and manage adverse effects of new subdivision, development and land use, including farming activities, that impact the identified SNAs. It will allow existing uses, including farming activities, to continue, provided the effects on SNAs are no greater in intensity, scale, or character over time than at the commencement date and do not result in the loss of extent or degradation of ecological integrity of the SNA.

The proposed NPS-IB also provides for indigenous biodiversity outside SNAs. It will require councils to take steps to maintain indigenous biodiversity in areas outside of SNAs, including by making or changing their plans to:

- apply the 'effects management hierarchy' (avoid, minimise, remedy, offset, compensate) to any

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adverse effects on indigenous biodiversity of a new subdivision, use, or development that may be irreversible; and

- provide appropriate controls to manage other adverse effects of new subdivision, use and development on indigenous biodiversity.

The NPS-IB will require Councils to allow for the continuation of the maintenance of improved pasture, including the removal of indigenous vegetation for the purpose of maintaining the improved pasture, provided that:

a. there is adequate evidence to demonstrate that the maintenance of improved pasture is part of a regular cycle of periodic maintenance of that pasture; and

b. any adverse effects of the maintenance of improved pasture on an SNA are no greater in intensity, scale, or character than the effects of activities previously undertaken as part of the regular cycle of periodic maintenance of that pasture; and

c. the improved pasture has not itself become an SNA; and

d. the land is not a depositional landform that has not been cultivated; and

e. the maintenance of improved pasture will not adversely affect a Threatened or At Risk (Declining) species.

Feedback on the proposed NPS-IB closed on 21 July 2022. It is anticipated that the final NPS-IB will be released in late 2022. Staged implementation is proposed over the following decade, with mapping and notification of SNAs to occur by 2027.

National Policy Statement for Freshwater Management 2020 and National Environmental Standards for Freshwater 2020

The proposed amendments to the NPS-FM and the NES-F fall into two categories:

1. Amendments to the wetland provisions; and
2. Technical corrections or clarifications to other provisions.

The current wetland provisions seek that there be no further loss of natural inland wetlands, and that their values are protected and their restoration promoted. The NPS-FM provides a definition of 'natural wetland' which excludes any area of improved pasture that, at the commencement date, is dominated by exotic pasture species and is subject to temporary rain-derived water pooling.

The wetlands provisions are strong and directive. However, interpretation of some provisions has been problematic, and the limitations on the ability to consent activities, particularly where this is constrained as to location (for example infrastructure or mining), has been considered overly restrictive.

The proposed changes to the wetlands provisions include:

- Amendments to the definition of 'natural wetland' to clarify exclusions relating to constructed wetlands and pasture. These amendments include replacing the term "improved pasture" with "pasture", and amending the pasture criteria to require groundcover comprising more than 50% exotic species from a defined species list;
- Introducing a new protection for threatened species. Where these species are present the pasture exclusion will not apply and the area will be managed as a wetland;
- Proposed new appendices to the NPS-FM setting

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out principles for the use of aquatic offsets and compensation, based on those in the yet to be finalised NPS-IB;

- New discretionary consenting pathways for quarrying, landfills, cleanfills, mining and activities necessary for urban development;
- A slightly expanded definition of "specified infrastructure" to include "any water storage infrastructure" as qualifying as exempt from the prohibited activity rules;
- Changes intended to make it easier for a broad range of restoration activities to occur in natural wetlands; and
- Exemptions for flood control and drainage works.

Feedback on the proposed changes to the NPS-FM and the NES-F closed on 10 July 2022. The Ministry for the Environment will analyse submissions and report to the Minister, and the Minister will then make a decision on the amendments.

Proposed National Policy Statement for Highly Productive Land

The Government is also proposing a National Policy Statement for Highly Productive Land (**NPS-HPL**). The intent of the NPS-HPL is to improve the way highly productive land is managed and to maintain its availability for primary production.

Submissions on the NPS-HPL closed in October 2019. Final decisions on the NPS-HPL are now expected in late August 2022. If approved, the NPS-HPL would come into effect shortly thereafter.

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