EVIDENCE OF ANDREW MACLENNAN

IMPLICATIONS OF THE NPSIB

Qualifications and Experience

1 My qualifications and experience are set out in paragraphs 7 to 9 of my section 42A report on the Coastal environment chapter of the Proposed Otago Regional Policy Statement (pORPS) dated 25 March 2022.

Code of Conduct

2 I have read and agree to comply with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023. I have complied with the Code in preparing my evidence. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

3 In its Minute 15, the Non-Freshwater Hearing Panel directed ORC to provide evidence and supporting submissions solely on those aspects of the implications of the NPSIB for non-freshwater issues by 8 September 2023.

4 In its Minute 7, the Freshwater Hearing Panel directed ORC to provide evidence and supporting submissions on the implications of the NPSIB on freshwater issues by 11 August 2023.

5 The scope of the NPSIB (explained in paragraphs 19 to 23) means it has limited implications for fresh water (largely related to the management of natural inland wetlands). The majority of the implications for the pORPS relate to the non-FPI parts. Given their interrelationship, and the importance of preparing an integrated response, I have considered Ms Boyd's evidence to the Freshwater Planning Hearing Panel related to the implications of the NSPIB dated 11 August 2023 when preparing this evidence.

6 This supplementary statement of evidence outlines:

6.1 the introduction of the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB), its application, and its relationship with other national directions;

6.2 the impacts of any relevant provisions in the NPSIB to the pORPS; and

6.3 updates to the provisions of the ECO chapter as a result of the introduction of the NPSIB.

7 A table comparing the provisions of the NPSIB with the recommended amendments to the pORPS is included within Appendix 1 and my recommended amendments to the pORPS are included within Appendix 2.

Key to proposed amendments

Appearance	Explanation
Black text	Text as notified.
Black text with underlining or ~~strikethrough~~	Amendments recommended in section 42A report or reply report.
Text with ~~black~~ underlining and ~~green strikethrough~~	Amendments recommended in section 42A report or reply report that I now recommend deleting.
Green text with underlining or ~~strikethrough~~	Additional amendments recommended in this statement.

8 The scope for all proposed amendments is included as a footnote in the amended provisions.

National Policy Statement for Indigenous Biodiversity 2023 (NPSIB)

9 The NPSIB was gazetted on 7 July 2023 and came into force on 4 August 2023. The NPSIB is a response to biodiversity decline in New Zealand and provides direction to councils on protecting, maintaining, and restoring indigenous biodiversity.

10 Part 1 of the NPSIB contains preliminary provisions, and definitions for words and terms used in the NPSIB. Part 2 of the NPSIB contains the objective and policies. The objective of the NPSIB is:

a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

b) to achieve this:

(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

11 Clause 1.7 assists with clarifying the application of the objective and states that:

Maintaining indigenous biodiversity requires:

(a) the maintenance and at least no overall reduction of all the following:

(i) the size of populations of indigenous species:

(ii) indigenous species occupancy across their natural range:

(iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:

(iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:

(v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:

(vi) the resilience and adaptability of ecosystems; and

(b) where necessary, the restoration and enhancement of ecosystems and habitats.

12 Seventeen policies give effect to the objective. The policies address a range of matters, including:

12.1 Direction on decision-making priorities, the principles of the Treaty of Waitangi, mana whenua exercise of kaitiakitaka, and adopting a precautionary approach (Policies 1, 2 and 3);

12.2 Requiring management of indigenous biodiversity to promote resilience to the effects of climate change and occur in an integrated way (Policies 4 and 5);

12.3 The identification and protection of significant natural areas (SNAs) and management of activities within SNAs (Policies 6, 7, and 9)

12.4 Maintaining indigenous biodiversity outside SNAs, including by recognising and providing for certain established activities (Policies 8 and 9);

12.5 Recognising and providing for activities that contribute to New Zealand's social, economic, cultural, and environmental well-being (Policy 10);

12.6 Specific direction for managing geothermal SNAs and indigenous biodiversity within plantation forestry (Policies 11 and 12);

12.7 Promoting and providing for restoration of indigenous biodiversity, including promoting increased indigenous vegetation cover in urban and non-urban environments (Policies 13 and 14);

12.8 Identifying and managing areas outside SNAs that support specified highly mobile fauna and improving information about and awareness of them (Policy 15); and

12.9 Requiring development and implementation of regional biodiversity strategies and improving information about and monitoring of indigenous biodiversity (Policies 16 and 17).

13 Part 3 of the NPSIB sets out a non-exhaustive list of things local authorities must do to give effect to the objective and policies. Clause 3.1(2) states that nothing in Part 3 limits a local authority's functions or duties under the Act in relation to indigenous biodiversity.

14 Part 3 broadly aligns with the policies in Part 2 and provides further detail on how these policies must be implemented. It has three parts:

- Subpart 1 – Approaches to implementing [the NPSIB];
- Subpart 2 – Significant natural areas (SNAs); and
- Subpart 3 – Specific requirements.

15 Subpart 1 contains direction on 'how' to implement the NPSIB, including the role of decision-making principles; involving tangata whenua as partners; taking an integrated approach; social, economic, and cultural

well-being, resilience to climate change; and use of a precautionary approach.

16 Subpart 2 sets out how to identify and manage SNAs. It includes specific direction on how to manage the adverse effects of activities on SNAs, exceptions to that direction, management of SNAs on specified Māori land, and geothermal SNAs. It also sets out how indigenous biodiversity outside SNAs is to be managed, including the maintenance of improved pasture for farming.

17 Subpart 3 sets out additional specific requirements for particular areas or topics, including specified Māori land; acknowledged and identified taonga; highly mobile fauna; restoration; increasing indigenous vegetation cover; the preparation of regional biodiversity strategies; and information and monitoring requirements.

18 Part 4 addresses timing, both generally and for implementing specific parts of the NPSIB.

Application of the NPSIB

19 Clause 1.3 states that the NPSIB applies to indigenous biodiversity in the terrestrial environment, which is defined as:

> *land and associated natural and physical resources above mean high-water springs, excluding land covered by water, water bodies and freshwater ecosystems (as those terms are used in the National Policy Statement for Freshwater Management 2020) and the coastal marine area*

20 However, there are exceptions listed in clause 1.3(2):

20.1 Geothermal ecosystems, whether or not they are in the terrestrial environment (but excluding any within the coastal marine area);

20.2 Specified highly mobile fauna, whether or not they use areas outside the terrestrial environment (such as the coastal marine area or water bodies) for part of their life cycle;

20.3 Provisions relating to promoting restoration and increasing indigenous vegetation cover include natural inland wetlands;

20.4 Regional biodiversity strategies may include areas outside the terrestrial environment, including the coastal marine area and water bodies; and

20.5 If an SNA contains a natural inland wetland, the wetland may be treated as part of the SNA it is located in.

21 Some of these exclusions are relevant to the pORPS and some are not. There are no known geothermal ecosystems in Otago, therefore this exclusion is not relevant.

22 'Specified highly mobile fauna' is defined as the Threatened or At Risk species of highly mobile fauna listed in Appendix 2 of the NPSIB. Appendix 2 contains a number of species that spend part of their life cycle in freshwater environments and are known to be present in Otago. This exclusion is therefore relevant.

23 The pORPS contains provisions managing natural wetlands, which includes natural inland wetlands. The NPSIB provisions relating to increasing indigenous vegetation cover in natural inland wetlands, and their inclusion in SNAs, are therefore relevant.

24 Clause 1.3(3) states that the NPSIB does not apply to the development, operation, maintenance, or upgrade of renewable electricity generation assets and activities, or to electricity transmission network assets and activities.

Relationship with other national directions

25 Clause 1.4 states the relationship between the NPSIB and other national directions, including that:

- Both the NPSIB and the New Zealand Coastal Policy Statement (NZCPS) apply in the terrestrial coastal environment.
- If there is a conflict between the NPSIB and the NZCPS, the NZCPS prevails; and
- If there is a conflict between the NPSIB and either the National Policy Statement for Freshwater Management (NPSFM) or the National Environmental Standard for Freshwater (NESF), the NPSFM and/or NESF prevail.

26 There is no specific direction on the relationship between the NPSIB and other national directions, such as the National Policy Statement for Renewable Electricity Generation (NPSREG), the National Policy Statement for Electricity Transmission (NPSET) or the National Policy Statement for Urban Development (NPSUD).

Council's obligation to implement the NPSIB

27 Clause 4.1 of the NPSIB sets out when the NPSIB takes effect and states that:

> *(1) Every local authority must give effect to this National Policy Statement as soon as reasonably practicable.*
>
> *(2) Local authorities must publicly notify any changes to their policy statements and plans that are necessary to give effect to this National Policy Statement within eight years after the commencement date.*

28 There are specific timeframes for the following activities:

- Local authorities must publicly notify a policy statement or plan, or change, necessary to give effect to subpart 2 (SNAs) and clause 3.24 (information requirements) within five years after the commencement date of the NPSIB (i.e., 4 August 2028); and

- Regional councils must complete or update a new or existing biodiversity strategy within ten years after the commence date of the NPSIB (i.e., 4 August 2033).

29 The NPSIB does not contain any compulsory direction that must be included in a regional policy statement without a Schedule 1 process.

30 Clause 4.4 states that local authorities are not obliged to make changes to wording or terminology in existing plans merely for consistency with the NPSIB. However, the onus is on the local authorities to show that, despite these differences, the policy statement or plan does implement the NPSIB.

31 Minor wording or terminology changes for consistency can be made to *operative* plans only, in accordance with clause 20A (which does not require a Schedule 1 process).

32 In accordance with section 62(3) of the Resource Management Act, a regional policy statement must give effect to a national policy statement.

33 Given the NPSIB has been introduced 'mid-process', the extent to which the Schedule 1 process can give effect to the NPSIB is confined by the scope of the submissions lodged that seek changes to the pORPS provisions. The scope of the changes recommended within the document below are provided through the following submissions on the pORPS:

- Forest and Bird seeks:

  'Amend the RPS to support the implementation of NPS-IB when it is released and avoid creating provisions that would frustrate the implementation of the NPS-IB'[1]*.*

- Dunedin City Council seeks:

  'Amend provisions as necessary so they are in accordance with NPS Indigenous Biodiversity (when gazetted).[2]

- Beef and Lamb NZ seeks:

  'Delete chapter and redraft when the NPS-IB has been made operative[3]

Overview of evidence

34 The content of the NPSIB is comprised of four interrelated parts and associated appendices being:

- Part 1: Preliminary provisions
- Part 2: Objectives and policies
- Part 3: Implementation
- Part 4: Timing.

35 I note that Part 3.1(1) of the Implementation section states (my emphasis added):

> *This Part sets out a non-exhaustive list of things that must be done to give effect to the Objective and Policies in Part 2 of this National Policy Statement, but*

[1] https://www.orc.govt.nz/media/10680/forest-bird-rps21_0230.pdf
[2] 00139.129 Dunedin City Council
[3] 00237.049 Beef and Lamb

nothing in this Part limits the general obligation under the Act to give effect to that Objective and those Policies.

36 Given the NPSIB includes a requirement that the 'Implementation' section within Part 3 'must be done', within this evidence my general approach to drafting has been to adopt the approach in the NSPIB where the pOPRS has not covered matters which 'must be done' or where the approach in the pORPS is similar to that within the NPSIB but uses different language.

37 The following sections focus on the implications of the NPSIB and the recommended changes to the non-freshwater provisions of the pORPS as a result of the NSPIB being gazetted. The requirements of the NPSIB have been considered on a topic-by-topic basis and have been grouped into the following topics:

- NPSIB provisions given effect to by the pORPS
- Mana whenua
- Effects management hierarchies (EMHs)
- Renewable electricity generation and electricity transmission networks
- Significant natural areas (SNAs)
- Restoration
- Integration
- New provisions

NPSIB provisions given effect to by the pORPS

38 I consider a number of the provisions within the NPSIB that are given effect to by the provisions within the decisions version of the pORPS without requiring any further amendments to the pORPS, as set out in Appendix 1 of this evidence. These are:

- Objective: 2.1.
- Policies: 1, 2, 3, 5, 6, 7, 8, 10, 11 and 13.
- Clauses: 3.5 and 3.7.

Mana whenua

39 The NPSIB contains a number of requirements recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity. These include:

- Part 1.5 – Decision making principles
- Objective 2.1(b)(i)
- Policy 1
- Policy 2
- Clause 3.2 – Role of decision-making principles
- Clause 3.3 – tangata whenua as partners
- Clause - 3.5.1(c)
- Clause – 3.21(1)(e)
- Definition – “specified Māori land”
- 3.18 – Specified Māori land
- 3.19 – Acknowledged and identified taonga

40 I have assessed the implications of giving effect to these NPSIB requirements within the pORPS under the following four topics:

- Decision making
- Partnership
- Specified Māori land
- Acknowledged and identified taoka

41 Note: I have adopted the Kāi Tahu dialect when recommending amendments to the pORPS.

<u>Decision making</u>

42 Section 1.5(1) of the NPSIB sets out the decision-making principles, subclause (2) recognises that the health and wellbeing of people and communities are dependent on the health and wellbeing of indigenous

biodiversity. It acknowledges the relationship between indigenous species, ecosystems, the wider environment, and the community and sets out the following seven key principles to inform its implementation:

(a) *prioritise the mauri, intrinsic value and wellbeing of indigenous biodiversity:*

(b) *take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi):*

(c) *recognise the bond between tangata whenua and indigenous biodiversity based on whakapapa relationships:*

(d) *recognise the obligation and responsibility of care that tangata whenua have as kaitiaki of indigenous biodiversity:*

(e) *recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity:*

(f) *enable the application of te ao Māori and mātauranga Māori:*

(g) *form strong and effective partnerships with tangata whenua.*

43 Objective 2.1 of the NPSIB requires the maintenance of indigenous biodiversity across Aotearoa New Zealand so there is at least no overall loss in biodiversity after the commencement date. To achieve this, subclause (1)(b)(i) states:

> "*through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity*".

44 This is achieved through Policy 1 of the NPSIB which states that:

> "*indigenous biodiversity to be managed in a way that gives effect to the decision-making principles and takes into account the Treaty of Waitangi*".

45 Additionally, Policy 2 of the NPSIB sets out the requirement that:

> *"Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:*
>
> *a) Managing indigenous biodiversity on their land; and*
>
> *b) Identifying and protecting indigenous species, populations and ecosystems that are taonga; and*
>
> *c) Actively participating in other decision-making about indigenous biodiversity."*

46 With regards to the pORPS, I consider the provisions contained within the reply version of the MW – Mana whenua and the ECO – Ecosystems and indigenous biodiversity chapters of the pORPS give effect to the requirements within Objective 2.1(1)(b)(i) and Policy 1 and 2 of the NPSIB.

47 I consider the critical aspect of Policy 2 of the NSPIB is that it directs that tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe. This is given effect to within ECO-O3 - Kaitiakitaka and stewardship which states that mana whenua are able to exercise their role as kaitiaki of Otago's indigenous biodiversity. This is supported by ECO-P1 – Kaitiakitaka which enables Kāi Tahu to exercise their role as kaitiaki of Otago's indigenous biodiversity.

48 In addition, I consider MW-O1 – Principles of Te Tiriti o Waitangi and MW-P2 – Treaty principles achieve Policy 1 of the NPSIB and therefore I consider no change is required to the pORPS provisions.

49 I consider the requirements of Policy 2 of the NPSIB are given effect to through a combination of provisions within the pORPS. Specifically, Policy 2(a) is given effect to by the following two methods of the pORPS:

- MW-M5(2) requires regional and district plans to:

  "provide for the use of native reserves and Māori land in accordance with MW-P4, and recognise Kāi Tahu rakatirataka over this land by enabling mana whenua to lead approaches to manage any adverse effects of such use on the environment, …".

- ECO-M7A(4) sets out that:

  "Local authorities must partner with Kāi Tahu in the management of indigenous biodiversity to the extent desired by mana whenua, including by:

  (1) …

  (4) working with mana whenua to determine appropriate management approaches for indigenous biodiversity within native reserves and Māori land …

50 I consider Policy 2(b) is achieved by the following provisions of the pORPS:

- ECO-P2 – Identifying significant natural areas and taoka

- ECO-P3 - Protecting significant natural areas and taoka, and

- ECO-M3 – Identification of taoka

51 ECO-P2 requires identifying and mapping significant natural areas and taoka. Limb (2) specifically seeks to involve mana whenua in the identification, where appropriate, of indigenous species and ecosystems that are taoka to ensure they are maintained or protected, and ECO-P3 provides for the protection of these taoka outside of the coastal environment. ECO-M3 supports ECO-P2 and all of the policies that apply to indigenous biodiversity by requiring local authorities to work together with mana whenua to agree on a process for identifying indigenous species and ecosystems that are taoka, then describing them and their values and mapping or describing their location in regional and district plans to the extent agreed by mana whenua.

52 I consider together the above provisions achieve the requirements of Policy 2(a) and Policy 2(b) and therefore no change is required to the pORPS.

53 Policy 2(c) requires active participation by mana whenua in other decision-making about indigenous biodiversity. I consider this is achieved by the following two provisions of the pORPS:

- ECO-M7A(2) provides direction to local authorities with regard to partnering with Kāi Tahu in the management of indigenous biodiversity to the extent desired by:

  "(1) …

  (2) facilitating opportunities for mana whenua to be involved in resource management (including decision making) …"

- MW-P2(2) requires local authorities to exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi Treaty principles, by:

  "(1) …

  (2) including Kāi Tahu in resource management processes, and implementation <u>and decision-making</u> to the extent desired by mana whenua"

- MW-M3 requires that local authorities must develop processes to

  (2) involve Kāi Tahu at an early stage and throughout resource management processes, decision-making, and implementation, and

- MW-M4 requires that local authorities must facilitate Kāi Tahu involvement in resource management (including decision making), to the extent mana whenua consider themselves able to accommodate.

54 Additionally, I consider the process ORC has undertaken when developing the pORPS, as highlighted in the Section 32 report[4] and the corresponding Appendix 4: Phase 3 consultation summary report[5], demonstrates how ORC has worked in partnership with mana whenua throughout the review of the RPS. Iwi were invited to attend and participate in a series of reference group discussions to inform the RPS policy direction, and Papatipu Rūnaka consultancy services Aukaha (representing the Papatipu Rūnaka of Kāi Tahu ki Otago) and Te Ao Marama Inc (representing the Papatipu Rūnaka of Ngāi Tahu ki Murihiku) have provided ongoing verbal and written feedback on the provisions.

55 I consider ECO-7A(2), MW-P2(2), the methods within the MW chapter and the planning process undertaken by ORC achieve the requirements of Policy 2(c) and therefore no change is required to the pORPS.

Partnership

56 Part 1.5(3) of the NPSIB sets out a number of decision-making principles as follows:

> *(a) prioritise the mauri, intrinsic value and wellbeing of indigenous biodiversity:*
>
> *(b) take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi):*
>
> *(c) recognise the bond between tangata whenua and indigenous biodiversity based on whakapapa relationships:*
>
> *(d) recognise the obligation and responsibility of care that tangata whenua have as kaitiaki of indigenous biodiversity:*
>
> *(e) recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity:*
>
> *(f) enable the application of te ao Māori and mātauranga Māori:*
>
> *(g) form strong and effective partnerships with tangata whenua*

[4] https://www.orc.govt.nz/media/10030/section-32-report-v61.pdf
[5] https://www.orc.govt.nz/media/10012/section-32-report-v61-appendices.pdf

57 Part 3 of the NPSIB sets out a non-exhaustive list of mandatory obligations on councils for implementing the NPSIB. Clause 3.2 requires local authorities to engage with mana whenua, people and communities (including landowners) to incorporate and apply the decision-making principles during the implementation of the NPSIB.

58 Clause 3.3 requires the involvement of mana whenua to the extent they wish to be involved as partners in the management of indigenous biodiversity. I consider this is provided for by the following provisions of the pORPS:

- ECO-O3 – *Kaitiakiṯaka* and stewardship,
- ECO-P1 – *Kaitiakitaka*,
- ECO-M3 – Identification of taoka,
- ECO-M7A — Kāi Tahu kaitiakitaka,
- MW-P1- Treaty obligations,
- MW-P2 – Treaty principles,
- MW-P3 – Supporting Kāi Tahu hauora,
- MW-M1 – Collaboration with Kāi Tahu,
- MW-M2 – Mātauraka Māori, and
- MW-M4 – Kāi Tahu rakatirataka.

59 As identified in paragraph 54 above, the planning process undertaken by ORC to date has involved working closely with mana whenua. Through this process mana whenua have been engaged and involved in the development of the provisions identified above. I consider this process satisfies the requirement of Clause 3.2 and Clause 3.3 and am reluctant to recommend any substantive amendments to these provisions. Accordingly, in relation to Clause 3.3, I consider ECO-O3, ECO-M3 and MW-M4 largely give effect to the requirements Sections 3.2 and 3.3 of the NPSIB.

60 To better achieve the direction of Clause 3.3, I consider the following minor amendments to ECO-P1 and ECO-M7A(2) are required:

- ECO-P1(1) – Kaitiakitaka

"~~Recognise the role of~~ Enable Kāi Tahu to exercise their role as kaitiaki of Otago's indigenous biodiversity by:

(1) ~~involving~~ partnering with Kāi Tahu in the management of indigenous biodiversity to the extent desired by mana whenua, and …"

- ECO-M7A(2) — Kāi Tahu kaitiakitaka

"Local authorities must partner with Kāi Tahu in the management of indigenous biodiversity to the extent desired by mana whenua, including by:

(1A) ensuring that engagement with mana whenua is early, meaningful, and in accordance with tikanga Māori,

(1) …"

Specified Māori land

61 The NPSIB introduces the definition of "specified Māori land". This refers to:

"land that is any of the following:

(a) Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):

(b) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:

(c) land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land:

(d) land vested in the Māori Trustee that is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955, and remains subject to that Act:

(e) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):

(f) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(g) Treaty settlement land, being land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):

(i) *as part of redress for the settlement of Treaty of Waitangi claims; or*

(ii) *by the exercise of rights under a Treaty settlement Act or Treaty settlement deed.*

62 The pORPS does not contain a definition of "Specified Māori Land" instead it includes a definition of "Māori Land". This definition replaces the term "Te Ture Whenua Māori land" that was included in the notified version of the pORPS. The author of the Mana Whenua chapter, Mr Adams, explains in his supplementary evidence at paragraph 36[6] and in his reply report at paragraph 51[7] the proposed definition of Māori Land gives better effect to RMA s6(e), which requires decision-makers to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka. It is also effective and efficient in achieving objective MW-O1, because it gives better effect to the principles of Te Tiriti o Waitangi, in particular the principle of protection.

63 This definition of "Māori Land" was supported by Ms McIntyre for Kāi Tahu ki Otago within paragraph 33[8] of her evidence to the pORPS where she states:

> *"The definition of Māori land proposed by the submitters was developed in consultation between the planners and representatives of the Cain Whanau who have also made submissions about use of ancestral land. I understand that it incorporates the various categories of land that are regarded as having an equivalent purpose to the Native Reserves, including land that may be purchased by papatipu rūnaka in the vicinity of existing Native Reserves to offset land that has been lost. I consider that the definition is appropriate because:*
>
> (a) *It provides more clarity and certainty than the term "ancestral land" used in some of the provisions in the notified PORPS;*
>
> (b) *It provides for the intended purpose of the Native Reserves while recognising that the legal tenure of some of the land originally set aside has changed over time; and*
>
> (c) *It recognises that to give effect to the aspirations of the submitters for reconnection with ancestral land, there may be a practical need to*

[6] https://www.orc.govt.nz/media/13017/04-supplementary-evidence-mw.pdf
[7] https://www.orc.govt.nz/media/14365/reply-report-04-mw.pdf
[8] https://www.orc.govt.nz/media/13286/kai-tahu-ki-otago-sandra-mcintyre.pdf

adjust or extend some of the boundaries of these areas to respond to local circumstances."

64 Further discussion regarding the definition of Māori Land was heard during the hearing and no further amendments were recommended.

65 When comparing the pORPS definition of "Maori Land" against the NPSIB definition of "specified Maori land" I consider the pORPS:

- limb (1) addresses current and future needs for Papakāika development.
- limb (2) is functionally the same as NPSIB limb (b).
- limb (3) is functionally the same as NPSIB limb (a).
- limbs (4) and (5) include references to ancestral lands or settlement lands that for various reasons ceased to have that status but are owned by Kāi Tahu whānui. These address specific circumstances in Otago, and the general direction for addressing use and development of ancestral land under RMA s6(e).
- limb (6) appears to overlap with NPSIB limbs (c) and (d), however to what extent is uncertain. The NPSIB may be broader.
- limb (7) is broadly similar to NPSIB limb (g), but specifically addresses some types of land not captured by the NPSIB definition. It addresses ancillary claims, does not include the requirement to be held by a post-settlement governance entity, and includes land "claimed", not just land "held". This limb has been developed through the hearing process.
- limb (8) has no clear overlap with the NPSIB definition. It is a broad limb, recognising the general direction for addressing use and development of ancestral land under RMA s6(e).

66 I note the pORPS definition has been drafted intentionally to apply more broadly than the management of indigenous biodiversity. The extended definition in the pORPS was developed to recognise provision for use and development of ancestral land in Otago as a matter of national importance under s6(e) of the RMA. It addresses specific circumstances around land acquisition and alienation of Māori Land in Otago, as well as providing for future development of Papakāika as a vital part of Kāi Tahu cultural and

social wellbeing. The Kāi Tahu position on this was presented in detail by cultural witnesses, planners, and legal counsel for Kāi Tahu at the hearing.

67 I consider the proposed definition has been determined in accordance with the principles of partnership, participation and protection and achieve the requirements of NPSIB. I therefore consider no change is required to the pORPS definition of “Māori land”.

68 Clause 3.12 NPSIB requires that SNAs identified on specified Māori land must be managed in accordance with clause 3.18 – Specified Māori land. There is an exception for SNAs within plantation forests that must be managed in accordance with clause 3.14 – Plantation forestry activities.

69 Regarding clause 3.12 of the NPSIB, the pORPS does not specifically provide for SNAs on Māori land. As such, I consider consequential amendments are required, as discussed below.

70 Clause 3.18 of the NPSIB applies to Specified Māori land. Specifically, it requires that:

> *(1) Local authorities must work in partnership (which includes acting in good faith) with tangata whenua and owners of specified Māori land to develop, and include in policy statements and plans, objectives, policies, and methods that, to the extent practicable:*
>
> *(a) maintain and restore indigenous biodiversity on specified Māori land; and*
>
> *(b) protect SNAs and identified taonga on specified Māori land.*
>
> *(2) Objectives, policies, and methods developed under this clause must:*
>
> *(c) enable new occupation, use, and development of specified Māori land to support the social, cultural, and economic wellbeing of tangata whenua; and*
>
> *(d) enable the provision of new papakāinga, marae and ancillary community facilities, dwellings, and associated infrastructure; and*
>
> *(e) enable alternative approaches to, or locations for, new occupation, use, and development that avoid, minimise, or remedy adverse effects on SNAs and identified taonga on specified Māori land, and enable options for offsetting and compensation; and*
>
> *(f) recognise and be responsive to the fact that there may be no or limited alternative locations for tangata whenua to occupy, use, and develop their lands; and*

(g) *recognise that there are circumstances where development will prevail over indigenous biodiversity; and*

(h) *recognise and be responsive to any recognised historical barriers tangata whenua have faced in occupying, using, and developing their ancestral lands.*

(3) The decision-maker on any resource consent application must, when considering matters affecting specified Māori land, take into account all the matters in subclause (2).

(4) Subclauses (2) and (3) do not apply to specified Māori land to the extent that the land is subject to full or partial legal protection under legislation for the purpose of protecting indigenous biodiversity on that land (such as, for example protection provided by covenants or land classifications under the Reserves Act 1977, the Conservation Act 1987, or the National Parks Act 1980).

(5) Local authorities must consider and realise opportunities to provide incentives for the protection and maintenance of indigenous biodiversity, and the protection of SNAs and identified taonga, on specified Māori land.

(6) Policy statements and plans developed for the purpose of this clause do not prevail over any management strategies or plans developed in the legislation referred to in paragraphs (e) and (f) of the definition of specified Māori land.

(7) In subclause (1), owners of specified Māori land include managers of lands referred to in paragraphs (e) and (f) of the definition of specified Māori land, and any trustee of specified Māori land.

71 I consider the following pORPS provisions partly achieve the requirements set out in clause 3.18:

- ECO-P3 – Protecting significant natural areas and taoka
- ECO-P4 – Provision for new activities
- ECO-P6 – Maintaining indigenous biodiversity
- ECO-P8 – Restoration and enhancement
- MW-P4 – Sustainable use of Native Reserves and Māori Land

72 ECO-P3 requires the protection of significant natural areas and indigenous species and ecosystems that are taoka for areas outside of the coastal environment or otherwise provided for elsewhere in the pORPS.

73 ECO-P4 provides for identified new activities outside of the coastal environment while maintaining Otago's indigenous biodiversity. It directs decision-makers to follow the sequential steps in the effects management hierarchy (addressed below) when making decisions related to certain activities in significant natural areas or those adversely affecting indigenous species and ecosystems that are taoka as identified by mana whenua. These activities include:

> *(1) …*
>
> *(2) the development of papakāika, marae and ancillary facilities associated with customary activities on Native reserves and Māori land,*
>
> *(2A) the sustainable use of mahika kai and kaimoana (seafood) by mana whenua,*
>
> *(3) the use of Native reserves and Māori land in a way that will make a significant contribution to enable mana whenua to maintain their connection to their whenua and enhancing the social, cultural or economic well-being, of takata whenua,*
>
> *(4) …*

74 ECO-P6 requires the maintenance of indigenous biodiversity, excluding the coastal environment and areas managed under ECO-P3. To achieve this, an effects management hierarchy is applied for decision-making on resource consents, plan changes, and notices of requirement. The hierarchy requires decision-makers to:

> *(1) avoid adverse effects as the first priority*
>
> *(2) where adverse effects demonstrably cannot be completely avoided, they are remedied,*
>
> *(3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,*
>
> *(4) where there are more than minor residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and*
>
> *(5) if biodiversity offsetting of more than minor residual adverse effects is not possible, then residual adverse effects are compensated for in*

accordance with APP4 or the activity is avoided if residual adverse effects cannot be compensated for.

75 ECO-P8 seeks to restore and enhance the intrinsic values, extent, occupancy and condition of Otago's indigenous biodiversity by:

(1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,

(2) improving the health and resilience of indigenous biodiversity, including ecosystems, species, important ecosystem function, and intrinsic values, and

(3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai.

76 MW-P4 states that Kāi Tahu are able to develop and use land and resources within native reserves and Māori land in accordance with mātauraka and tikaka, to provide for their economic, cultural and social aspirations, including for papakāika, marae and marae related activities.

77 I consider ECO-P3 generally aligns with clause 3.18(1)(a) and (1)(b) of the NPSIB. As such, I do not consider amendments are required to the pORPS to give effect to clause 3.18 of the NSPIB. However, importantly, Clause 3.18(1) includes the qualifier 'to the extent practicable' which is not included within ECO-P3. At the policy level I consider it is appropriate to retain the unqualified direction to maintain indigenous biodiversity and protect SNA's and identified taoka. However, I recommend that a new method is included in the pORPS that acknowledges that maintenance or protection of indigenous biodiversity on Māori land is required 'to the extent practicable".

78 I consider ECO-P4(3) gives effect to clause 3.18(2)(c) and ECO-P4(2) gives effect to the requirements of clause 3.18(d) at the policy level. However, I consider there are no equivalent provisions in the pORPS giving effect to clauses 3.18(2)(e) – (h). As such, I recommend the following method be included within the ECO chapter ECO-M2 to give effect to clauses 3.18(2)(a) – (h):

ECO-M4D – Native reserves and Māori land

Local authorities must:

(1) work in partnership (which includes acting in good faith) with mana whenua and owners of native reserves and Māori land to develop, and include in district and regional plans, objectives, policies, and methods that, to the extent practicable:

(a) maintain and restore indigenous biodiversity on native reserves and Māori land; and

(b) protect SNAs and identified taoka on native reserves and Māori land.

(2) ensure objectives, policies, and methods developed under this clause must:

(a) enable new occupation, use, and development of native reserves and Māori land to support the social, cultural, and economic wellbeing of mana whenua; and

(b) enable the provision of new papakāika, marae and ancillary community facilities, dwellings, and associated infrastructure; and

(c) enable alternative approaches to, or locations for, new occupation, use, and development that avoid, minimise, or remedy adverse effects on SNAs and identified taoka on native reserves and Māori land, and enable options for offsetting and compensation; and

(d) recognise and be responsive to the fact that there may be no or limited alternative locations for mana whenua to occupy, use, and develop their lands; and

(e) recognise that there are circumstances where development will prevail over indigenous biodiversity; and

(f) recognise and be responsive to any recognised historical barriers mana whenua have faced in occupying, using, and developing their ancestral lands.

79 I consider that ECO-P8 largely aligns with the requirements of clause 3.18(1)(b). However, I note that the provisions do not specifically provide for "specified Māori land", which as explained above is not a term used in the pORPS. I therefore consider the following subclause to ECO-P8 should be included:

The intrinsic values, extent, occupancy and condition of Otago's indigenous biodiversity is increased by:

…

(4) prioritising all the following for restoration:

(a) …

(e) areas of indigenous biodiversity on native reserves and Māori land where restoration is advanced by the Māori landowners:

…

Acknowledged and identified taoka

80 Clause 3.19 sets out the following requirements for acknowledged and identified taonga:

> *(1) Every territorial authority must work in partnership with tangata whenua of any rohe in their district, using an agreed process, to determine the indigenous species, populations, and ecosystems in that rohe that are taonga (and these are acknowledged taonga).*
>
> *(2) Local authorities must recognise that tangata whenua have the right not to determine the indigenous species, populations and ecosystems in their rohe that are taonga, and to choose the level of detail at which any acknowledged taonga, or their location or values, are described.*
>
> *(3) If tangata whenua agree, territorial authorities must identify acknowledged taonga in their district plans (and these are identified taonga) by:*
>
> > *(a) describing the taonga and, to the extent agreed by tangata whenua, mapping their location and describing their values; and*
> >
> > *(b) describing, to the extent agreed by tangata whenua, the historical, cultural, and spiritual relationship of tangata whenua with the taonga.*
>
> *(4) Local authorities must work in partnership with tangata whenua to protect both acknowledged and identified taonga as far as practicable and to involve tangata whenua (to the extent that they wish to be involved) in the management of identified taonga.*
>
> *(5) Identified taonga located on specified Māori land must be managed under clause 3.18, but if identified taonga are located within an SNA that is not on specified Māori land:*
>
> > *(a) the identified taonga must be managed in a manner consistent with the management approach applying to the SNA; and*
> >
> > *(b) the matters listed in subclause (6) must be taken into account in managing the SNA.*
>
> *(6) In managing effects on identified taonga, local authorities must recognise that the possible adverse effects on identified taonga include effects on:*
>
> > *(a) the mauri of the taonga:*
> >
> > *(b) the values of the taonga as identified by tangata whenua:*
> >
> > *(c) the historical, cultural, and spiritual relationship of tangata whenua with the taonga, as identified by tangata whenua.*

(7) Local authorities must make or change their policy statements and plans as necessary to ensure that the sustainable customary use of identified taonga by tangata whenua in accordance with tikanga and in a manner consistent with the protection of the identified taonga is provided for.

(8) Before acknowledged taonga are identified in a proposed district plan, the territorial authority must notify the relevant landowner of the presence of the taonga.

(9) To avoid doubt, the following cannot be acknowledged as taonga under this clause:

(a) aquatic species:

(b) populations and ecosystems solely located in waterbodies:

(c) populations and ecosystems in the coastal marine area.

81 I consider the following pORPS provisions partly achieve the requirements set out in clause 3.19:

- ECO-P2 – Identifying significant natural areas and taoka
- ECO-P3 – Protecting significant natural areas and taoka
- ECO-M3 – Identification of taoka

82 ECO-P2 requires identifying and mapping significant natural areas and taoka. Limb (2) specifically seeks to involve mana whenua in the identification, where appropriate, of indigenous species and ecosystems that are taoka to ensure they are maintained or protected.

83 ECO-P3 provides for the protection of these taoka outside of the coastal environment.

84 ECO-M3 specifies the requirements that local authorities must do in relation to identification of taoka, including:

(1) work together with mana whenua to agree a process for:

(a) identifying indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, and how they are valued with reference to mātauraka Māori,

(b) describing the taoka identified in (1)(a),

(c) mapping or describing the location of the taoka identified in (1)(a), and

(d) describing the values of each taoka identified in (1)(a), and

(2) notwithstanding (1), recognise that mana whenua have the right to choose not to identify taoka and to choose the level of detail at which identified taoka, or their location or values, are described, and

(3) to the extent agreed by mana whenua, amend their regional and district plans to include matters (1)(b) to (1)(d) above.

85 Regarding ECO-P2(2) and ECO-P3 I note these provisions have been drafted and reviewed with mana whenua involvement. In my opinion these provisions achieve the requirements of Clause 3.19 and as such, I do not consider any amendments are necessary.

86 I consider ECO-M3 achieves the directives set out in clause 3.19(1), (2), (3) and (4) of the NPSIB. It requires local councils to work together through an agreed process with mana whenua to identify and protect indigenous biodiversity, populations and ecosystems within their rohe, and respect the right of mana whenua to decide the level of detail and description of acknowledged taoka, including their location and values. However, I consider ECO-M3 does not give effect to the following clauses of 3.19 which require:

(6) recognising and managing possible adverse effects on identified taonga,

(7) making or changing policy statements or plans to support the sustainable customary use of identified taonga by tangata whenua as set out by tikanga and ensuring protection of the identified taonga,

(8) informing the relevant landowner about the existence of taonga prior to their identification in a proposed district plan.

87 Given the inconsistencies summarised above, I consider ECO-M3 should be amended as follows to achieve all requirements of clause 3.19:

ECO-M3 – Identification of taoka

Local authorities must:

(1) work together with mana whenua to agree a process for:

(a) *identifying indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, and how they are valued with reference to mātauraka Māori,*[9]

(b) *describing the taoka identified in (1)(a),*

(c) *mapping or describing the location of the taoka identified in (1)(a), and*

(d) *describing the values of each taoka identified in (1)(a), and*

(2) *notwithstanding (1), recognise that mana whenua have the right to choose not to identify taoka and to choose the level of detail at which identified taoka, or their location or values, are described, and*

(3) *to the extent agreed by mana whenua, amend their regional and district plans to include matters (1)(b) to (1)(d) above~~.~~, and*

(4) recognise the possible adverse effects on identified taoka include effects on:

(a) the mauri of the taoka,

(b) the values of the taoka as identified by mana whenua,

(c) the historical, cultural, and spiritual relationship of mana whenua with the taoka, as identified by mana whenua, and

(5) make or change their policy statements and plans as necessary to ensure that the sustainable customary use of identified taoka by mana whenua in accordance with tikaka and in a manner consistent with the protection of the identified taoka is provided for, and

(6) notify the relevant landowner of the presence of the taoka prior to identifying acknowledged taoka in a proposed district plan.

Effects management hierarchies

88 Given the complexity of the EMH analysis and its relationship with the EMH related to freshwater, I have set out my analysis of the EMH in three parts as follows:

- The relationship between the NPSFM and the NPSIB EMH;
- A comparison between the NPSIB EMH and ECO-P6 (which contains the *effects management hierarchy (in relation to indigenous biodiversity*));

[9] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00239.100 Federated Farmers

- A recommended approach to an EMH for indigenous biodiversity in the pORPS.

The relationship between the NPSFM and the NPSIB EMH

89 As explained by Ms Boyd in paragraphs 95 – 111 of her supplementary evidence to the FPI hearing related to the implications of the NPSIB[10], both the NPSFM and the NPSIB contain effects management hierarchies (EMHs). The NPSIB definition of EMH is limited to the terrestrial environment (except in specific circumstances, which do not apply to the EMH). The NPSFM definition relates specifically to natural inland wetlands and rivers.

90 The NPSIB defines the EMH as:

> *"an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:*
>
> *(a) adverse effects are avoided where practicable; then*
>
> *(b) where adverse effects cannot be avoided, they are minimised where practicable; then*
>
> *(c) where adverse effects cannot be minimised, they are remedied where practicable; then*
>
> *(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then*
>
> *(e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then*
>
> *(f) if biodiversity compensation is not appropriate, the activity itself is avoided."*

91 Within Appendix 2 of Ms Boyd's supplementary evidence on the implications of the NPSIB for the FPI, she has set out a comparison of NPSFM and NPSIB effects management hierarchies. I agree with Ms Boyd's analysis within paragraph 103 which states:

> *"To understand whether the EMH in the NPSIB is more stringent than the NPSFM, I have compared the relevant provisions (see Appendix 2). In summary, although the steps, and the order they must be implemented in, are the same in both EMHs, the definitions and principles which support the*

[10] https://www.orc.govt.nz/media/14830/supplementary-evidence-fpi-npsib.pdf

application of each EMH differ in some ways. The key differences between the NPSIB and the NPSFM are:

103.1 The definitions require aquatic offsetting to achieve no net loss and preferably a net gain whereas biodiversity offsetting must achieve a net gain;

103.2 The principles for offsetting reflect the different outcomes sought from aquatic and biodiversity offsetting (above); and

103.3 In the principles for compensation, the NPSIB version has an additional criterion for the use of financial contributions, which makes it more stringent than the NPSFM version."

92 I agree with Ms Boyd that adopting one EMH for both the freshwater and non-freshwater is not appropriate, and two EMHs will be required within the pORPS.

A comparison between the NPSIB EMH and ECO-P6

93 ECO-P6 contains an EMH which is applied for the purpose of maintaining indigenous biodiversity outside of the coastal environment. It specifically seeks the following:

> *Outside the coastal environment, ~~M~~maintain Otago's indigenous biodiversity (excluding ~~the coastal environment and~~ areas ~~managed~~ protected under ECO-P3) by applying the following ~~biodiversity~~ effects management hierarchy (in relation to indigenous biodiversity) in decision-making on applications for resource consent, plan change and notices of requirement:*
>
> *(1) avoid adverse effects as the first priority,*
>
> *(2) where adverse effects demonstrably cannot be completely avoided, they are remedied,*
>
> *(3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,*
>
> *(4) where there are more than minor residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and*
>
> *(5) if biodiversity offsetting of more than minor residual adverse effects is not possible, then:*
>
> *(a) ~~the~~ those residual adverse effects are compensated for in accordance with APP4, and*
>
> *(b) if ~~the~~ those residual adverse effects cannot be compensated for in accordance with APP4, the activity is avoided.*

94 ECO-P6 appears to create a more stringent EMH to managing the effects of activities on indigenous biodiversity than the EMH in the NPSIB. Firstly, ECO-P6(1) sets out to, "*avoid adverse effects as the first priority*", while step (a) of the NPSIB includes the qualifier, "*where practicable*".

95 ECO-P6(2) then provides for the remediation of adverse effects where adverse effects cannot be avoided. This does not align with step (b) of the NPSIB which requires minimising adverse effects where they cannot be avoided.

96 ECO-P6(3) then requires adverse effects that cannot be completely avoided or remedied to be "*mitigated*". I note the NPSIB does not use the term *mitigate*. Step (c) of the NPSIB EMH states that where adverse effects cannot be minimised, they are remedied where practicable.

97 ECO-P6(4), (5) and (6) and NPSIB steps (d), (e) and (f) are largely similar in that they both require:

- where more than minor residual adverse effects remain, biodiversity offsetting is provided where possible,
- where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided,
- if biodiversity compensation is not appropriate, the activity itself is avoided.

98 An important difference between ECO-P6 and the EMH in the NPSIB is the extent of the areas they apply to. ECO-P6 applies to all indigenous biodiversity (with some exceptions to give effect to the NZCPS), whereas the NPSIB only applies to terrestrial biodiversity with limited exceptions set out in clause 1.3 of the NSPIB.

99 In addition, clause 3.16 direct how indigenous biodiversity is to be managed outside of SNA's. It states:

> *(1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.*

(2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), must be managed to give effect to the objective and policies of this National Policy Statement.

(3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

100 This is at odds with the drafting of ECO-P6 which requires the maintenance of indigenous biodiversity by applying the following biodiversity effects management hierarchy to all activities that will adversely affect indigenous biodiversity, which is more stringent that the requirements set out within clause 3.16 above.

A recommended approach to an EMH for indigenous biodiversity in the pORPS

101 When considering how best to give effect to the requirements of the NSPIB, I consider there are three decisions to be made. Firstly, which version of the EMH should be included within the pORPS? Secondly, what will the scope of the EMH be? Thirdly, should the EMH within ECO-P6 be used to manage all adverse effects on indigenous biodiversity, outside of SNA's or should the more nuanced approach as set out within clause 3.16 be adopted?

102 In relation to the first decision, I recommended that the EMH listed within clauses (1) to (5) of ECO-P6 is removed from the pOPRS and the definition of "Effects management hierarchy (in relation to indigenous biodiversity)" is replaced by the definition of EMH in the NSPIB. While I acknowledge that ECO-P6 EMH appears to be more stringent than the EMH in the NPSIB, I consider the intention of the NPSIB is to provide nationally consistent direction on how to identify and protect significant indigenous biodiversity and manage the adverse effects of subdivision use and development, and there is no evidence to suggest that there is a need to stray from the EMH in the Otago context.

103 In relation to the second decision, I agree with the analysis within paragraphs 103 – 104 and Appendix 2 of Ms Boyd's supplementary evidence to the FPI hearing, that the EMH in the NPSIB is more stringent than the EMH in the NPSFM. I also agree with Ms Boyd's analysis within

paragraphs 108 – 111 that there is technical evidence[11] to support the broad application of the NPSIB EMH within Otago given the significance of freshwater biodiversity found in the Otago Region.

104 For these reasons, I consider the application of the EMH within the ECO chapter should retain a broad scope and apply to all biodiversity (including wetlands and freshwater biodiversity), excluding biodiversity within the coastal environment which is managed by CE-P5, rather than be limited to just terrestrial biodiversity.

105 Finally, in relation to the application of the EMH outside of SNA's, the direction within clause 3.16 is clear that the EMH needs to apply to 'any significant adverse effects', with 'all other adverse effects' required to be 'managed to give effect to the objective and policies of this National Policy Statement'. Therefore, I recommend an amendment is made to ECO-P6 to give effect to clause 3.16 by splitting ECO-P6 into two clauses, with clause (1) requiring that the EMH be applied to manage significant adverse effects from new subdivision, use, or development on indigenous biodiversity, and clause (2) requiring that all other adverse effects of any activity must be managed to ensure the maintenance of indigenous biodiversity as required by clause 1.7 of the NPSIB.

106 Given the assessment above, I recommended ECO-P6 and the definition of effect management hierarchy be amended as follows:

> *ECO-P6 – Maintaining indigenous biodiversity*
>
> *Outside the coastal environment, ~~M~~maintain[12]manage Otago's indigenous biodiversity (excluding ~~the coastal environment and~~[13] areas ~~managed~~ protected[14] under ECO-P3, and activities managed under ECOP6A(1)) by:*
>
> *(1) applying the ~~following~~ biodiversity effects management hierarchy (in relation to indigenous biodiversity)[15] to new subdivision, use, or development that has a significant adverse effect on indigenous biodiversity, and*
>
> *(2) requiring the maintenance of indigenous biodiversity for all other adverse effects of any activity.*

[11] Marine Richarson and Nicholas Dunn for Director-General of Conservation
[12] Clause (10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00301.028 Port Otago
[13] Clause 10(2)(b)(i) - Consequential amendment arising from 00226.223 Kāi Tahu ki Otago
[14] 00230.105 Forest and Bird
[15] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga

~~*in decision-making on applications for resource consent, plan change*~~[16] ~~*and notices of requirement.*~~

~~*(1) avoid adverse effects as the first priority;*~~

~~*(2) where adverse effects demonstrably cannot be completely avoided, they are remedied;*~~

~~*(3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated;*~~

Effects management hierarchy (in relation to indigenous biodiversity) means: ~~*the effects management hierarchy set out in ECO-P6.*~~

an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

(a) adverse effects are avoided where practicable; then

(b) where adverse effects cannot be avoided, they are minimised where practicable; then

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then

(e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then

(f) if Biodiversity compensation is not appropriate, the activity itself is avoided.

107 Consequentially, I also recommend the addition of a new definition 'Maintenance of indigenous biodiversity' that replicates clause 1.7 of the NSPIB as follows:

Maintenance of indigenous biodiversity *means:*

(a) the maintenance and at least no overall reduction of all the following:

(i) the size of populations of indigenous species:

(ii) indigenous species occupancy across their natural range:

(iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:

[16] 00138.036 Queenstown Lakes District Council

(iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:

(v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:

(vi) the resilience and adaptability of ecosystems; and

(b) where necessary, the restoration and enhancement of ecosystems and habitats.

Biodiversity offset

Relevant definition

108 Of relevance across the ECO chapter is the definition of *indigenous biodiversity*. The definition included in the NPSIB states:

> *means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.*

109 The NPSIB also defines *indigenous vegetation* as:

> *means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.*

110 The pORPS does not include a definition specifically for indigenous biodiversity but does include a definition for indigenous vegetation which largely corresponds to the definition provided by the NPSIB.

111 A *definition for indigenous species (in relation to the ECO chapter) is* also included in the pORPS which means:

> *species that occur naturally in Otago.*

112 I acknowledge that the definitions for indigenous biodiversity, indigenous vegetation, and indigenous species are used multiple times across the ECO chapter. In my opinion it would add clarity to the pORPS to insert a new definition of indigenous biodiversity which replicates that of the NPSIB and retain the definitions for indigenous vegetation and indigenous species, as set out in the pORPS.

113 The NPSIB includes a definition of biodiversity offsetting, meaning:

> *a measurable conservation outcome that meets the requirements in Appendix 3 and results from actions that are intended to:*

(a) *redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and*

(b) *achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.*

114 The pORPS does not include a definition for "biodiversity offset" but does include a definition of "aquatic offset" which replicates the meaning set out in the NPSFM and supports the effects management hierarchy (in relation to natural wetlands and rivers). I note reference to biodiversity offset is made in ECO-P3 and APP3.

115 In my opinion it is necessary to include amendments to the pORPS for interpretation of provisions relating specifically to indigenous biodiversity and support the definition of "effects management hierarchy (in relation to indigenous biodiversity)". This ensures that the nationally consistent direction to biodiversity offsetting is adopted in the Otago context. As such, I consider inserting the following new definition for "biodiversity offset" to align with the NPSIB and clearly signpost its application relates to indigenous biodiversity to avoid any confusion:

> ***Biodiversity offset:*** *means a measurable conservation outcome that meets the requirements in Appendix 3 and results from actions that are intended to:*
>
> *(a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and*
>
> *(b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.*

Implementation

116 The NPSIB Appendix 3 sets out eleven principles for biodiversity offsetting. These principles apply to the use of biodiversity offsets for adverse effects on indigenous biodiversity, including:

(1) Adherence to effects management hierarchy

(2) When biodiversity offsetting is not appropriate

(3) Net gain

(4) Additionality

(5) Leakage

(6) Long-term outcomes

(7) Landscape context

(8) Time lags

(9) Science and mātauranga Māori

(10) Tangata whenua and stakeholder participation

(11) Transparency

117 The pORPS APP3 sets out the criteria for biodiversity offsetting, which in the first instance details when biodiversity offsetting is not available. This includes if the proposed activity will result in certain adverse effects, such as loss of threatened taxa, worsening conservation status, or loss of health and resilience of ecosystems.

118 Dr Lloyd has provided evidence comparing the APP3 of the pORPS and NPSIB Appendix 3. Within paragraphs 31 - 40 of this evidence. In paragraphs 41 - 43 he summarises his suggested amendments as follows:

> *"In summary, I recommend that APP3 of the PORPS is replaced with Appendix 3 of the NPSIB, with the following amendments:*
>
> *41.1 The 'bottom lines' in APP3 (1) should be included within APP3 should be included in the PORPS offsetting policy if this is possible.*
>
> *41.2 The additional criteria I suggest in paragraph 38 should be added to the Appendix 3 NPS-IB criteria. This would promote more robust offsetting and not weaken the NPS-IB criteria."*

119 I agree with Dr Lloyd that APP3 of the PORPS is replaced with Appendix 3 of the NPSIB. I also agree in principle that the 'bottom lines' in APP3 (1) should be retained in the pORPS as it provides a list of particularly vulnerable indigenous biodiversity that would not be appropriate to offset. However, rather than being included as a 'bottom line' or 'gateway test' that is applied prior to biodiversity offsetting can be considered, I consider this list of particularly vulnerable indigenous biodiversity should be included within APP3(2) as examples of when 'biodiversity offsetting is not appropriate'.

120 As such, I recommend that the APP3 of the PORPS is replaced with Appendix 3 of the NPSIB, with the following addition to clause (2):

> *(2) **When biodiversity offsetting is not appropriate:** Biodiversity offsets are not appropriate in situations where indigenous biodiversity values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:*
>
> *(a) …*
>
> *(d) the loss from an ecological district of Threatened taxa, other than kānuka (Kunzea robusta and Kunzea serotina), under the New Zealand Threat Classification System (Townsend et al, 2008); or*
>
> *(e) the likely worsening of the conservation status of any indigenous biodiversity as listed under the New Zealand Threat Classification System (Townsend et al, 2008); or*
>
> *(f) the removal or loss of health and resilience of a naturally uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna; or*

Biodiversity compensation

Relevant definition

121 The NPSIB includes a definition for *biodiversity compensation*, meaning:

> *a conservation outcome that meets the requirements in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.*

122 The pORPS does not include a definition for biodiversity compensation but does include a definition of "aquatic compensation" which replicates the meaning set out in the NPSFM and supports the effects management hierarchy (in relation to natural wetlands and rivers). I note reference to biodiversity compensation is made in APP4.

123 In my opinion and again for consistency it is necessary to include amendments to the pORPS for interpretation of provisions relating specifically to indigenous biodiversity and support the definition of "effects management hierarchy (in relation to indigenous biodiversity)". As such, I consider inserting the following new definition for "biodiversity

compensation" to align with the NPSIB and clearly signpost its application relates to indigenous biodiversity to avoid any confusion:

> ***Biodiversity compensation:*** *means a conservation outcome that meets the requirements in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.*

Implementation

124 The NPSIB Appendix 4 sets out thirteen principles for biodiversity compensation. These principles apply to the use of biodiversity compensation for adverse effects on indigenous biodiversity and include:

(1) Adherence to effects management hierarchy

(2) When biodiversity compensation is not appropriate

(3) Scale of biodiversity compensation

(4) Additionality

(5) Leakage

(6) Lon-term outcomes

(7) Landscape context

(8) Time lags

(9) Trading up

(10) Financial contributions

(11) Science and mātauranga Māori

(12) Tangata whenua and stakeholder participation

(13) Transparency.

125 The pORPS APP4 sets out the criteria for biodiversity compensation, which starts by detailing when biodiversity compensation is not available. This includes if the proposed activity will result in certain adverse effects, such as loss of indigenous taxa or ecosystems, removal of Threatened or At Risk species' habitats, or worsening conservation status.

126 Dr Lloyd has provided evidence comparing the APP4 of the pORPS and NPSIB Appendix 4 within paragraphs 42 - 51 of this evidence. In paragraph 52 he summarises his suggested amendments as follows:

> *"In summary, I recommend that APP4 of the PORPS is replaced with Appendix 4 of the NPSIB, with the following amendments:*
>
> *52.1 A criterion for achievability should be added.*
>
> *52.2 With the potential exception of APP4(1)(a), the 'bottom lines' in APP4 (1) should be added to clause (2) of the NPS-IB principles."*

127 I agree with Dr Lloyd that APP4 of the PORPS is replaced with Appendix 4 of the NPSIB. I also agree in principle that the 'bottom lines' in APP4 (1) with the exception of APP4(1)(a), which should be replaced by the equivalent 'bottom line' from APP3(1)(a) should be retained in the pORPS as it provides a list of particularly vulnerable indigenous biodiversity that would not be appropriate to compensate. I consider this list of particularly vulnerable indigenous biodiversity should be included within APP4(2) as examples of when 'biodiversity compensation is not appropriate'.

128 In relation to Dr Lloyds suggested addition of 'achievable' I agree that this additional principle should be retained within APP4 to strengthen the principles given the nationally important indigenous biodiversity in the Otago detailed in paragraphs 12 – 22 of Dr Lloyds evidence.

129 Given this, I recommend that the APP4 of the PORPS is replaced with Appendix 4 of the NPSIB, with the following addition to clauses (2) and (14):

> *(2) **When biodiversity compensation is not appropriate:** Biodiversity compensation is not appropriate where indigenous biodiversity values are not able to be compensated for. Examples of biodiversity compensation not being appropriate include where:*
>
> *(a) …*
>
> *(d) the loss from an ecological district of Threatened taxa, other than kānuka (Kunzea robusta and Kunzea serotina), under the New Zealand Threat Classification System (Townsend et al, 2008); or*
>
> *(e) removal or loss of viability of the habitat of a Threatened indigenous species of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),*

(f) removal or loss of health and resilience of a naturally uncommon ecosystem type that is associated with indigenous vegetation or habitat of indigenous fauna,

(g) the likely worsening of the conservation status of any Threatened or At Risk indigenous biodiversity listed under the New Zealand Threat Classification System (Townsend et al, 2008), or

(3) …

(14) Achievability: The biodiversity compensation outcome is demonstrably achievable.

Renewable electricity generation and electricity transmission networks

130 Clause 1.3(3) of the NPSIB states that:

> *Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities.*

131 This is a difficult proposition for the ECO chapter because its provisions apply to all activities. One of the key provisions in the NPSIB is the use of the EMH, outlined above. The question for the panel to consider is whether the ECO chapter should retain its existing scope (i.e., applying to all activities) or whether it should be amended to reflect the scope of the NPSIB (i.e., excluding the development, operation, maintenance or upgrade of renewable electricity generation and electricity transmission network assets and activities).

132 I am aware that the Government recently consulted on a draft NPSREG and draft NPSET that would replace the current versions of those documents.[17] Both drafts contain an EMH for these activities. I presume that renewable electricity generation and electricity transmission networks have been excluded from the NPSIB on the basis that they will be managed under these new NPSs, however as those drafts have not come into effect, they have no legal weight. It is the versions of the NPSREG and NPSET currently in force that must be given effect to by the pORPS.

133 In my view, the following provisions in the ECO chapter are most relevant to these activities:

[17] https://www.mbie.govt.nz/have-your-say/renewable-electricity/

133.1 ECO-P3 which manages activities within SNAs;

133.2 ECO-P4 which sets out an alternative management approach for certain activities occurring within SNAs;

133.3 ECO-P6 which sets out how indigenous biodiversity will be maintained (by implementing an EMH).

134 Due to the exclusion in clause 1.3(3), the equivalent provisions in the NPSIB[18] do not apply to renewable electricity generation or electricity transmission assets or activities.

135 Also relevant for the management of these activities is EIT-INF-P13 which requires that:

135.1 New infrastructure (including nationally and regionally significant infrastructure) must avoid, as a first priority, locating within an SNA, and

135.2 If it is not demonstrably practicable to avoid locating in an SNA due to the functional or operational needs of the infrastructure, then effects from nationally or regionally significant infrastructure within an SNA must be managed in accordance with ECO-P4 and effects from other infrastructure must avoid adverse effects on the values that contribute to the area's significance.

136 Some renewable electricity generation and electricity transmission network activities will be nationally or regionally significant and others will not. If the ECO provisions do not apply to renewable electricity generation and electricity transmission networks, then the direction above in EIT-INF-P13 for nationally or regionally significant infrastructure is circular – it requires effects to be managed in accordance with ECO-P4, but that policy would not apply. For other infrastructure, the direction in paragraph 135.2 will still apply (i.e., adverse effects on the values that contribute to the area's significance must be avoided).

137 In my view, although the NPSIB does not apply to renewable electricity generation or electricity transmission networks, this does not mean their

[18] Being clauses 3.10 (Managing adverse effects on SNAs of new subdivision, use, and Development), 3.11 (Exceptions to clause 3.10(2)), 3.15 (Managing adverse effects of established activities on SNAs),

effects should not be managed at all. I am aware that this point has been made in the legal submissions of Forest and Bird on the FPI parts of the pORPS.[19] There are still obligations on local authorities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna[20] and to maintain indigenous biodiversity.[21] I recommend including new policy ECO-P6A as follows:

> **ECO-P6A – Renewable electricity generation and electricity transmission networks**
>
> Manage the effects of the development, operation, maintenance, and upgrade of renewable electricity generation and electricity transmission network infrastructure on indigenous biodiversity (outside water bodies and the coastal marine area) by:
>
> (1) for infrastructure that is nationally significant infrastructure or regionally significant infrastructure:
>
> (a) avoiding, as a first priority, locating within significant natural areas, and
>
> (b) if it not demonstrably practicable to avoid locating within a significant natural area because of the functional needs or operational needs of the infrastructure, minimise adverse effects on the values of the area, and
>
> (c) outside significant natural areas, avoiding, remedying, or mitigating adverse effects on indigenous biodiversity to the extent practicable, and
>
> (d) having regard to the offsetting principles set out within APP3 or the compensation principles set out within APP4 for any residual adverse effects; and
>
> (2) for infrastructure not addressed in (1), managing adverse effects in accordance with ECO-P6.

138 Clause (1)(a) and (b) adopts the same approach as EIT-INF-P13(1). Clause (1)(c) adopts the direction from Policy 5 the draft NPSREG[22] and Policy 6 of the draft NPSET[23]. Clause (1)(d) then acknowledges that

[19] Legal submissions for Forest and Bird dated 6 September 2023, paras 45-59
[20] Section 6(c), RMA
[21] Sections 30(1)(ga) and 31(1)(b)(iii), RMA
[22] *Policy 5: In areas that are not areas with significant environment values, REG activities are enabled provided any adverse effects on the values of those areas, including on local amenity values, are avoided, remedied, or mitigated to the extent practicable.*
[23] *Policy 6: In areas that are not areas with significant environment values, ETN activities are enabled provided any adverse effects on the values of those areas, including on local amenity values, are avoided, remedied, or mitigated to the extent practicable.*

offsetting and compensation is provided for within Policy C2 of the NESREG and is anticipated within both the draft NPSREG and the draft NPSET.

139 In my view, this policy addresses the 'gap' in the NPSIB for managing the effects of these activities in a way that is consistent with the approach taken in the EIT chapter of the pORPS and gives effect to the NPSREG and NPSET. It also ensures that the pORPS still fulfils its obligations under sections 6, 30, and 31 of the RMA.

Significant Natural Areas (SNAs)

140 The NPSIB aims to protect, maintain, and restore indigenous biodiversity. It achieves this in part by providing for the management of significant natural areas (SNAs).

141 Three policies in the NPSIB relate specifically to SNAs:

> ***Policy 6:*** *Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach.*
>
> ***Policy 7:*** *SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*
>
> ***Policy 9:*** *Certain established activities are provided for within and outside SNAs.*

142 Part 3 Subpart 2 sets out how to identify and manage SNAs. It includes specific direction on how to manage the adverse effects of activities on SNAs, and how indigenous biodiversity outside SNAs is to be managed.

143 I have assessed the implications of giving effect to the NPSIB SNA requirements within the pORPS under the following five topics:

143.1 Definitions

143.2 Identifying SNAs

143.3 Significance criteria

143.4 Effects on SNAs

143.5 SNAs on specified Māori land

<u>Definitions</u>

144 The pORPS defines the term *significant natural area* to mean:

> *areas of significant indigenous vegetation and significant habitats of indigenous fauna ~~that are located outside the coastal environment~~*

145 The NPSIB defines an SNA or significant natural area as:

> *(a) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1; and*
>
> *(b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.*

146 Also relevant are the NPSIB definitions for "ecological district" and "habitat". The NPSIB defines "ecological district" as:

> *(a) in relation to geothermal ecosystems in the Taupō Volcanic Zone, the Taupō Volcanic Zone; and*
>
> *(b) for all other areas, the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.*

147 The NPSIB defines "habitat" as:

> *the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern; but does not include built structures or an area or environment where an organism is present only fleetingly.*

148 I consider the NPSIB definition of "significant natural area" provides greater clarity than the pORPS definition because it recognises both future SNAs that will be identified in accordance with Appendix 1 of the NPSIB, and those existing SNAs which have already been identified and verified by a qualified ecologist. The pORPS terminology is more general and applies to areas of significant indigenous vegetation and significant habitats of indigenous fauna. Accordingly, I consider the following amendment to the definition of "significant natural area" necessary to give effect to the NPSIB:

~~***Significant natural area*** *means areas of significant indigenous vegetation and significant habitats of indigenous fauna that are located outside the coastal environment.*~~

SNA, or significant natural area*, means:*

(a) any area that, after 4 August 2023, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1; and

(b) any area that, after 4 August 2024, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.

149 In relation to the definition "ecological district" and "habitat", I note that while the pORPS does not include these definitions, they are referred to elsewhere in the ECO provisions. It is my opinion that these definitions should be included to align with the NPSIB as this will be beneficial for interpretation and application of the pORPS provisions. The NPSIB definition contains reference to the Taupo Volcanic Zone which I consider can be omitted given it is not relevant to Otago. I recommend the following definition be included:

ecological district *means:*

the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.

habitat *means:*

the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern; but does not include built structures or an area or environment where an organism is present only fleetingly.

Identifying SNAs

150 Two clauses within the NPSIB set out the requirements for the assessment and identification of SNAs by territorial authorities. Clause 3.8 relates to assessing areas that qualify as SNAs. Its eight subclauses are summarised below:

(1) territorial authorities must conduct assessments across their districts to identify significant indigenous vegetation and significant habitat of indigenous fauna that qualify as SNAs.

(2) assessments must follow specific criteria provided in Appendix 1 and adhere to principles like partnership with indigenous groups, transparency in sharing information, quality verification of natural area values, respectful access to properties, consistent application of criteria, and impartial determination of boundaries.

(3) local authorities must conduct a physical inspection if feasible; or use the best available information available, if a landowner disputes the values or extent of a proposed SNA.

(4) regional councils must support territorial authorities in their assessment efforts if requested.

(5) territorial authorities have four years from the commencement date of the NPSIB to verify that areas already identified as SNAs have been done so in accordance with the identification method consistent with the approach detailed in Appendix 1 and therefore, are exempt from reassessment.

(6) territorial authorities must conduct an assessment following the specified process when an area is suspected to meet the criteria for SNA qualification. Once confirmed, the territorial authority must include the newly identified SNA in the next relevant plan or plan change.

(7) relate to SNAs in geothermal areas and is unrelated to the Otago context.

(8) Crown-owned lands managed by the Department of Conservation are exempt from the assessment process if they meet specific conditions regarding protection classifications and management status.

151 Clause 3.9 provides for identifying SNAs in district plans. It requires territorial authorities to notify a plan or plan change that identifies each area within their districts that qualifies as an SNA because it meets the criteria set out in Appendix 1. The notified plan/change should detail the SNA's

location, a description of its attributes, and incorporate a map. During a plan review, territorial authorities must re-evaluate their districts, in accordance with clause 3.8 (1) and (2), to determine if amendments are required.

152 I consider these NPSIB requirements are given effect to through ECO-P2 – Identifying significant natural areas and toaka and ECO-M2 – Identification of significant natural areas.

153 ECO-P2 requires councils to:

> *Identify and map:*
>
> *(1) the areas and indigenous biodiversity values of significant natural areas in accordance with APP2, and*
>
> *(2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, in accordance with ECO-M3*

154 ECO-M2 sets out the process for identifying SNAs, assigns responsibility of undertaking this process to territorial authorities, requires areas qualifying as an SNA to be identified in a notified plan or plan change and directs councils to map and verify the areas and include the identified indigenous biodiversity values in relevant plans.

155 Regarding ECO-P2, I do not consider the pORPS adequately achieves the directions set out in the NPSIB. ECO-P2 requires identification and mapping of areas of indigenous biodiversity "values" of significant natural areas in accordance with APP2, and where appropriate, identifying and mapping indigenous species and ecosystems that are culturally significant in accordance with ECO-M3. It does not require the application of any principles. This is inconsistent to the direction of clause 3.8(1) and 3.8(2) of the NPSIB which does not refer to values, rather requires the identification of areas and indigenous biodiversity vegetation or significant habitat of indigenous fauna that qualify as SNA by applying the assessment criteria in Appendix 1 and states the principles to apply when undertaking the assessment. As such, I consider the following amendment to ECO-P2 is required for consistency with the NPSIB:

> *Identify and map:*
>
> *(1) the areas ~~and indigenous biodiversity values of significant natural areas in accordance with APP2~~ of significant indigenous vegetation*

or significant habitat of indigenous fauna that qualify as SNAs using the assessment criteria in APP2 and in accordance with ECO-M2, and

(2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, in accordance with ECO-M3.

156 I also recommended that the principles listed within Clause 3.8(2) of the NPSIB be included within APP2.

157 ECO-M2 details *how* ECO-P2 is to be implemented. I note ECO-M2(1), (2), and (3A) require that territorial authorities identify SNAs in accordance with ECO-P2 and map and verify these areas within the relevant district or regional plan which is consistent with the requirements of NSPIB Clause 3.9. However, I note ECO-M2 does not provide detail to territorial authorities regarding disputed SNAs, regional council assistance in the SNA identification process, existing SNA exemptions, potential SNA discovery, or Crown-owned land, all of which are requirements of clause 3.8(3) to (8) of the NPSIB. Accordingly, I consider the following amendments are necessary to give effect to the NSPIB:

ECO-M2 – Identification of significant natural areas

Local authorities must:

(1) …

(6) If the values or extent of a proposed SNA are disputed by the landowner, the local authority must conduct a physical inspection of the area, unless a physical inspection is not practicable; and in that case the local authority must use the best information available to it at the time.

When identifying significant natural areas:

(7) If requested by a territorial authority, the regional council will assist the territorial authority in undertaking its district-wide assessment.

(8) Where a territorial authority has identified an SNA prior to August 2023 a suitably qualified ecologist must be engaged by the territorial authority to confirm that the methodology originally used to identify the area as an SNA, and its application, is consistent with the assessment approach in APP2. This must be completed by August 2027.

(9) If a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant

habitat of indigenous fauna that qualifies as an SNA, the territorial authority must:

(a) conduct an assessment of the area in accordance with APP2 as soon as practicable; and

(b) if a new SNA is identified as a result, include it in the next appropriate plan or plan change notified by the territorial authority.

(10) When a territorial authority does its 10-yearly plan review, it must assess its district in accordance with ECO-P2 and APP2 to determine whether changes are needed.

(11) An area of Crown-owned land may qualify as an SNA without the need for the assessment required by ECO-P2, using APP2, if:

(a) the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and

(b) the territorial authority is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as an SNA under APP2; and

(c) the area is:

(i) a large and more-or-less contiguous area managed under a single protection classification (such as a national park); or

(ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park); or

(iii) a well-defined landscape or geographical feature (such as an island or mountain range); or

(iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.

Significance criteria

158 Appendix 1 of the NPSIB states the criteria for identifying significant indigenous vegetation or significant habitats of indigenous fauna are: representativeness, diversity and pattern, rarity and distinctiveness, and ecological context.

159 APP2 of the pORPS details the significance criteria and corresponding attributes for indigenous biodiversity, which includes representativeness, rarity, diversity, distinctiveness, and ecological context.

160 The pORPS APP2 and NPSIB Appendix 1 both set out the criteria for identifying areas that qualify as SNAs under four distinct categories. However, the Appendix 1 in the NPSIB provides greater guidance and details the manner and form the assessment. Additionally, it applies only to ecological districts, while APP2 applies not only ecological districts, but also freshwater or marine bioregions.

161 Dr Lloyd has provided evidence comparing APP2 of the pORPS and NPSIB Appendix 1 within paragraphs 24 – 29 of this evidence. In paragraph 30 he summarises his suggested amendments as follows:

> *"In summary, I recommend that APP2 of the PORPS is replaced with Appendix 1 of the NPSIB, with the addition of the fauna habitat criterion added as an attribute of the ecological context criterion."*

162 I agree with Dr Lloyd that APP2 of the PORPS is replaced with Appendix 1 of the NPSIB. I also agree that the fauna habitat criterion should be added as an attribute of the ecological context criterion.

163 Given the evidence of Dr Lloyd I recommend replacing APP2 of the pORPS with Appendix 1 of the NPSIB with the following addition to the 'Attributes of ecological context:

Attributes of ecological context

(3) An area that qualifies as an SNA under this criterion has at least one of the following attributes:

(a) …

(e) an area that is important for a population of indigenous fauna during a critical part of their life cycle, either seasonally or permanently, e.g., for feeding, resting, nesting, breeding, spawning or refuges from predation.

Effects on SNAs

164 Clause 3.10 of the NPSIB set out the requirements to manage adverse effects on SNAs of new subdivision, use, or development activities[24].

165 Subclause 3.10(1) set out a number of activities that are excluded from this clause, which include:

- public health and safety activities (subclause 6(a)),
- customary use of indigenous biodiversity (subclause 6(b)),
- activities of the Crown under the Conservation Act 1987(subclause 6(c)),
- the harvest of indigenous tree under the Forests Act 1949 (subclause 6(e)),
- the management of SNA's on specified Māori land (clause 3.12 and 3.18)
- the management of plantation forestry activities (clause 3.14)

166 Subclause 3.10(2) sets out the specific adverse effects on SNAs that must be avoided, including include the loss of ecosystem representation, disruption to ecosystem function, fragmentation of SNAs or the reduction in their function as buffers or connections, and impact on species population or occupancy (except as provided for by clause 3.11).

167 Subclause 3.10(3) states that adverse effects on an SNA from new activities not covered in subclause (2) or exceptions in clause 3.11 must be addressed using the effects management hierarchy.

168 Subclause 3.10(4) stipulates that applicants must demonstrate how they intend to apply the hierarchy and, if relevant, comply with biodiversity offsetting and compensation principles.

169 Subclause 3.10(5) states that if land in an SNA is covered by a specified covenant or kawenata, a local authority may, at the request of the

[24] This clause applies to any new subdivision, use, or development that is in, or affects, an SNA, except as provided in:
(a) subclause (6);
(b) clauses 3.12 and 3.18 related to SNAs on specified Māori land; and
(c) clause 3.13 related to geothermal SNAs; and
(d) clause 3.14 related to about plantation forestry activities.

landowner or lessee, allow certain specified activities within the SNA that may not be consistent with policy statements and plans made under this clause under particular conditions.

170 Subclause 3.10(6) applies certain exemptions based on specified conditions, such as land covered by covenants, and activities related to health and safety, indigenous biodiversity use, certain Crown activities, and authorised harvesting.

171 Subclause (7) which requires every local authority to make or change its policy statement and plans to be consistent with clause 3.10

(1) Clause 3.10(3) states that adverse effects on an SNA from new activities not covered in subclause (2) or exceptions in clause 3.11 must be addressed using the effects management hierarchy.

(2) Clause 3.10(4) stipulates that applicants must demonstrate how they intend to apply the hierarchy and, if relevant, comply with biodiversity offsetting and compensation principles.

172 Under specific circumstances, Clause 3.10(2) does not apply, and adverse effects are managed differently. Clause 3.11 of the NPSIB provides greater detail about these circumstances. These include scenarios where:

(a) the new subdivision, use or development is required for the purposes of any of the following:

(i) construction or upgrade (if the upgrade does not meet the requirements of clause 3.15(2)) of specified infrastructure that provides significant national or regional public benefit:

(ii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; but this subparagraph does not apply to any mineral extraction that is coal mining, and subparagraph (iv) applies instead:

(iii) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand:

(iv) the operation or expansion of any coal mine that was lawfully established before the commencement date (see clause 1.2); except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; and

(b) *there is a functional need or operational need for the new subdivision, use or development to be in that particular location; and*

(c) *there are no practicable alternative locations for the new subdivision, use or development.*

173 Clause 3.11 provides for the management of adverse effects of certain activities on SNAs. These activities need not comply with the requirements set out in 3.10(2) but must still be managed through applying the effects management hierarchy.

174 Clause 3.11(1) outlines the conditions under which new subdivisions, developments, or uses are permitted. In summary, these conditions involve specific purposes including:

(i) *constructing/upgrading specified infrastructure that provides significant national or regional public benefit,*

(ii) *mineral extraction that provides significant national public benefit,*

(iii) *aggregate extraction that provides significant national or regional public benefit, and*

(iv) *coal mine operation.*

175 The functional and operational requirements and lack of alternative locations are also recognised.

176 Subclause 3.11(2) to (5) provide for the following activities subject to conditions:

- Single residential dwellings,
- SNA maintenance or restoration,
- Establishment of indigenous biodiversity areas primarily for purposes other than the maintenance or restoration of that indigenous biodiversity, and
- Harvesting of indigenous tree species from SNAs under the Forests Act 1949.

177 Relating to clauses 3.10(2) and 3.11(1)(a)(ii) is the definition of "*specified infrastructure*". The NPSIB states this means any of the following:

(a) *infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):*

(b) *regionally or nationally significant infrastructure identified as such in a National Policy Statement, the New Zealand Coastal Policy Statement, or a regional policy statement or plan:*

(c) *infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban Development 2020):*

(d) *any public flood control, flood protection, or drainage works carried out:*

(i) *by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or*

(ii) *for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:*

(e) *defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.*

178 The relevant pORPS provisions which manage the adverse effects on an SNA include:

- Definition of "indigenous biodiversity (in relation to indigenous biodiversity)
- significant natural areas and taoka
- ECO-P4 – Provision for new activities
- ECO-M4 – Regional plans
- ECO-M5 – District plans

179 As set out above, I am recommending that the EMH listed within clauses (1) to (5) of ECO-P6 of the pORPS be removed and replaced with a definition of "effects management hierarchy (in relation to indigenous biodiversity)" consistent with the definition included within the NSPIB. This will also require a consequential amendment to ECO-P3(2) and ECO-P4 to remove reference to ECO-P6.

180 ECO-P3 requires the protection of SNAs and taoka. Clause (1) requires, in the first instance, avoiding adverse effects that result in either a reduction

of the identified area or values of a SNA or loss of taoka values. Clause (2) requires the effects management hierarchy to be applied to areas and values are not covered by ECO-P3(1). The policy also requires the adoption of a precautionary approach where SNA identification has not occurred.

181 ECO-P4 sets out which new activities are allowed to take place in SNAs and areas with indigenous biodiversity that are taoka, provided the sequential steps in the effects management hierarchy are followed. Specifically, it provides for:

> *(1) the development, operation, maintenance or upgrade of nationally significant infrastructure and regionally significant infrastructure that has a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,*
>
> *(1A) the development, operation and maintenance of mineral extraction activities that provide a significant national public benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,*
>
> *(1B) the development, operation and maintenance of aggregate extraction activities that provide a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,*
>
> *(2) the development of papakāika, marae and ancillary facilities associated with customary activities on Native reserves and Māori land,*
>
> *(2A) the sustainable use of mahika kai and kaimoana (seafood) by mana whenua,*
>
> *(3) the use of Native reserves and Māori land ~~in a way that will make a significant contribution~~ to enable mana whenua to maintain their connection to their whenua and enhance~~ing~~ ~~the~~ social, cultural or economic well-being, ~~of takata whenua,~~*
>
> *(4) activities that are for the purpose of protecting, restoring or enhancing a significant natural area or indigenous species or ecosystems that are taoka, or*

(5) *activities that are for the purpose of addressing a severe ~~and~~ or immediate risk to public health or safety.*

182 ECO-M4 sets out the requirements for Otago regional plans. It requires Otago Regional Council to prepare or amend and maintain its *regional plans* to:

(1) *if the requirements of ECO-P3 ~~and~~ to ECO-P6 can be met, provide for the use of lakes and rivers and their beds, including:*

(a) *activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and*

(b) *the maintenance and use of existing structures that are lawfully established (including infrastructure), and*

(c) *infrastructure that has a functional need or operational need to be sited or operated in a particular location,*

(1A) *manage the clearance or modification of indigenous vegetation, while allowing for mahika kai and kaimoana (seafood) activities,*

(2) *require:*

(a) *resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) in ECO–P6 have been followed, and*

(b) *that consents are not granted if the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) in ECO–P6 have not been followed, and*

(3) *provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna.*

183 ECO-M5 sets out the requirements for district plans, in similar terms to ECO-M4.

184 Regarding ECO-P3, I consider clause (1) give effect to clause 3.10(2) of the NPSIB by requiring avoidance of adverse effects that result in any reduction of the area or indigenous biodiversity values that have been mapped in accordance with ECO-P2. I consider this will include the NPSIB requirements related to the loss of ecosystem representation, disruption to ecosystem function, fragmentation of SNAs or the reduction in their function as buffers or connections, and impact on species population or occupancy.

185 ECO-P3(2) currently requires the application of the effects management hierarchy to protect SNAs and ecosystems that are taoka and not covered by ECO-P3(1). It specifically references ECO-P6, which currently sets out the effects management hierarchy (in relation to indigenous biodiversity). As discussed in more detail above, I consider the EMH within clauses (1) – (5) of ECO-P6 can be deleted, and reliance can be placed on the new definition for effects management hierarchy (in relation to indigenous biodiversity). I therefore recognise the following consequential amendments are required to ECO-P3 to reflect this decision:

> *Outside the coastal environment, and ~~E~~except as provided for by ECO-P4 ~~and ECO-P5~~, protect significant natural areas and indigenous species and ecosystems that are taoka by:*
>
> *(1) first avoiding adverse effects that result in:*
>
> *(a) any reduction of the area or indigenous biodiversity values identified and mapped under ECO-P2(1), (even if those values are not themselves significant but contribute to an area being identified as a significant natural area) ~~identified under ECO-P2(1)~~, ~~or~~ and*
>
> *(b) any loss of ~~Kāi Tahu~~ taoka values identified by mana whenua as requiring protection under ECO-P2(2), and*
>
> *(2) after (1), applying the ~~biodiversity~~ effects management hierarchy (in relation to indigenous biodiversity) ~~in ECO-P6~~ to areas and values other than those covered by ECO-P3(1), and*
>
> *(3) prior to significant natural areas and indigenous species and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with ~~IM-P15~~IM-P6(2).*

186 Similarly, I consider that ECO-M4 and ECO-M5 implement ECO-P3. They both include cross-references to ECO-P6 which relates to the sequential steps set out in the effects management hierarchy. As discussed in detail above, I recommend the EMH within clauses (1) – (5) of ECO-P6 be deleted, and reliance can be placed on the new definition for effects management hierarchy (in relation to indigenous biodiversity). As such, I recognise the following consequential amendments are required to ECO-M4 to reflect this recommendation:

> *ECO-M4 – Regional plans*

Otago Regional Council must prepare or amend and maintain its regional plans to:

(1) if the requirements of ECO-P3 ~~and~~ to ECO-P~~4~~6 can be met, provide for the use of lakes and rivers and their beds, including:

(a) activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and

(b) the maintenance and use of existing structures that are lawfully established (including infrastructure), and

(c) infrastructure that has a functional need or operational need to be sited or operated in a particular location,

(1A) manage the clearance or modification of indigenous vegetation, while allowing for [58] mahika kai and kaimoana (seafood) activities,

(2) require:

(a) resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~in ECO–P6~~ have been followed, and

(b) that consents are not granted if the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~in ECO–P6~~ have not been followed, and

(3) provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna.

ECO-M5 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

(1) if the requirements of ECO-P3 ~~and~~ to ECO-P6 are met, provide for the use of land and the surface of water bodies including:

(a) activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and

(b) the maintenance and use of existing structures (including infrastructure), and

(c) infrastructure that has a functional or operational need to be sited or operated in a particular location,

(2) ~~control~~ manage the clearance or modification of indigenous vegetation, while allowing for mahika kai activities,

(3) *promote the establishment of esplanade reserves and esplanade strips, particularly where they would support ecological corridors, buffering or connectivity between significant natural areas, or access to mahika kai,*

(4) *require:*

(a) *resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~in ECO-P6~~ have been followed, and*

(b) *that consents are not granted if the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~in ECO-P6~~ have not been followed, and*

(5) *provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna, and*

(6) *prohibit the planting of wilding conifer species listed in APP5 within areas identified as significant natural areas.*

(7) *require buffer zones adjacent to significant natural areas where it is necessary to protect the significant natural area.*

187 In my opinion ECO-P4 generally achieves the requirements of clause 3.11 of the NPSIB which relates to the management of adverse effects of specified activities exempted from clause 3.10. Specifically, the following clauses enable specified activities provided the sequential steps set out in the effects management hierarchy (in relation to indigenous biodiversity) are applied:

(1) ECO-P4(1) states that the development, operation, maintenance or upgrade of nationally and regionally significant infrastructure must be functionally or operationally constrained to locate in SNAs areas or where they may adversely affect indigenous species and ecosystems that are taoka. I consider this achieves the directions set out in clause 3.11(1)(b)

(2) ECO-P4 (1A) provides for mineral extraction activities in SNAs provided they offer “a significant national public benefit” not attainable elsewhere, and if they require being in these areas due to functional or operational necessities. I recognise this directly aligns with the directives of clause 3.11(1)(ii).

(3) ECO-P4(1B) provides for aggregate activities, if they "provide a significant national or regional benefit" and if they require being in these areas due to functional or operational needs. In my opinion this gives effect to clause 3.11(1)(b).

(4) ECO-P4(4) enables activities which seek to protect, restore or enhance a SNA or indigenous species or ecosystems that are taoka. I consider this achieves the requirements of clauses 3.11(3)(a) and 3.11(4).

188 Clause 3.11(1)(a)(i) provides an exemption for 'specified infrastructure', whereas, ECO-P4(1) refers to 'nationally and regionally significant infrastructure'. Given the definition of 'specified infrastructure' is broader than the definition of 'nationally and regionally significant infrastructure' I recommended that the definition of 'specified infrastructure' is inserted into the pORPS an ECO-P4(1) be amended to refer to 'specified infrastructure'.

189 Additionally, I recognise ECO-P4 does not provide for:

- Coal mining activities as required by clause 3.11(1)(a)(iv)
- The use or development of single residential dwellings as required by clause 3.11(2)
- Activities that are for the purpose of harvesting indigenous tree species from an SNA as required by clause 3.11(5).

190 Given the inconsistencies outlined above, I recommend ECO-P4 be amended as follows:

> *Outside the coastal environment, ~~M~~maintain Otago's indigenous biodiversity by following the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~set out in ECO-P6~~ when making decisions on plans, applications for resource consent or notices of requirement for the following activities in significant natural areas or where they may adversely affect indigenous species and ecosystems that are taoka that have been identified by mana whenua as requiring protection:*
>
> *(1) the development, operation, maintenance or upgrade of specified infrastructure ~~nationally significant infrastructure~~ (excluding infrastructure for renewable electricity generation and electricity transmission networks) and regionally significant infrastructure that has a functional need or operational need to locate within the relevant*

significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,

(1A) the development, operation and maintenance of mineral extraction activities that provide a significant national public benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,

(1B) the development, operation and maintenance of aggregate extraction activities that provide a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka,

(1C) the operation or expansion of any coal mine that was lawfully established before August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal,

(2) the development of papakāika, marae and ancillary facilities associated with customary activities on Native reserves and Māori land,

(2A) the sustainable use of mahika kai and kaimoana (seafood) by mana whenua,

(3) the use of Native reserves and Māori land ~~in a way that will make a significant contribution~~ to enable mana whenua to maintain their connection to their whenua and enhance~~ing~~ ~~the~~ social, cultural or economic well-being, ~~of takata whenua,~~

(4) activities that are for the purpose of protecting, maintaining, restoring or enhancing a significant natural area or indigenous species or ecosystems that are taoka, ~~or~~

(5) activities that are for the purpose of addressing a severe ~~and~~ or immediate risk to public health or safety~~.~~, or

(6) activities that are for the purpose of a developing a single residential dwelling on an allotment that was created before 4 August 2023, and can demonstrate there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed, or

(7) activities that are for the purpose of harvesting indigenous tree species from an SNA carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

191 I also recommend that the definition of 'specified infrastructure' within the NPSIB is included with the pORPS.

Restoration

Relevant definitions

192 The NPSIB includes definitions of relevance to the topic of restoration within the context of the pORPS. These include:

- Restoration, and
- Ecosystem function.

193 The NPSIB defines *restoration* to mean:

> *the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.*

194 The NPSIB defines *ecosystem function* to mean:

> *the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.*

195 The pORPS does not define the term "restoration" or "ecosystem function". In my opinion it is necessary to include amendments to the pORPS for interpretation of relevant provisions which give effect to the NPSIB.

196 I note that the NPSFM also makes reference to "restoration" in relation to a natural inland wetland. As such, I consider inserting the following new definition for "*restoration*" to align with the NPSIB and also clearly signpost its application relates to indigenous biodiversity to avoid any confusion:

> ***Restoration (in relation to indigenous biodiversity)*** *means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.*

197 With respect to "*ecosystem function*" I consider inserting the following definition for consistency with the NPSIB:

> ***Ecosystem function*** *means the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.*

Implementation

198 Policy 13 of the NPSIB sets out the expectation that:

> *"Restoration of indigenous biodiversity is promoted and provided for".*

199 Clause 3.21 promotes the restoration of indigenous biodiversity. The relevant parts of Clause 3.21 are:

> *(1) Local authorities must include objectives, policies, and methods in their policy statements and plans to promote the restoration of indigenous biodiversity, including through reconstruction of areas.*
>
> *(2) The objectives, policies, and methods must prioritise all the following for restoration:*
>
> *(a) SNAs whose ecological integrity is degraded:*
>
> *(b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:*
>
> *(c) areas that provide important connectivity or buffering functions:*
>
> *(d) natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:*
>
> *(e) areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:*
>
> *(f) any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.*

200 Clause 3.21(2)(d) is directly relevant to natural inland wetlands. It is implemented in the pORPS through LF-FW-P10 which is subject of supplementary evidence from Ms Boyd to the FPI hearing. Subclauses (a), (b), (c), (e), and (f) apply more broadly than natural inland wetlands and are implemented in the pORPS through the ECO provisions which are addressed here.

201 ECO-O2 seeks a net increase in Otago's indigenous biodiversity through restoration or enhancement. ECO-P8 sets out the actions required to

increase the intrinsic vales, extent, occupancy and condition of Otago's indigenous biodiversity by:

(1) *restoring and enhancing habitat for indigenous species, including taoka and mahika species,*

(2) *improving the health and resilience of indigenous biodiversity, including ecosystems, species, important ecosystem function, and intrinsic values, and*

(3) *buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai.*

202 Clause 3.1 of the NPSIB states that nothing in Part 3 of the NPS limits the general obligation under the RMA to give effect to the objective and policies of the NPS. In my view, ECO-O3 and ECO-P8 give effect to the objective of the NPSIB which requires "protecting or restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity." Together they also give effect to Policy 13 which requires promoting and providing for restoration of indigenous biodiversity.

203 However, in my view ECO-P8 does not achieve the directive of Clause 3.21(2) to prioritise specified areas for restoration. Rather, it sets out specific *actions* required to improve the values, extent, occupancy and condition of indigenous biodiversity. To give effect to Clause 3.21, I consider the specific prioritised areas must be included. I therefore propose the following amendment to ECO-P8:

The intrinsic values, extent, occupancy and condition of Otago's indigenous biodiversity is increased by:

(1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,

(2) improving the health and resilience of indigenous biodiversity, including ecosystems, species, ~~important~~ ecosystem function, and intrinsic values, ~~and~~

(3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai~~.~~, and

(4) prioritising all the following for restoration:

(a) SNAs whose ecological integrity is degraded:

(b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems,

(c) areas that provide important connectivity or buffering functions,

(d) natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna,

(e) areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners,

(f) any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.

Integration

204 Part 3 provides further detail on how to implement the 17 NPSIB policies set out in Part 2. Subpart 1 details the approaches to implementing the NPSIB. Clause 3.4 requires an integrated approach.

205 The integrated approach requires local councils to manage indigenous biodiversity and the effects on it from subdivision, use and development in an integrated way. This means:

(a) recognising the interconnectedness of the whole environment and the interactions between the terrestrial environment, freshwater, and the coastal marine area; and

(b) providing for the coordinated management and control of subdivision, use and development, as it affects indigenous biodiversity across administrative boundaries; and

(c) working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to indigenous biodiversity.

206 The integrated approach is provided for within the pORPS by ECO-P10 – Co-ordinated approach and ECO-M6 – Engagement.

207 ECO-P10 within the pORPS requires adopting a co-ordinated approach that recognises the many interactions and interconnections both in the environment and in the administration of any management regime while also recognising the important role of people and communities, including landowners, in managing biodiversity.

208 ECO-M6 encourages local authorities to work collaboratively together, engage with others with a role or interest in biodiversity management and

consult directly with landowners whose properties potentially contain or are part of a SNA.

209 ECO-P10 generally achieves the requirements of Clause 3.4 of the NPSIB, but I consider amendments are required to give effect to its nuances.

210 Clause 3.4 of the NPSIB directs local councils to focus on the management of indigenous biodiversity "and the effects on it from subdivision, use and development" in an integrated way. ECO-P10 is narrower in scope, seeking only to manage ecosystems and indigenous biodiversity and not providing recognition of the effects on it from subdivision, use and development. It is my opinion that Clause 3.4 is broader and more directive and therefore consider amendments to the chapeau of ECO-P10 are necessary to reflect this.

211 Regarding Clause 3.4(a), I consider ECO-P10(2) as notified provides an adequate holistic lens to the policy which achieves in full the legislative mandates.

212 Clause 3.4(b) requires "*providing for*" the coordinated management of subdivision, use and development, as it affects indigenous biodiversity across administrative borders. I consider ECO-P10(3) and ECO-M6(1) largely meet this direction. However, I recognise amendments to ECO-P10(3) are necessary to improve its stringency. As notified, ECO-P10(3) seeks to "*promote*" collaboration between individuals and agencies with biodiversity responsibilities and does not require specific management and control of subdivision, use and development. I consider this limits the scope of the policy and does not reflect the specific requirements of the NPSIB.

213 With regards to ECO-M6(1), direction is provided to local councils to "work collaboratively with other local authorities to adopt an integrated approach to managing Otago's biodiversity across administrative boundaries". I consider this method, when combined with amendments proposed in ECO-P10(3) above, will give effect to the NPSIB.

214 In summary, I consider amendments to ECO-P10 are required, as follows:

> *ECO-P10 – ~~Integrated management~~ Co-ordinated approach*
>
> *~~Implement an integrated and co-ordinated approach to managing Otago's ecosystems and indigenous biodiversity that:~~ Manage indigenous*

biodiversity and the effects on it from subdivision, use and development in an integrated way, which means:

(1) ensur~~es~~ing any permitted or controlled activity in a regional plan or district plan rule does not compromise the achievement of ECO-O1,

(2) recognises the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial environment, fresh water, and the coastal marine area, including:

(a) the migration of fish species between fresh and coastal waters, and

(b) the effects of land-use activities on coastal biodiversity and ecosystems,

(2A) acknowledges that climate change will affect indigenous biodiversity, and manages activities which exacerbate the effects of climate change,

(3) ~~promotes collaboration between individuals and agencies with biodiversity responsibilities,~~ providing for the coordinated management and control of subdivision, use and development, as it affects indigenous biodiversity across administrative boundaries,

(4) ~~supports the various statutory and non-statutory approaches adopted to manage indigenous biodiversity,~~ working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to indigenous biodiversity.

(5) recognises the critical role of people and communities in actively managing the remaining indigenous biodiversity occurring on private land, and

(6) adopts regulatory and non-regulatory regional pest management programmes.

215 Regarding ECO-M6 I do not consider amendments necessary as I consider it achieves the requirements of clause 3.4(1)(b).

New provisions

216 The NPSIB sets out requirements for a number of matters not otherwise provided for under the pORPS. Relevant matters include:

- Resilience to climate change.
- Managing adverse effects of established activities on SNAs.

- Plantation forestry activities.
- Maintenance of improved pasture for farming.
- Specified highly mobile fauna.
- Increasing indigenous vegetation cover.
- Information requirements.

Climate change

217 Policy 4 of the NPSIB states:

> *"Indigenous biodiversity is managed to promote resilience to the effects of climate change".*

218 Clause 3.6 implements this direction as follows:

> *(1) Local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by:*
>
> *(a) allowing and supporting the natural adjustment of habitats and ecosystems to the changing climate; and*
>
> *(b) considering the effects of climate change when making decisions on:*
>
> *(i) restoration proposals; and*
>
> *(ii) managing and reducing new and existing biosecurity risks; and*
>
> *(c) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.*
>
> *(2) Local authorities must recognise the role of indigenous biodiversity in mitigating the effects of climate change.*

219 I consider the current pORPS does not give effect to this requirement of the NPSIB. My general approach has been to adopt the drafting within the NSPIB where the pOPRS has not covered matters which 'must be done' to give effect the NPSIB. Therefore, I recommend inserting the following additional policy:

> *ECO-P11 – Resilience to climate change*

Promote the resilience of indigenous biodiversity to climate change, including at least by:

(1) allowing and supporting the natural adjustment of habitats and ecosystems to the changing climate; and

(2) considering the effects of climate change when making decisions on:

(a) restoration proposals; and

(b) managing and reducing new and existing biosecurity risks; and

(3) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.

(4) recognising the role of indigenous biodiversity in mitigating the effects of climate change.

Established activities

220 Policy 9 of the NPSIB states:

"Certain established activities are provided for within and outside SNAs".

221 Clause 3.15 of the NPSIB seeks to implement this requirement as follows, by managing adverse effects of established activities on SNAs:

(1) For the purpose of this clause, established activity means an activity (including maintenance, operation, and upgrade) that:

(a) is in, or affects, an SNA; and

(b) is not a new subdivision, use, or development.

(2) Local authorities must include objectives, policies, and methods in their policy statements and plans to enable specified established activities, or specified types of established activities, to continue where the effects of the activity on an SNA (including cumulative effects):

(a) are no greater in intensity, scale, or character over time than at the commencement date; and

(b) do not result in the loss of extent, or degradation of ecological integrity, of an SNA.

(3) If an established activity does not meet the requirements of subclause (2), the activity must be managed under clauses 3.10 to 3.14 or clause 3.18 (as relevant) as if it were a new use or development.

(4) To avoid doubt, nothing in this clause affects existing use rights under sections 10 or 20A of the Act.

222 I consider the current pORPS does not give effect to this requirement of the NPSIB. Therefore, I recommend inserting the following additional policy:

ECO-P5A – Managing adverse effects of established activities on SNAs

Provide for the maintenance, operation, and upgrade of existing activities (excluding activities managed under ECO-P3 and ECO-P4), where the effects of the activity, including cumulative effects, on an SNA:

(a) are no greater in intensity, scale, or character over time than at 4 August 2023; and

(b) do not result in the loss of extent, or degradation of ecological integrity, of an SNA.

Plantation forestry

Relevant definitions

223 Relevant to the topic of plantation forestry is the definition of "*threatened or At Risk, and Threatened or At Risk (declining)*". It is set out in the NPSIB as follows:

> ***Threatened*** *or* ***At Risk****, and* ***Threatened or At Risk (declining)*** *have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication*

224 I note the pORPS does not include this definition, but it is referred to within the ECO-Chapter. Therefore, I recommend the following new definitions be included with the pORPS to align with the NPSIB which will also be beneficial to supporting interpretation and application of the pORPS provisions:

> ***Threatened*** *or* ***At Risk****, and* ***Threatened or At Risk (declining)*** *have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication*

Implementation

225 Policy 12 of the NPSIB states that:

> *"Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities".*

226 Clause 3.14 implements Policy 12 requiring the following:

> *(1) Except as provided in subclause (2), the adverse effects of plantation forestry activities in any existing plantation forest on any SNA must be managed in a manner that:*
>
> *(a) maintains indigenous biodiversity in the SNA as far as practicable; while*
>
> *(b) providing for plantation forestry activities to continue.*
>
> *(2) Despite clause 3.10, any part of an SNA that is within an area of an existing plantation forest that is planted, or is intended to be, replanted in trees for harvest must be managed over the course of consecutive rotations of production in the manner necessary to maintain the long-term populations of any Threatened or At Risk (declining) species present in the area.*
>
> *(3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.*

227 I consider the current pORPS does not give effect to this requirement of the NPSIB. Therefore, I recommend inserting the following additional policy:

> *ECO-P12 – Plantation Forestry activities*
>
> *Manage:*
>
> *(1) the adverse effects of plantation forestry activities in any existing plantation forest on any SNA in a manner that:*
>
> *(a) maintains indigenous biodiversity in the SNA as far as practicable, while*
>
> *(b) provides for plantation forestry activities to continue.*
>
> *(2) over the course of consecutive rotations of production, any part of an SNA that is within an area of an existing plantation forest that is planted, or is intended to be, replanted in trees for harvest in the manner necessary to maintain the long-term populations of any Threatened or At Risk (declining) species present in the area.*

Pastoral farming

228 Clause 3.17 of the NPSIB provides for the maintenance of improved pasture for farming. It states that:

> *(1) This clause applies to the maintenance of improved pasture for farming where it may affect an SNA.*
>
> *(2) Local authorities must allow the maintenance of improved pasture to continue if:*
>
> *(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 an uncultivated depositional landform; and*
>
> *(e) the maintenance of improved pasture will not adversely affect a Threatened or At Risk (declining) species.*
>
> *(3) In this clause:*
>
> ***depositional landform** means a landform that is alluvial (matter deposited by water, (eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, (eg, talus), or glacial (matter deposited by glaciers, (eg, moraines and outwash)*
>
> ***exotic pasture species** means a pasture species identified in the National List of Exotic Pasture Species (see clause 1.8)*
>
> ***improved pasture** means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing*
>
> ***maintenance of improved pasture** includes the removal of indigenous vegetation for the purpose of maintaining the improved pasture, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species, mob stocking, or making changes to soils, hydrology, or landforms.*

229 I consider the current pORPS does not give effect to this requirement of the NPSIB. Therefore, I recommend the following additional method:

> *ECO-M4C - Maintenance of improved pasture for farming*

Local authorities must:

(1) allow the maintenance of improved pasture to continue if:

(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 an uncultivated depositional landform; and

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

230 In addition, I recommended the following new definitions should be inserted into the pORPS:

***depositional landform** means a landform that is alluvial (matter deposited by water, (eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, (eg, talus), or glacial (matter deposited by glaciers, (eg, moraines and outwash)*

***exotic pasture species** means a pasture species identified in the National List of Exotic Pasture Species (see clause 1.8)*

***improved pasture** means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing*

***maintenance of improved pasture** includes the removal of indigenous vegetation for the purpose of maintaining the improved pasture, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species, mob stocking, or making changes to soils, hydrology, or landforms.*

Mobile fauna

231 Clause 1.3 of the NPSIB encompasses designated highly mobile fauna, regardless of whether they extend beyond areas of the terrestrial environment (like the coastal marine area or water bodies) during specific stages of their life cycle. For further guidance readers are referred to Clause 3.20.

232 Clause 3.20 has four clauses with different requirements. Clause 3.20(1) requires, where information about areas used by specified highly mobile fauna is available, recording any areas outside SNAs that are 'highly mobile fauna areas' by working together with stakeholders.

233 Clause 3.20(2) states that:

> *If it will help manage adverse effects on specified highly mobile fauna, regional councils must include in their regional policy statements (where practicable) a map and description of each highly mobile fauna area in the region.*

234 Clause 3.20(3) requires local authorities to include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas. There are provisions across the ECO and LF chapters in the pORPS that generally manage indigenous biodiversity and some of the likely habitats of these species, but they are not specifically identified or managed separately.

235 Clause 3.20(4) requires local authorities to provide information to their communities on highly mobile fauna, their habitats, and management approaches. This can, and should, be implemented outside the pORPS so that information can be updated and refined as our understanding of these species and their habitats develops.

236 In her supplementary evidence to the Freshwater Hearing Panel, Ms Boyd in paragraphs 35 – 46 of her evidence, has provided an assessment of clause 3.20 of the NPSIB in the context of the freshwater aspects of the clause. She concluded within paragraph 46 by stating that:

> *In summary, while clause 3.20 is applicable to the pORPS, it is not able to be implemented in full at this time. The requirements will likely be implemented in part through the development of the LWRP, however the remaining requirements will need to be progressed at a later stage.*

237 As noted above, my general approach has been to adopt the drafting within the NSPIB where the pOPRS has not covered matters which 'must be done' to give effect the NPSIB. While I agree with Ms Boyd that clause 3.20 is not able to be implemented in full within the pORPS and the requirements will be implemented through the development of the LWRP and through

changes to district plans, I consider methods can be included within the pORPS now to set out how this process will be undertaken. I therefore recommended the following method be inserted into the pORPS:

> *ECO-M4B - Specified highly mobile fauna*
>
> *Local authorities must:*
>
> *(1) include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.*
>
> *(2) Local authorities must provide information to their communities about:*
>
> *(a) highly mobile fauna and their habitats; and*
>
> *(b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.*

238 To ensure the pORPS gives effect to the NPSIB Appendix 2 for specified highly mobile fauna, I consider it necessary to insert a new appendix for specified highly mobile fauna for the Otago region.

239 Related to the matter of mobile fauna is the definition for "Threatened or At Risk, and Threatened or At Risk (declining)". The NPSIB sets out the definition to mean:

> *"have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication".*

240 As stated above the pORPS includes a definition for "threatened species" meaning:

> *"any indigenous species of flora or fauna that meets the criteria for nationally critical, nationally endangered, or nationally vulnerable species in the New Zealand Threat Classification System Manual (Townsend et al, 2008)".*

241 I consider the NPSIB definition broader than that contained within the pORPS which does not include reference to "At Risk species". I recommend the following amendment is made to the definition:

Threatened or At Risk, and Threatened or At Risk (declining): have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication

~~*Threatened species: means any indigenous species of flora or fauna that meets the criteria for nationally critical, nationally endangered, or nationally vulnerable species in the New Zealand Threat Classification System Manual (Townsend et al, 2008).*~~

Increasing indigenous vegetation cover

242 Clause 1.3(2)(c) of the NPSIB states that provisions relating to increasing indigenous vegetation cover extend to include natural inland wetlands and refers readers to clause 3.22.

243 Clause 3.22 requires regional councils to:

- assess the percentage of indigenous vegetation cover in each of its urban and non-urban environments using desktop analysis, ground-truthing, or both, and must do so in collaboration with relevant territorial authorities and tangata whenua (to the extent they wish to be involved);
- set a target of at least 10% cover for any urban or non-urban environment that has less than 10% indigenous vegetation cover and, in consultation with tangata whenua and territorial authorities, consider setting higher targets for areas that already have at least 10% cover; and
- include any indigenous vegetation cover target in their regional policy statements.

244 Local authorities must then promote the increase of indigenous vegetation cover by including objectives, policies, and methods in their policy statements and plans, having regard to any targets and giving priority to:

- areas listed in clause 3.21(2) (discussed separately below);
- ensuring indigenous species richness appropriate to the ecosystem;
- restoration at a landscape scale across the region; and

- using species, and seed for species, that are local to the area.

245 Clause 3.22 applies to indigenous vegetation cover generally, including the cover that occurs within natural inland wetlands but also other areas. Ms Boyd explains in paragraph 55 of her supplementary evidence to the FPI hearing that, in her opinion, the implementation of clause 3.22 will need to be undertaken in a separate programme of work due to pORPS limitations and should include inland wetlands in vegetation assessments. While I agree with Ms Boyd that clause 3.22 it not able to be implemented within the pORPS, I consider methods can be included within the pORPS now to set out how this process will be undertaken. I therefore recommended the following method be inserted into the pORPS:

> *ECO-M4A - Increasing indigenous vegetation cover*
>
> *Otago Regional Council must:*
>
> *(1) Assess the percentage of indigenous vegetation cover in*
>
> *(a) each of its urban environments; and*
>
> *(b) its non-urban environments.*
>
> *(2) The assessment may be done by a desktop analysis, by ground truthing, or both, and must be done in collaboration with relevant territorial authorities, and mana whenua (to the extent they wish to be involved).*
>
> *(3) set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation; and*
>
> *(a) consider, in consultation with mana whenua and territorial authorities, setting higher targets for urban and non-urban environments that already have at least 10% coverage of indigenous vegetation; and*
>
> *(b) include any indigenous vegetation cover targets in their regional policy statements.*
>
> *Local authorities must:*
>
> *(4) promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:*
>
> *(a) having regard to any targets set under ECO-M4A(3); and*
>
> *(b) giving priority to all the following:*

(i) areas referred to in ECO-P8(4):

(ii) ensuring indigenous species richness appropriate to the ecosystem:

(iii) restoration at a landscape scale across the region

(iv) using species, and seed from species, that are local to the area.

Information requirements

246 Clause 3.24 of the NPSIB sets out the information requirements relevant for local authorities, as follows:

(1) Every local authority must make or change its policy statements and plans to require that, in relation to an application for a resource consent for an activity that would have more than minor adverse effects on indigenous biodiversity, the application is not considered unless it includes a report that:

(a) is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauranga Māori; and

(b) complies with subclause (2); and

(c) is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.

(2) The report must:

(a) include a description of the existing ecological features and values of the site; and

(b) include a description of the adverse effects of the proposal on indigenous biodiversity and how those effects will be managed; and

(c) identify any effects on identified taonga; and

(d) identify the ecosystem services associated with indigenous biodiversity at the site; and

(e) include an assessment of the ecological integrity and connectivity within and beyond the site; and

(f) include mātauranga Māori and tikanga Māori assessment methodology, where relevant; and

(g) if biodiversity offsetting is proposed, set out:

(i) *a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and*

(ii) *a description of how the relevant principles in Appendix 3 of this National Policy Statement have been addressed; and*

(iii) *an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and*

(h) *if biodiversity compensation is proposed, set out:*

(i) *a detailed plan of what is proposed; and*

(ii) *a description of how the relevant principles in Appendix 4 of this National Policy Statement have been addressed; and*

(iii) *an assessment of the likely success of the plan in achieving its outcomes.*

247 The pORPS does not provide for such information requirements. I have taken the approach that to ensure the pORPS gives effect to the NPSIB amendments to the ECO chapter are necessary. As such, with regards to information requirements, I consider it necessary to insert the following new method to address this specific matter:

ECO-M7B – Information requirements

Local authorities must:

(1) require that, in relation to an application for a resource consent for an activity that would have more than minor adverse effects on indigenous biodiversity, the application is not considered unless it includes a report that:

(a) is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauraka Māori; and

(b) complies with subclause (2); and

(c) is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.

(2) The report required within ECO-M2(4A) above must:

(a) include a description of the existing ecological features and values of the site; and

(b) include a description of the adverse effects of the proposal on indigenous biodiversity and how those effects will be managed; and

(c) identify any effects on identified taoka; and

(d) identify the ecosystem services associated with indigenous biodiversity at the site; and

(e) include an assessment of the ecological integrity and connectivity within and beyond the site; and

(f) include mātauraka Māori and tikaka Māori assessment methodology, where relevant; and

(g) if biodiversity offsetting is proposed, set out:

(i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and

(ii) a description of how the relevant principles in APP4 have been addressed; and

(iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and

(h) if biodiversity compensation is proposed, set out:

(i) a detailed plan of what is proposed; and

(ii) a description of how the relevant principles in APP4 have been addressed; and

(iii) an assessment of the likely success of the plan in achieving its outcomes.

Section 32AA Assessment

248 The amendments recommended within this evidence are solely focused on giving effect to the NSPIB. Given the NSPIB has been assessed under s32 of the Act I consider no further s32AA assessment is required.

249 My general approach to drafting within this evidence has been to adopt the text in the NSPIB where the pOPRS has not covered matters which 'must be done' or where the approach in the pORPS is similar to that within the NPSIB but uses different language. I consider this drafting approach is the most appropriate way to achieve objectives ECO-O1, ECO-O2, and ECO-O3 and give effect to the requirements of the NSPIB.

Conclusion

250 A table comparing the provisions of the NPSIB with the recommended amendments to the pORPS is included within Appendix 1 and my recommended amendments to the pORPS are included within Appendix 2.

Andrew Maclennan

8 September 2023

Appendix 1 - Comparison Table NPSIB vs pORPS

NPS-IB	pORPS	Recommended amendment
Preliminary provisions		
1.1 Title	No equivalent	No change required.
1.2 Commencement	No equivalent	No change required.
1.3 Application	No equivalent	Insert new policy **ECO-P6A**, and amend **ECO-P3**, **ECO-P4**, and **ECO-P6.**
1.4 Relationship with other national directions and iwi participation	No equivalent	No change required.
1.5 Decision-making principles	No equivalent	No change required.
1.6 Interpretation [25]		
biodiversity offset	No equivalent definition used in pORPS	Insert definition in pORPS.
depositional landform	No equivalent definition used in pORPS	Insert definition in pORPS.
ecological district	No equivalent definition used in pORPS	Insert definition in pORPS.
ecosystem function	No equivalent definition used in pORPS	Insert definition in pORPS.
effects management hierarchy	**ECO-P6**	Delete **ECO-P6**. Insert new definition "*indigenous biodiversity* effects management hierarchy".
habitat	No equivalent definition used in pORPS	Insert definition in pORPS.
improved pasture	No equivalent definition used in pORPS	Insert definition in pORPS.
indigenous biodiversity	No equivalent definition used in pORPS	Insert definition in pORPS.
maintenance of improved pasture	No equivalent definition used in pORPS	Insert definition in pORPS.
restoration	No equivalent definition used in pORPS	Insert definition in pORPS.

[25] Note where a definition is not listed within the table there is not equivalent definition used in pORPS and no change is recommended to the pORPS.

SNA, or **significant natural area**	Broader definition in pORPS	Amend definition.
specified infrastructure	No equivalent definition used in pORPS	Insert definition in pORPS.
specified Māori land	**Māori land**	No change required.
Threatened or **At Risk**, and **Threatened or At Risk (declining)**	Narrower definition in pORPS	Amend definition.
1.7 Maintaining indigenous biodiversity	No equivalent	Insert new definition of 'Maintenance of indigenous biodiversity'.
1.8 Incorporation by reference	No equivalent	No change required.
Objectives and Policies		
2.1 Objective	**ECO-O1**, **ECO-O2**, **ECO-P3**	No change required.
Policy 1	**MW-O1**, **MW-P2**	No change required.
Policy 2	Policy 2(a) is provided for by: **MW-M5(2)**, **ECO-M7A(4)** Policy 2(b) is provided for by: **ECO-P2**, **ECO-P3**, **ECO-P6**, **ECO-M6** Policy 2(c) is provided for by: **ECO-P2(2)**, **ECO-M7A(2)**	No change required.
Policy 3	**IM-P6**	No change required.
Policy 4	Not addressed in the pORPS	Insert new policy **ECO-P11** – Resilience to climate change.
Policy 5	**IM-P7**, **ECO-M6(1)**	No change required.
Policy 6	**ECO-P2**, **ECO-M2**, **APP2**	No change required.
Policy 7	**ECO-P3**, **ECO-P4**	No change required.
Policy 8	**ECO-O1**, **ECO-P6**	No change required.

Policy 9	Not addressed in the pORPS	Insert new policy **ECO-P5A**– Managing adverse effects of established activities on SNAs.
Policy 10	**ECO-P4**, **ECO-P6**	No change required.
Policy 11	*N/A to Otago context*	No change required.
Policy 12	Not addressed in the pORPS	Insert new policy **ECO-P12**– Plantation forestry activities.
Policy 13	**ECO-O2**, **ECO–P8**, **ECO-M8(2)**	No change required.
Policy 14	Not addressed in the pORPS	Insert new method **ECO-M4A** - Increasing indigenous vegetation cover.
Policy 15	Not addressed in the pORPS	Insert new method **ECO-M4B**- Specified highly mobile fauna.
Policy 16	Not addressed in the pORPS	No change required – regional biodiversity strategy developed outside the RPS.
Policy 17	**ECO-M7** (only applies to monitoring significant indigenous biodiversity and taoka identified under ECO-P2 instead of indigenous biodiversity as a whole).	Amend **ECO-M2**, insert new method **ECO-M7B** – Information requirements.
Implementation		
3.1 Overview of Part 3	No equivalent	No change required.
3.2 Role of decision-making principles	No equivalent	No change required.
3.3 Tangata whenua as partners	**ECO-O3, ECO-P1, ECO-M3, ECO-M7A, MW-M4**	Amend **ECO-P1**, **ECO-M7A(1A)**.
3.4 Integrated approach	**ECO-P10**	Amend **ECO-P10**.
3.5 Social, economic, and cultural wellbeing	**IM-O3, IM-P1, ECO-O3, ECO-P1, ECO-P4, ECO-P6, ECO-M6**	No change required.
3.6 Resilience to climate change	Not addressed in the pORPS	Insert new policy **ECO-P11**– Resilience to climate change.

3.7 Precautionary approach	**IM-P6**	No change required.
3.8 Assessing areas that qualify as SNAs	**ECO-P2**, **ECO-M2**	Amend **ECO-P2**, **ECO-M2(7)**, and **APP2**.
3.9 Identifying SNAs in district plans	**ECO-M2**	Amend **ECO-M2**.
3.10 Managing adverse effects on SNAs of new subdivision, use, and development	**ECO-P3, ECO-P4(5), ECO-M4(2)(a), ECO-M5(4)(a), APP3, APP4**	Amend **ECO-P3, ECO-P4(1C)** and **ECO-P4(7)**
3.11 Exceptions to clause 3.10(2)	**ECO-P4**	Amend **ECO-P3**, **ECO-P4(1) ECO-P4(6)**, **ECO-P6**, insert new definition of 'specified infrastructure'
3.12 SNAs on Māori land	Not addressed in the pORPS	Insert new method **ECO-M2(6)**.
3.13 Geothermal SNA's	N/A in Otago	No change required.
3.14 Plantation forestry activities	Not addressed in the pORPS	Insert new policy **ECO-P12** – Plantation forestry activities.
3.15 Managing adverse effects of established activities on SNAs	Not addressed in the pORPS	Insert new policy **ECO-P5A** – Managing adverse effects of established activities on SNAs.
3.16 Indigenous biodiversity outside SNAs	pORPS is not consistent with NPSIB	Amend **ECO-P6 and** insert new definition of 'Maintenance of indigenous biodiversity'.
3.17 Maintenance of improved pasture for farming	No equivalent definition or provision used in pORPS	Insert new definition of 'improved pasture', insert new method **ECO-M4C** – Maintenance of improved pasture for farming.
3.18 Specified Māori land	**ECO-P3, ECO-P4, ECO-P6, ECO-P8, MW-P4**	Insert new methods **ECO-M3(4) – (6)**, **ECO-M4D**, and new clause **ECO-P8(4)(e)**.
3.19 Acknowledged and Identified taonga	**ECO-P2, ECO-P3, MW-M3**	Insert new methods **ECO-M3(4) – (6)**.
3.20 Specified highly mobile fauna	Not addressed in the pORPS	Insert new method **ECO-M4B**– Specified highly mobile fauna.
3.21 Restoration	**ECO–P8**	Amend **ECO–P8**.
3.22 Increasing indigenous vegetation cover	Not addressed in the pORPS	Insert new method **ECO-M4A** – Increasing indigenous vegetation cover.

3.23 Regional biodiversity strategies	A regional biodiversity strategy compliant with Appendix 5 of the NSPIB will be developed outside of the pORPS.	No change required.
3.24 Information requirements	**ECO-M2**	Amend **ECO-M2**, insert new method **ECO-M7B**– Information requirements.
Appendices		
Appendix 1: Criteria for identifying areas that qualify as significant natural areas.	**APP2**	Replace **APP2** with Appendix 1 of NPSIB and amend as advised by Dr Lloyd.
Appendix 2: Specified highly mobile fauna	Not addressed in the pORPS	Insert a new appendix in the **APP12** - Specified highly mobile fauna.
Appendix 3: Principles for biodiversity offsetting.	**APP3**	Replace **APP3** with Appendix 3 of NPSIB and amend as advised by Dr Lloyd.
Appendix 4: Principles for biodiversity compensation.	**APP4**	Replace **APP4** with Appendix 4 of NPSIB and amend as advised by Dr Lloyd.

Appendix 2 – Recommended amendments to the pORPS

Biodiversity compensation	means a conservation outcome that meets the requirements in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on *indigenous biodiversity* after all appropriate avoidance, minimisation, remediation, and *biodiversity offsetting* measures have been sequentially applied
Biodiversity offset	means a measurable conservation outcome that meets the requirements in Appendix 3 and results from actions that are intended to: (a) redress any more than minor residual adverse effects on *indigenous biodiversity* after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and (b) achieve a net gain in type, amount, and condition of *indigenous biodiversity* compared to that lost.
Depositional landform	means a landform that is alluvial (matter deposited by water, (eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, (eg, talus), or glacial (matter deposited by glaciers, (eg, moraines and outwash).
Ecological district	means the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.
Ecosystem function	means the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.
Effects management hierarchy (in relation to indigenous biodiversity)	means ~~the effects management hierarchy set out in ECO-P6.~~ an approach to managing the adverse effects of an activity on *indigenous biodiversity* that requires that: (a) adverse effects are avoided where practicable; then (b) where adverse effects cannot be avoided, they are minimised where practicable; then (c) where adverse effects cannot be minimised, they are remedied where practicable; then (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, *biodiversity offsetting* is provided where possible; then (e) where *biodiversity offsetting* of more than minor residual adverse effects is not possible, *biodiversity compensation* is provided; then (f) if *Biodiversity compensation* is not appropriate, the activity itself is avoided.
Exotic pasture species	means a pasture species identified in the *National List of Exotic Pasture Species* (see clause 1.8)
Habitat	means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern; but does not include built structures or an area or environment where an organism is present only fleetingly.

Improved pasture	means an area of land where *exotic pasture species* have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.
Indigenous biodiversity	means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their *habitats*.
Maintenance of improved pasture	includes the removal of indigenous vegetation for the purpose of maintaining the *improved pasture*, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of *exotic pasture species*, mob stocking, or making changes to soils, hydrology, or landforms.
Maintenance of indigenous biodiversity	means: (a) the maintenance and at least no overall reduction of all the following: (i) the size of populations of indigenous species: (ii) indigenous species occupancy across their natural range: (iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity: (iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity: (v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity: (vi) the resilience and adaptability of ecosystems; and (b) where necessary, the restoration and enhancement of ecosystems and habitats.
Restoration (in relation to indigenous biodiversity)	means the active intervention and management of modified or degraded *habitats*, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.
***SNA*, or ~~S~~significant natural area**	means: ~~areas of significant indigenous vegetation and significant habitats of indigenous fauna that are located outside the coastal environment.~~ (a) any area that, after the commencement date, is notified or included in a district plan as an *SNA* following an assessment of the area in accordance with Appendix 1; and (b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant *habitat* of indigenous fauna (regardless of how it is described); in which case it remains as an *SNA* unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant *habitat* of indigenous fauna.
Specified infrastructure	means any of the following: (a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):

	(b) regionally or nationally significant infrastructure identified as such in a National Policy Statement, the New Zealand Coastal Policy Statement, or a regional policy statement or plan: (c) infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban Development 2020): (d) any public flood control, flood protection, or drainage works carried out: (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908: (e) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.
Threatened ~~species~~ or At Risk, and Threatened ~~species~~ or At Risk (declining)	~~means any indigenous species of flora or fauna that meets the criteria for nationally critical, nationally endangered, or nationally vulnerable species in the New Zealand Threat Classification System Manual (Townsend et al, 2008).~~ have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication.

ECO – Ecosystems and *indigenous biodiversity*

Objectives

ECO-O1 – *Indigenous biodiversity*

Otago's *indigenous biodiversity* is healthy and thriving and any net[26] decline in ~~quality~~ condition,[27] quantity and diversity is halted.

[26] 00024.010 City Forests Limited
[27] 00306.042 Meridian

ECO-O2 – Restoring ~~or~~ and[28] enhancing

Restoration and[29] enhancement activities result in a ~~A~~[30] net increase in the extent and *occupancy*[31] of Otago's *indigenous biodiversity* ~~results from restoration or enhancement~~.[32]

ECO-O3 – *Kaitiakitaka*[33] and stewardship

Mana whenua are able to exercise their role ~~recognised~~[34] as kaitiaki of Otago's *indigenous biodiversity*, and Otago's communities are recognised as stewards, who are responsible for:

(1) te hauora o te koiora (the health of *indigenous biodiversity*), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider *environment*), while

(2) providing for te hauora o te takata (the health of the people).

Policies

ECO-P1 – *Kaitiakitaka*

~~Recognise the role of~~ Enable[35] Kāi Tahu to exercise their role[36] as kaitiaki of Otago's *indigenous biodiversity* by:

(1) ~~involving~~ partnering with Kāi Tahu in the management of *indigenous biodiversity to the extent desired by mana whenua*, ~~and~~

(1A) working with Kāi Tahu to identify ~~the identification of~~[37] *indigenous species* and ecosystems that are taoka,

(2) incorporating the use of mātauraka Māori in the management and monitoring of *indigenous biodiversity*, and

(3) ~~providing for~~ facilitating[38] access to and use of *indigenous biodiversity* by Kāi Tahu, including *mahika kai*,[39] according to tikaka.

ECO-P2 – Identifying *significant natural areas* and taoka

Identify and map:[40]

[28] 00226.215 Kāi Tahu ki Otago
[29] 00226.215 Kāi Tahu ki Otago
[30] 00322.026 Fulton Hogan Limited
[31] 00223.099 Ngāi Tahu ki Murihiku, 00226.215 Kāi Tahu ki Otago
[32] 00322.026 Fulton Hogan
[33] 00234.031 Te Rūnanga o Ngāi Tahu
[34] 00226.216 Kāi Tahu ki Otago, 00234.031 Te Rūnanga o Ngāi Tahu
[35] 00226.217 Kāi Tahu ki Otago
[36] 00226.217 Kāi Tahu ki Otago
[37] 00226.217 Kāi Tahu ki Otago
[38] 00239.099 Federated Farmers
[39] 00226.0038 Kāi Tahu ki Otago
[40] 00020.018 Rayonier Matariki

(1) the areas ~~and indigenous *biodiversity*[41] values of *significant natural areas* in accordance with APP2,~~ of significant indigenous vegetation or significant *habitat* of indigenous fauna that qualify as *significant natural areas* using the assessment criteria in APP2 and in accordance with ECO-M2, and

(2) where appropriate,[42] *indigenous species* and ecosystems that are taoka, including those identified by *mana whenua* as requiring protection,[43] in accordance with ECO-M3.

ECO-P3 – Protecting *significant natural areas* and taoka

Outside the coastal environment, and ~~E~~except[44] as provided for by ECO-P4 and ECO-P6A~~and ECO-P5~~,[45] protect *significant natural areas* and *indigenous species* and ecosystems that are taoka by:

(1) first[46] avoiding adverse *effects* that result in:

(a) any reduction of the area or *indigenous biodiversity*[47] values identified and mapped under ECO-P2(1),[48] (even if those values are not themselves significant but contribute to an area being identified as a *significant natural area*[49]) ~~identified under ECO-P2(1)~~, ~~or~~[50] and

(b) any loss of ~~Kāi Tahu~~ taoka[51] values identified by *mana whenua* as requiring protection[52] under ECO-P2(2),[53] and

(2) after (1), applying the ~~biodiversity~~ *effects management hierarchy (in relation to indigenous biodiversity)*[54] ~~in ECO-P6~~ to areas and values other than those covered by ECO-P3(1),[55] and

(3) prior to *significant natural areas* and *indigenous species* and ecosystems that are taoka being identified and mapped[56] in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with ~~IM–P15~~IM-P6(2).[57]

ECO-P4 – Provision for new activities

Outside the coastal environment, except as provided for by ECO-P6A, ~~M~~maintain[58] Otago's *indigenous biodiversity* by following the sequential steps in the *effects management hierarchy (in relation to*

[41] 00226.218 Kāi Tahu ki Otago, 00230.101 Forest and Bird
[42] 00226.218 Kāi Tahu ki Otago
[43] 00239.100 Federated Farmers
[44] Clause (10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00301.028 Port Otago
[45] 00315.037 Aurora Energy, 00115.021 Oceana Gold (New Zealand) Ltd
[46] 00223.100 Ngāi Tahu ki Murihiku
[47] 00226.219 Kāi Tahu ki Otago
[48] 00230.102 Forest and Bird
[49] 00230.102 Forest and Bird
[50] 00230.102 Forest and Bird
[51] 00139.129 DCC
[52] Consequential change to 00239.100 Federated Farmers
[53] 00138.033 QLDC
[54] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC
[55] Consequential change to 00239.100 Federated Farmers
[56] 00020.018 Rayonier Matariki
[57] 00139.040 DCC, 00121.027 Ravensdown
[58] Clause (10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00301.028 Port Otago

indigenous biodiversity)[59] ~~set out in ECO-P6~~ when making decisions on plans, applications for *resource consent* or notices of requirement for the following activities in *significant natural areas* or where they may adversely affect *indigenous species* and ecosystems that are taoka that have been identified by *mana whenua* as requiring protection:[60]

(1) the development, operation, maintenance[61] or upgrade of *specified infrastructure* ~~*nationally significant infrastructure*~~[62] ~~and *regionally significant infrastructure*~~ (excluding infrastructure for renewable electricity generation and electricity transmission networks) that has a *functional need*[63] or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect indigenous species or ecosystems that are taoka,

(1A) the development, operation and maintenance of *mineral* extraction activities that provide a significant national public benefit that could not otherwise be achieved within New Zealand and that have a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka,[64]

(1B) the development, operation and maintenance of aggregate extraction activities that provide a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka,[65]

(1C) the operation or expansion of any coal mine that was lawfully established before August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal,

(2) the development of *papakāika*, marae and ancillary facilities associated with customary activities on Native reserves and *Māori land*,[66]

(2A) the sustainable use of *mahika kai*[67] and kaimoana (seafood) by *mana whenua*,[68]

(3) the use of Native reserves and *Māori land* ~~in a way that will make a significant contribution~~[69] to enable *mana whenua* to maintain their connection to their whenua and enhance~~ing the~~[70] social, cultural or economic well-being~~, of *takata whenua,*~~[71]

(4) activities that are for the purpose of protecting, maintaining, restoring or enhancing a *significant natural area* or indigenous species or ecosystems that are taoka, ~~or~~

[59] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC
[60] Consequential change to 00239.100 Federated Farmers
[61] 00311.022 Trustpower Limited
[62] 00314.001 Transpower
[63] 00315.046 Aurora Energy, 00138.116 QLDC
[64] 00115.022 Oceana Gold (New Zealand) Ltd
[65] 00115.022 Oceana Gold (New Zealand) Ltd
[66] 00234.009 Te Rūnanga o Ngāi Tahu, 00226.053 Kāi Tahu ki Otago, 00010.002 Cain whanau
[67] 00226.0038 Kāi Tahu ki Otago
[68] 00226.220 Kāi Tahu ki Otago
[69] 00234.032 Te Rūnanga o Ngāi Tahu
[70] 00234.032 Te Rūnanga o Ngāi Tahu
[71] 00234.032 Te Rūnanga o Ngāi Tahu

(5) activities that are for the purpose of addressing a severe ~~and~~ or[72] immediate risk to public health or safety~~.~~,

(6) activities that are for the purpose of a developing a single residential dwelling on an allotment that was created before 4 August 2023, and can demonstrate there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed, or

(7) activities that are for the purpose of harvesting indigenous tree species from an *SNA* carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

~~**ECO-P5 – Existing activities in *significant natural areas***~~

~~Except as provided for by ECO–P4, provide for existing activities within *significant natural areas* and that may adversely affect indigenous species and ecosystems that are taoka, if:~~

~~(1) the continuation of an existing activity will not lead to the loss (including through cumulative loss) of extent or *degradation* of the ecological integrity of any *significant natural area* or indigenous species or ecosystems that are taoka, and~~

~~(2) the adverse *effects* of an existing activity are no greater in character, spatial extent, intensity or scale than they were before this RPS became operative.~~[73]

ECO-P5A – Managing adverse effects of established activities on *SNA*s

Provide for the maintenance, operation, and upgrade of existing activities (excluding activities managed under ECO-P3 and ECO-P4), where the effects of the activity, including cumulative effects, on an *SNA*:

(1) are no greater in intensity, scale, or character over time than at 4 August 2023, and

(2) do not result in the loss of extent, or degradation of ecological integrity, of an *SNA*.

ECO-P6 – Maintaining *indigenous biodiversity*

Outside the coastal environment, ~~M~~maintain[74] Otago's *indigenous biodiversity* (excluding ~~the coastal *environment* and~~[75] areas ~~managed~~ protected[76] under ECO-P3, and activities managed under ECOP6A(1)) by:

(1) applying the ~~following~~ *biodiversity effects management hierarchy (in relation to indigenous biodiversity)*[77] to manage significant adverse *effects* on *indigenous biodiversity*, and

(2) avoiding, remedying, or mitigating all other adverse *effects* on *indigenous biodiversity*.

[72] 00139.130 DCC
[73] 00315.037 Aurora Energy, 00115.021 Oceana Gold (New Zealand) Ltd
[74] Clause (10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00301.028 Port Otago
[75] Clause 10(2)(b)(i) - Consequential amendment arising from 00226.223 Kāi Tahu ki Otago
[76] 00230.105 Forest and Bird
[77] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga

~~in decision-making on applications for *resource consent*, plan change[78] and notices of requirement.~~

~~(1) avoid adverse *effects* as the first priority,~~

~~(2) where adverse *effects* demonstrably cannot be completely avoided, they are remedied,~~

~~(3) where adverse *effects* demonstrably cannot be completely avoided or remedied, they are mitigated,~~

~~(4) where there are more than minor[79] residual adverse *effects* after avoidance, remediation, and mitigation, then the residual adverse *effects* are offset in accordance with APP3, and~~

~~(5) if *biodiversity* offsetting of more than minor[80] residual adverse *effects* is not possible, then:~~

~~(a) the those[81] residual adverse *effects* are compensated for in accordance with APP4, and~~

~~(b) if the those[82] residual adverse *effects* cannot be compensated for in accordance with APP4, the activity is avoided.~~

ECO-P6A – Renewable electricity generation and electricity transmission networks

Manage the effects of the development, operation, maintenance, and upgrade of *renewable electricity generation* and *electricity transmission network infrastructure* on *indigenous biodiversity* (outside *water bodies* and the *coastal marine area*) by:

(1) for *infrastructure* that is *nationally significant infrastructure* or *regionally significant infrastructure*:

(a) avoiding, as a first priority, locating within *significant natural areas*, and

(b) if it not demonstrably practicable to avoid locating within a *significant natural area* because of the *functional needs* or *operational needs* of the *infrastructure*, minimise adverse effects on the values of the area, and

(c) outside *significant natural areas*, avoiding, remedying, or mitigating adverse effects on *indigenous biodiversity* to the extent practicable, and

(d) in all areas have regard to the offsetting principles set out within APP3 or the compensation principles set out in APP4 for any residual adverse *effects*; and

(2) for *infrastructure* not addressed in (1), managing adverse *effects* on *indigenous biodiversity* in accordance with ECO-P6.

~~ECO-P7 – Coastal indigenous *biodiversity*~~

~~Coastal indigenous *biodiversity* is managed by CE–P5, and implementation of CE–P5 also contributes to achieving ECO–O1~~.

[78] 00138.036 Queenstown Lakes District Council
[79] 00307.014 Christchurch International Airport Limited (CIAL)
[80] 00307.014 Christchurch International Airport Limited (CIAL)
[81] 00307.014 Christchurch International Airport Limited (CIAL)
[82] 00307.014 Christchurch International Airport Limited (CIAL)

CE-P5 – Coastal indigenous *biodiversity*

Protect *indigenous biodiversity* in the coastal environment by:

(1) identifying and avoiding adverse *effects* on the following ecosystems, vegetation types and areas:

(a) indigenous *taxa* that are listed as threatened or at risk in the New Zealand Threat Classification System lists,

(b) *taxa* that are listed by the International Union for Conservation of Nature and Natural Resources as threatened,

(c) indigenous ecosystems and vegetation types in the coastal environment that are threatened or are *naturally rare*,

(d) *habitats* of indigenous species where the species are at the limit of their natural range, or are *naturally rare,*

(e) areas containing nationally significant examples of indigenous community types, and

(f) areas set aside for full or partial protection of *indigenous biodiversity* under other legislation, and

(2) identifying and avoiding significant adverse *effects* and avoiding, remedying or mitigating other adverse *effects* on the following ecosystems, vegetation types and areas:

(a) areas of predominantly *indigenous vegetation* in the coastal environment,

(b) *habitats* in the coastal environment that are important during the vulnerable life stages of indigenous species,

(c) indigenous ecosystems and *habitats* that are only found in the coastal environment and are particularly vulnerable,

(d) areas sensitive to modification, including estuaries, lagoons, coastal *wetlands*, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh,

(e) *habitats* of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes,

(f) *habitats*, including areas and routes, important to migratory species, and

(g) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

(h) *significant natural areas* identified in accordance with APP2 that are not included in (1) above, and[83]

(i) indigenous species and ecosystems identified as taoka in accordance with ECO-M3

[83] 00137.055 DOC, 00120.042 Yellow-eyed Penguin Society

that are not included in (1) above.[84]

ECO–P8 – *Restoration* and e~~E~~nhancement[85]

The *intrinsic values*,[86] extent, *occupancy*[87] and condition of Otago's *indigenous biodiversity* is increased by:

(1) restoring and enhancing *habitat* for *indigenous species*, including taoka and *mahika kai*[88] species,

(2) improving the health and *resilience* of *indigenous biodiversity*, including ecosystems, species, ~~important~~[89] *ecosystem function*, and *intrinsic values*, ~~and~~

(3) buffering or linking ecosystems, *habitats* and ecological corridors, ki uta ki tai and~~.~~[90]

(4) prioritising all the following for *restoration*:

(a) *SNA*s whose ecological integrity is degraded,

(b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems,

(c) areas that provide important connectivity or buffering functions,

(d) natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or *habitat* for indigenous fauna

(e) areas of *indigenous biodiversity* on native reserves and *Māori land* where *restoration* is advanced by the Māori landowners,

(e) any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity *restoration*.

~~ECO-P9 – Wilding conifers~~

~~Reduce the impact of *wilding conifers* on indigenous *biodiversity* by:~~

~~(1) avoiding *afforestation* and *replanting* of *plantation forests* with *wilding conifer* species listed in APP5 within:~~

~~(a) areas identified as *significant natural areas*, and~~

~~(b) buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area*, and~~

~~(2) supporting initiatives to control existing *wilding conifers* and limit their further spread.~~[91]

[84] 00137.055 DOC, 00120.042 Yellow-eyed Penguin Society
[85] 00226.224 Kāi Tahu ki Otago
[86] 00138.037 QLDC
[87] 00223.099 Ngāi Tahu ki Murihiku, 00226.215 Kāi Tahu ki Otago
[88] 00226.0038 Kāi Tahu ki Otago
[89] 00137.091 DOC
[90] 00138.037 QLDC
[91] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including new LF-LS-P16A in response to 00411.006 Wayfare, 00137.084 DOC

ECO-P10 – ~~Integrated management~~ Co-ordinated approach[92]

~~Implement an integrated and[93] co-ordinated approach to managing Otago's ecosystems and indigenous *biodiversity* that:~~ Manage *indigenous biodiversity* and the effects on it from subdivision, use and development in an integrated way, which means:

(1) ensur~~es~~ing any permitted or controlled activity in a *regional plan*[94] or *district plan* rule does not compromise the achievement of ECO-O1,

(2) recognises the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial *environment*, *fresh water*, and the *coastal marine area*, including:

(a) the migration of fish species between *fresh* and *coastal waters*, and[95]

(b) the effects of land-use activities on coastal biodiversity and ecosystems,[96]

(2A) acknowledges that *climate change* will affect *indigenous biodiversity*, and manages activities which exacerbate the *effects* of *climate change*,[97]

(3) ~~promotes collaboration between individuals and agencies with *biodiversity* responsibilities,~~ providing for the coordinated management and control of subdivision, use and development, as it affects *indigenous biodiversity* across administrative boundaries,

(4) ~~supports the various statutory and non-statutory approaches adopted to manage indigenous *biodiversity*,~~ working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to *indigenous biodiversity*.

(5) recognises the critical role of people and communities in actively managing the remaining indigenous *biodiversity* occurring on private *land,* and

(6) adopts regulatory and non-regulatory regional *pest* management programmes.

ECO-P11 – Resilience to climate change

Promote the resilience of *indigenous biodiversity* to *climate change*, including at least by:

(1) allowing and supporting the natural adjustment of *habitats* and ecosystems to the changing climate; and

(2) considering the effects of climate change when making decisions on:

(a) *restoration* proposals; and

(b) managing and reducing new and existing biosecurity risks; and

(3) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential *habitats*, to enable migrations so that species can continue to find viable niches as the climate changes.

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[92] 00226.226 Kāi Tahu ki Otago
[93] 00226.226 Kāi Tahu ki Otago
[94] Clause 16(2), Schedule 1, RMA
[95] 00226.226 Kāi Tahu ki Otago
[96] 00226.226 Kāi Tahu ki Otago
[97] 00234.033 Te Rūnanga o Ngāi Tahu

(4) recognising the role of *indigenous biodiversity* in mitigating the effects of climate change.

ECO-P12 – Plantation forestry activities

Manage:

(1) the adverse effects of plantation forestry activities in any existing plantation forest on any *SNA* in a manner that:

  (a) maintains *indigenous biodiversity* in the *SNA* as far as practicable, while

  (b) provides for plantation forestry activities to continue.

(2) over the course of consecutive rotations of production, any part of an *SNA* that is within an area of an existing plantation forest that is planted, or is intended to be, replanted in trees for harvest in the manner necessary to maintain the long-term populations of any *Threatened or At Risk (declining) species* present in the area.

Methods

ECO-M1 – Statement of responsibilities

In accordance with section 62(1)(i)(iii) of the RMA 1991, the *local authorities* responsible for the control of *land* use to maintain indigenous *biological diversity* are:

(1) the Regional Council and *territorial authorities* are responsible for specifying objectives, policies and methods in *regional* and *district plans* for managing the margins of *wetlands*, *rivers* and *lakes*,

(2) the Regional Council is responsible for specifying objectives, policies and methods in *regional plans*:

  (a) in the *coastal marine area*,

  (b) in *wetlands*, *lakes* and *rivers*, and

  (c) in, on or under the *beds* of *rivers* and *lakes*,

(3) in addition to (1), *territorial authorities* are responsible for specifying objectives, policies and methods in *district plans* outside of the areas listed in (2) above if they are not managed by the Regional Council under (4), and

(4) the Regional Council may be responsible for specifying objectives, policies and methods in *regional plans* outside of the areas listed (1) above if:

  (a) the Regional Council reaches agreement with the relevant *territorial authority* or *territorial authorities*, and

  (b) if applicable, a transfer of powers in accordance with section 33 of the RMA 1991 occurs from the relevant *territorial authority* or *territorial authorities* to the Regional Council.

ECO-M2 – Identification of *significant natural areas*

Local authorities must:

(1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and *indigenous biodiversity*[98] values of *significant natural areas* as required by ECO-P2, and

(2) map and verify[99] the areas and include the *indigenous biodiversity*[100] values identified under (1) in the relevant *regional plans*[101] and *district plans*~~,~~ no later than 31 December 2030,[102]

(3A) identify areas and values of *indigenous biodiversity* within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant *regional plans*[103] and *district plans*, and[104]

(3) recognise that *indigenous biodiversity* spans jurisdictional boundaries by:

(a) working collaboratively to ensure the areas identified by different *local authorities* are not artificially fragmented when identifying *significant natural areas* that span jurisdictional boundaries, and

(b) ensuring that *indigenous biodiversity* is managed in accordance with this RPS,

(4) until *significant natural areas* are identified and mapped in accordance with (1) and (2),[105] require ecological assessments to be provided with applications for *resource consent*, plan change[106] and notices of requirement that identify whether affected areas are *significant natural areas* in accordance with APP2, and[107]

(5) in the following areas, prioritise identification under (1) ~~no later than 31 December 2025~~:[108]

(a) intermontane basins that contain *indigenous vegetation* and *habitats*,

(b) areas of dryland shrubs,

(c) braided *rivers*, including the Makarora, Mātukituki and Lower Waitaki Rivers,

(d) areas of montane tall tussock grasslands, and

(e) limestone *habitats*.

(6) when identifying *SNA*s, ensuring that:

(a) if the values or extent of a proposed *SNA* are disputed by the landowner, the local authority:

[98] 00226.228 Kāi Tahu ki Otago
[99] 00020.018 Rayonier Matariki
[100] 00226.228 Kāi Tahu ki Otago
[101] Clause 16(2), Schedule 1, RMA
[102] 00139.036 DCC
[103] Clause 16(2), Schedule 1, RMA
[104] Clause 10(2)(b)(i), schedule 1, RMA – CE-M2(3) moved to ECO-M2(3A) as a consequential amendment arising from moving coastal biodiversity provisions from CE to ECO in response to 00301.028 Port Otago
[105] 00311.014 Queenstown Airport
[106] Consequential change to 00138.036 Queenstown Lakes District Council
[107] Clause 16(2), Schedule 1, RMA
[108] 00139.002 DCC

(i) conducts a physical inspection of the area,

(ii) or, if a physical inspection is not practicable, uses the best information available to it at the time, and

(b) if requested by a territorial authority, the regional council will assist the territorial authority in undertaking its district-wide assessment, and

(c) where a territorial authority has identified an *SNA* prior to 4 August 2023, and prior to 4 August 2027, a suitably qualified ecologist is engaged by the territorial authority to confirm that the methodology originally used to identify the area as an *SNA*, and its application, is consistent with the assessment approach in APP2, and

(d) if a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant *habitat* of indigenous fauna that qualifies as an *SNA*, the territorial authority:

(i) conducts an assessment of the area in accordance with APP2 as soon as practicable, and

(ii) if a new *SNA* is identified as a result, includes it in the next appropriate plan or plan change notified by the territorial authority, and

(e) when a territorial authority does its 10-yearly plan review, it assesses its district in accordance with ECO-P2 and APP2 to determine whether changes are needed, and

(7) allow an area of Crown-owned land to qualify as an *SNA* without the need for the assessment required by ECO-P2, using APP2, if:

(a) the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act, and

(b) the territorial authority is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as an *SNA* under APP2; and

(c) the area is:

(i) a large and more-or-less contiguous area managed under a single protection classification (such as a national park); or

(ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park); or

(iii) a well-defined landscape or geographical feature (such as an island or mountain range); or

(iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.

ECO-M3 – Identification of taoka

Local authorities must:

(1) work together with *mana whenua* to agree a process for:

(a) identifying *indigenous species* and ecosystems that are taoka, including those identified by *mana whenua* as requiring protection, and how they are valued with reference to mātauraka Māori,[109]

(b) describing the taoka identified in (1)(a),

(c) mapping or describing the location of the taoka identified in (1)(a), and

(d) describing the values of each taoka identified in (1)(a), and

(2) notwithstanding (1), recognise that *mana whenua* have the right to choose not to identify taoka and to choose the level of detail at which identified taoka, or their location or values, are described, and

(3) to the extent agreed by *mana whenua*, amend their *regional* and *district plans* to include matters (1)(b) to (1)(d) above~~.~~, and

(4) recognise the possible adverse effects on identified *taoka* include effects on:

(a) the mauri of the *taoka*,

(b) the values of the taoka as identified by mana whenua,

(c) the historical, cultural, and spiritual relationship of tangata whenua with the *taoka*, as identified by mana whenua, and

(5) make or change their policy statements and plans as necessary to ensure that the sustainable customary use of identified *taoka* by mana whenua in accordance with tikaka and in a manner consistent with the protection of the identified taoka is provided for, and

(6) notify the relevant landowner of the presence of the *taoka* prior to identifying acknowledged *taoka* in a proposed district plan.

ECO-M4 – *Regional plans*

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

(1) if the requirements of ECO-P3 ~~and~~ to[110] ECO-P6 can be met, provide for the use of *lakes* and *rivers* and their *beds,* including:

(a) activities undertaken for the purposes of *pest* control or maintaining or enhancing the *habitats* of indigenous fauna, and

(b) the maintenance and use of existing *structures* that are lawfully established[111] (including *infrastructure*), and

(c) *infrastructure* that has a *functional need*[112] or *operational need* to be sited or operated in a particular location,

[109] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00239.100 Federated Farmers
[110] Clause 16(2), Schedule 1, RMA
[111] 00230.113 Forest and Bird
[112] 00315.046 Aurora Energy, 00138.116 QLDC

(1A) manage the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai*[113] and kaimoana (seafood) activities,[114]

(2) require:

(a) *resource consent* applications to include information that demonstrates that the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)*[115] ~~in ECO–P6~~ have been followed, and

(b) that consents are not granted if the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)*[116] ~~in ECO–P6~~ have not been followed, and

(3) provide for activities undertaken for the purpose of restoring or enhancing the *habitats* of indigenous fauna.

ECO-M4A – Increasing indigenous vegetation cover

Otago Regional Council must:

(1) assess the percentage of indigenous vegetation cover in

(a) each of its urban environments; and

(b) its non-urban environments.

(2) the assessment may be done by a desktop analysis, by ground truthing, or both, and must be done in collaboration with relevant territorial authorities, and mana whenua (to the extent they wish to be involved).

(3) set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation; and

(a) Consider, in consultation with mana whenua and territorial authorities, setting higher targets for urban and non-urban environments that already have at least 10% coverage of indigenous vegetation; and

(b) include any indigenous vegetation cover targets in their regional policy statements.

Local authorities must:

(4) promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:

(a) having regard to any targets set under ECO-M4A(3); and

(b) giving priority to all the following:

(i) areas referred to in ECO-P8(4):

(ii) ensuring indigenous species richness appropriate to the ecosystem:

[113] 00226.0038 Kāi Tahu ki Otago
[114] 00226.230 Kāi Tahi ki Otago / Aukaha
[115] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC
[116] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC

(iii) *restoration* at a landscape scale across the region; and

(iv) using species, and seed from species, that are local to the area.

ECO-M4B - Specified highly mobile fauna

Local authorities must:

(1) include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.

(2) provide information to their communities about:

(a) highly mobile fauna and their *habitats*; and

(b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their *habitats* in their regions and districts.

ECO-M4C – *Maintenance of improved pasture* for farming

Local authorities must:

(1) allow the *maintenance of improved pasture* to continue if:

(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 an uncultivated *Depositional landform*; and

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

ECO-M4D – Native reserves and Māori land

Local authorities must:

(1) work in partnership (which includes acting in good faith) with *mana whenua* and owners of native reserves and Māori land to develop, and include in *district plans* and *regional plans*, objectives, policies, and methods that, to the extent practicable:

(a) maintain and restore indigenous biodiversity on native reserves and Māori land, and

(b) protect *SNA*s and identified *taoka* on native reserves and Māori land, and

(2) ensure that objectives, policies, and methods developed under (6):

(a) enable new occupation, use, and development of native reserves and Māori land to support the social, cultural, and economic wellbeing of *mana whenua*, and

(b) enable the provision of new *papakāika*, marae and ancillary community facilities, dwellings, and associated infrastructure, and

(c) enable alternative approaches to, or locations for, new occupation, use, and development that avoid, minimise, or remedy adverse *effects* on *SNA*s and identified *taoka* on native reserves and Māori land, and enable options for offsetting and compensation, and

(d) recognise and be responsive to the fact that there may be no or limited alternative locations for *mana whenua* to occupy, use, and develop their lands, and

(e) recognise that there are circumstances where development will prevail over *indigenous biodiversity*, and

(f) recognise and be responsive to any recognised historical barriers *mana whenua* have faced in occupying, using, and developing their ancestral lands.

ECO-M5 – *District plans*

Territorial authorities must prepare or amend and maintain their *district plans* to:

(1) if the requirements of ECO-P3 ~~and~~ to[117] ECO-P6A are met, provide for the use of *land* and the surface of *water bodies* including:

(a) activities undertaken for the purposes of *pest* control or maintaining or enhancing the *habitats* of indigenous fauna, and

(b) the maintenance and use of existing *structures* (including *infrastructure*), and

(c) *infrastructure* that has a *functional* or *operational need* to be sited or operated in a particular location,

(2) ~~control~~ manage[118] the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai*[119] activities,[120]

(3) promote the establishment of *esplanade reserves* and *esplanade strips*, particularly where they would support ecological corridors, buffering or connectivity between *significant natural areas*, or access to *mahika kai*,[121]

(4) require:

(a) *resource consent* applications to include information that demonstrates that the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)*[122] ~~in ECO-P6~~ have been followed, and

[117] Clause 16(2), Schedule 1, RMA
[118] Clause 16(2), Schedule 1, RMA
[119] 00226.0038 Kāi Tahu ki Otago
[120] 00226.231 Kāi Tahu ki Otago
[121] 00226.231 Kāi Tahu ki Otago, 00226.0038 Kāi Tahu ki Otago
[122] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC

(b) that consents are not granted if the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)*[123] ~~in ECO-P6~~ have not been followed, and

(5) provide for activities undertaken for the purpose of restoring or enhancing the *habitats* of indigenous fauna, and

~~(6) prohibit the planting of *wilding conifer* species listed in APP5 within areas identified as *significant natural areas.*~~[124]

(7) require buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area.*[125]

ECO-M6 – Engagement

Local authorities, when implementing the policies in this chapter, will:

(1) work collaboratively with other *local authorities* to adopt an integrated approach to managing Otago's *biodiversity* across administrative boundaries,

(2) engage with individuals (including landowners and *land* occupiers), community groups, government agencies and other organisations with a role or an interest in *biodiversity* management, and

(3) consult directly with landowners and *land* occupiers whose properties potentially contain or are part of *significant natural areas*.

ECO-M7A — Kāi Tahu kaitiakitaka

Local authorities must partner with Kāi Tahu in the management of *indigenous biodiversity* to the extent desired by *mana whenua*, including by:

(1A) ensuring that engagement with mana whenua is early, meaningful, and in accordance with tikanga Māori,

(1) actively supporting the role of *mana whenua* as kaitaiki,

(2) facilitating opportunities for *mana whenua* to be involved in resource management (including decision making),

(3) enabling the *mahika kai* practices of *mana whenua* in accordance with tikaka,

(4) working with *mana whenua* to determine appropriate management approaches for *indigenous biodiversity* within native reserves and *Māori land*,

(5) supporting *mana whenua* initiatives that contribute to restoring or enhancing te hauora o te koiora (the health of *indigenous biodiversity*),

(6) where appropriate, incorporating Kāi Tahu mātauraka and tikaka in *indigenous biodiversity* management and monitoring, and

[123] 00016.013 Alluvium and Stoney Creek, 0017.011 Danny Walker and Others, 00321.022 Te Waihanga, 00137.009 DOC
[124] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00411.006 Wayfare, 00137.084 DOC (insertion of new LF-LS-P16A)
[125] 00140.026 Waitaki DC

(7) providing relevant information to *mana whenua* for the purposes of *indigenous biodiversity* management and monitoring.[126]

ECO-M7B – Information requirements

Local authorities must:

(1) require that, in relation to an application for a resource consent for an activity that would have more than minor adverse effects on *indigenous biodiversity*, the application is not considered unless it includes a report that:

  (a) is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauraka Māori; and

  (b) complies with subclause (2); and

  (c) is commensurate with the scale and significance (to *indigenous biodiversity*) of the proposal.

(2) the report required within ECO-M2(4A) above must:

  (a) include a description of the existing ecological features and values of the site; and

  (b) include a description of the adverse effects of the proposal on *indigenous biodiversity* and how those effects will be managed; and

  (c) identify any effects on identified taoka; and

  (d) identify the ecosystem services associated with *indigenous biodiversity* at the site; and

  (e) include an assessment of the ecological integrity and connectivity within and beyond the site; and

  (f) include mātauraka Māori and tikaka Māori assessment methodology, where relevant; and

  (g) if *biodiversity offsetting* is proposed, set out:

    (i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and

    (ii) a description of how the relevant principles in APP4 have been addressed; and

    (iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and

  (h) if *biodiversity compensation* is proposed, set out:

    (i) a detailed plan of what is proposed; and

    (ii) a description of how the relevant principles in Appendix 4 of this National Policy Statement have been addressed; and

    (iii) an assessment of the likely success of the plan in achieving its outcomes.

[126] 00226.232 Kāi Tahu ki Otago

ECO-M7 – Monitoring

Local authorities will:

(1) establish long-term monitoring programmes for areas identified under ~~ECO–P1~~ECO-P2[127] that measure the net loss and gain of *indigenous biodiversity*,

(2) record information (including data) over time[128] about the state of species, vegetation types and ecosystems, including *mahika kai*[129] species and ecosystems,[130]

(3) to the extent possible, use mātauraka Māori and tikaka Māori monitoring methods, as well as scientific monitoring methods, and

(4) regularly report on matters in (1) and (2) and publish these reports.

ECO-M8 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies ECO-P1 to ECO-P10, including:

(1) providing information and guidance on the maintenance, *restoration* and enhancement of indigenous ecosystems ~~and~~,[131] *habitats*, taoka and *mahika kai*[132] species and ecosystems,[133]

(2) funding assistance for *restoration* projects (for example, through Otago Regional Council's ECO Fund),

(3) supporting the control of *pest* plants and animals, including through the provision of advice and education and implementing regulatory programmes such as the Regional Pest Management Plan,

(4) financial incentives,

(5) covenants to protect areas of *indigenous biodiversity* ~~*land*~~,[134] including through the QEII National Trust,

(6) advocating for a collaborative approach between central and local government to fund *indigenous biodiversity* maintenance and enhancement, and

(7) gathering information on indigenous ecosystems, ~~and~~[135] *habitats*, and taoka and *mahika kai*[136] species and ecosystems,[137] including outside *significant natural areas*.

[127] 00137.095 DOC, 00226.233 Kāi Tahu ki Otago
[128] 00226.233 Kāi Tahu ki Otago
[129] 00226.038 Kāi Tahu ki Otago
[130] 00226.233 Kāi Tahu ki Otago
[131] 00226.234 Kāi Tahu ki Otago
[132] 00226.038 Kāi Tahu ki Otago
[133] 00226.234 Kāi Tahu ki Otago
[134] 00230.117 Forest and Bird
[135] 00226.234 Kāi Tahu ki Otago
[136] 00226.038 Kāi Tahu ki Otago
[137] 00226.234 Kāi Tahu ki Otago

Explanation

ECO-E1 – Explanation

The first policy in this chapter outlines how the kaitiaki role of Kāi Tahu will be recognised in Otago. The policies which follow then set out a management regime for identifying *significant natural areas* and *indigenous species* and ecosystems that are taoka and protecting them by avoiding particular adverse *effects* on them. The policies recognise that these restrictions may be unduly restrictive for some activities within *significant natural areas*, including existing activities already established. To maintain ecosystems and *indigenous biodiversity*, the policies set out mandatory and sequential steps in an *effects management hierarchy* to be implemented through decision making, including providing for *biodiversity offsetting* and compensation if certain criteria are met. The policies also require protecting coastal *indigenous biodiversity* in accordance with the NZCPS.[138]

~~Although the objectives of this chapter apply within the coastal environment, the specific management approach for *biodiversity* is contained in the CE – Coastal environment chapter.~~[139] Given the *biodiversity* loss that has occurred in Otago historically, *restoration* or enhancement will play a part in achieving the objectives of this chapter and these activities are promoted.

~~*Wilding conifers* are a particular issue for *biodiversity* in Otago. Although *plantation forestry* is managed under the NESPF, the NESPF allows plan rules to be more stringent if they recognise and provide for the protection of *significant natural areas*. The policies adopt this direction by requiring *district* and *regional plans* to prevent *afforestation* within *significant natural areas* and establish buffer zones where they are necessary to protect *significant natural areas*.~~[140]

The policies recognise that managing ecosystems and *indigenous biodiversity* requires co-ordination across different areas and types of resources, as well as across organisations, communities and individual landowners. This articulates the stewardship role of all people and communities in Otago in respect of *indigenous biodiversity*.

Principal reasons

ECO-PR1 – Principal reasons

The health of New Zealand's *biodiversity* has declined significantly since the arrival of humans and remains under significant pressure. ~~Mahika kai~~ *Mahika kai*[141] and taoka species, including their abundance, have been damaged or lost through resource use, *land* use change and development in Otago. The provisions in this chapter seek to address this loss and pressure through providing direction on how *indigenous biodiversity* is to be managed.

[138] Clause 10(2)(b)(i), schedule 1, RMA – CE-M2(3) moved to ECO-M2(3A) as a consequential amendment arising from moving coastal biodiversity provisions from CE to ECO in response to 00301.028 Port Otago
[139] Clause 10(2)(b)(i), schedule 1, RMA – CE-M2(3) moved to ECO-M2(3A) as a consequential amendment arising from moving coastal biodiversity provisions from CE to ECO in response to 00301.028 Port Otago
[140] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00411.006 Wayfare, 00137.084 DOC (insertion of new LF-LS-P16A)
[141] 00226.0038 Kāi Tahu ki Otago

The provisions in this chapter assist in maintaining, protecting and restoring *indigenous biodiversity* by:

- stating the outcomes sought for ecosystems and *indigenous biodiversity* in Otago,
- requiring identification and protection of *significant natural areas*, ~~and~~ *indigenous species* and ecosystems that are taoka, and coastal *indigenous biodiversity,* and[142]
- directing how *indigenous biodiversity* is to be maintained.

This chapter will assist with achieving the outcomes sought by *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020.* Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

ECO-AER1 There is no further decline in the condition ~~quality~~,[143] quantity or diversity of Otago's *indigenous biodiversity*.

ECO-AER2 The condition ~~quality~~,[144] quantity and diversity of *indigenous biodiversity* within Otago improves over the life of this Regional Policy Statement.

ECO-AER3 Kāi Tahu are involved in the management of *indigenous biodiversity* and able to effectively exercise their *kaitiakitaka*.

~~**ECO-AER4** Within *significant natural areas*, the area of *land* vegetated by *wilding conifers* is reduced.~~[145]

[142] Clause 10(2)(b)(i), schedule 1, RMA – CE-M2(3) moved to ECO-M2(3A) as a consequential amendment arising from moving coastal biodiversity provisions from CE to ECO in response to 00301.028 Port Otago
[143] Consequential amendment to 00306.042 Meridian
[144] Consequential amendment to 00306.042 Meridian
[145] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00411.006 Wayfare, 00137.084 DOC (insertion of new LF-LS-P16A)

APP2 – ~~Significance criteria for indigenous *biodiversity*~~ Criteria for identifying areas that qualify as *significant natural areas* (*SNA*s)

This appendix sets out the criteria for identifying significant indigenous vegetation or significant *habitats* of indigenous fauna in a specific area, so that the area qualifies as an *SNA*.

The assessment must be done using the assessment criteria in Appendix 1 and in accordance with the following principles:

(a) partnership: territorial authorities engage early with mana whenua and landowners and share information about *indigenous biodiversity*, potential management options, and any support and incentives that may be available:

(b) transparency: territorial authorities clearly inform mana whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to mana whenua and relevant landowners for review:

(c) quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner does not give access) the local authority uses the best information available to it at the time:

(d) access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort:

(e) consistency: the criteria in Appendix 1 are applied consistently, regardless of who owns the land:

(f) boundaries: the boundaries of areas of significant indigenous vegetation or significant *habitat* of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

1 What qualifies as an *SNA*

(1) An area qualifies as an *SNA* if it meets any one of the attributes of the following four criteria:

(a) representativeness:

(b) diversity and pattern:

(c) rarity and distinctiveness:

(d) ecological context.

(2) If an area would qualify as an *SNA* solely on the grounds that it provides *habitat* for a single indigenous fauna species that is At Risk (declining), and that species is widespread in at least three other regions, the area does not qualify as an *SNA* unless:

(a) the species is rare within the region or *ecological district* where the area is located; or

(b) the protection of the species at that location is important for the persistence of the species as a whole.

(3) If an area would qualify as an *SNA* solely on the grounds that it contains one or more indigenous flora species that are Threatened or At Risk (declining), and those species are widespread in at least three other regions, the area does not qualify as an *SNA* unless:

(a) the species is rare within the region or *ecological district* where the area is located; or

(b) the protection of the species at that location is important for the persistence of the species as a whole.

2 Context for assessment

(1) The context for an assessment of an area is: (a) its *ecological district*; and (b) for the rarity assessment only, its *ecological district*, its region and the national context.

3 Manner and form of assessment

(1) Every assessment must include at least:

(a) a map of the area; and

(b) a general description of its significant attributes, with reference to relevant criteria (as specified below); and

(c) a general description of the indigenous vegetation, indigenous fauna, *habitat*, and ecosystems present; and

(d) additional information, such as the key threats, pressures, and management requirements; and

(e) for *SNA*s in areas of Crown-owned land referred to in clause 3.8(8), the conservation management strategy or plan or national park management plan that applies to the area.

(2) An assessment under this appendix must be conducted by a suitably qualified ecologist (which, in the case of an assessment of a geothermal ecosystem, requires an ecologist with geothermal expertise).

A Representativeness criterion

(1) Representativeness is the extent to which the indigenous vegetation or *habitat* of indigenous fauna in an area is typical or characteristic of the *indigenous biodiversity* of the relevant *ecological district*.

Key assessment principles

(2) Significant indigenous vegetation has ecological integrity typical of the indigenous vegetation of the *ecological district* in the present-day environment. It includes seral (regenerating) indigenous vegetation that is recovering following natural or induced disturbance, provided species composition is typical of that type of indigenous vegetation.

(3) Significant indigenous fauna *habitat* is that which supports the typical suite of indigenous animals that would occur in the present-day environment. *Habitat* of indigenous fauna may be indigenous or exotic.

(4) Representativeness may include commonplace indigenous vegetation and the *habitats* of indigenous fauna, which is where most *indigenous biodiversity* is present. It may also include degraded indigenous vegetation, ecosystems and *habitats* that are typical of what remains in depleted *ecological district*s. It is not restricted to the best or most representative examples, and it is not a measure of how well that indigenous vegetation or *habitat* is protected elsewhere in the *ecological district*.

(5) When considering the typical character of an *ecological district*, any highly developed land or built-up areas should be excluded.

(6) The application of this criterion should result in identification of indigenous vegetation and *habitats* that are representative of the full range and extent of ecological diversity across all environmental gradients in an *ecological district*, such as climate, altitude, landform, and soil sequences. The ecological character and pattern of the indigenous vegetation in the *ecological district* should be described by reference to the types of indigenous vegetation and the landforms on which it occurs.

Attributes of representativeness

(7) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:

(a) indigenous vegetation that has ecological integrity that is typical of the character of the *ecological district*:

(b) *habitat* that supports a typical suite of indigenous fauna that is characteristic of the *habitat* type in the *ecological district* and retains at least a moderate range of species expected for that *habitat* type in the *ecological district*.

B Diversity and pattern criterion

(1) Diversity and pattern is the extent to which the expected range of diversity and pattern of biological and physical components within the relevant *ecological district* is present in an area.

Key assessment principles

(2) **Diversity of biological components** is expressed in the variation of species, communities, and ecosystems. Biological diversity is associated with variation in physical components, such as geology, soils/substrate, aspect/exposure, altitude/depth, temperature, and salinity.

(3) **Pattern** includes changes along environmental and landform gradients, such as ecotones and sequences.

(4) **Natural areas** that have a wider range of species, *habitats* or communities or wider environmental variation due to ecotones, gradients, and sequences in the context of the *ecological district*, rate more highly under this criterion.

Attributes of diversity and pattern

(5) An area that qualifies as a significant natural area under this criterion has at least one of the following attributes:

(a) at least a moderate diversity of indigenous species, vegetation, *habitats* of indigenous fauna or communities in the context of the *ecological district*:

(b) presence of indigenous ecotones, complete or partial gradients or sequences.

C Rarity and distinctiveness criterion

(1) Rarity and distinctiveness is the presence of rare or distinctive indigenous taxa, *habitats* of indigenous fauna, indigenous vegetation or ecosystems.

Key assessment principles

(2) **Rarity** is the scarcity (natural or induced) of indigenous elements: species, *habitats*, vegetation, or ecosystems. Rarity includes elements that are uncommon or threatened.

(3) **The list of Threatened and At Risk species** is regularly updated by the Department of Conservation. Rarity at a regional or *ecological district* scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally listed Threatened and At Risk species should not be downgraded just because they are common within a region or *ecological district*.

(4) **Depletion of indigenous vegetation or ecosystems** is assessed using *ecological district*s and land environments.

(5) **Distinctiveness** includes distribution limits, type localities, local endemism, relict distributions, and special ecological or scientific features.

Attributes of rarity and distinctiveness

(6) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:

(a) provides *habitat* for an indigenous species that is listed as Threatened or At Risk (declining) in the New Zealand Threat Classification System lists:

(b) an indigenous vegetation type or an indigenous species that is uncommon within the region or *ecological district*:

(c) an indigenous species or plant community at or near its natural distributional limit:

(d) indigenous vegetation that has been reduced to less than 20 per cent of its prehuman extent in the *ecological district*, region, or land environment:

(e) indigenous vegetation or *habitat* of indigenous fauna occurring on naturally uncommon ecosystems:

(f) the type locality of an indigenous species:

(g) the presence of a distinctive assemblage or community of indigenous species:

(h) the presence of a special ecological or scientific feature.

D Ecological context criterion

(1) Ecological context is the extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain *indigenous biodiversity* or affects the ability of the surrounding landscape to maintain its *indigenous biodiversity*.

Key assessment principles

(2) Ecological context has two main assessment principles:

(a) the characteristics that help maintain *indigenous biodiversity* (such as size, shape, and configuration) in the area; and

(b) the contribution the area makes to protecting *indigenous biodiversity* in the wider landscape (such as by linking, connecting to or buffering other natural areas, providing 'stepping stones' of *habitat* or maintaining ecological integrity).

Attributes of ecological context

(3) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:

(a) at least moderate size and a compact shape, in the context of the relevant *ecological district*:

(b) well-buffered relative to remaining *habitats* in the relevant *ecological district*:

(c) provides an important full or partial buffer to, or link between, one or more important *habitats* of indigenous fauna or *significant natural areas*:

(d) important for the natural functioning of an ecosystem relative to remaining *habitats* in the *ecological district*; and

(e) an area that is important for a population of indigenous fauna during a critical part of their life cycle, either seasonally or permanently, e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation.

~~An area is considered to be a *significant natural area* if it meets any one or more of the criteria below:~~

~~**Representativeness**~~

~~(a) An area that is an example of an indigenous vegetation type or habitat that is typical or characteristic of the original pre-human[146] natural diversity of the relevant ecological district[147] or coastal marine biogeographic region. This may include *degraded* examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas. This can include degraded examples where they are some of the best remaining examples of their type.[148]~~

~~(b) An indigenous marine ecosystem (including both intertidal and sub-tidal habitats, and including both faunal and floral assemblages) that makes up part of at least 10% of the natural extent of each of Otago's original marine ecosystem types and reflecting the environmental gradients of the region.[149]~~

~~(c) An indigenous marine ecosystem, or habitat of indigenous marine fauna (including both intertidal and sub-tidal habitats, and including both faunal and floral components), that is characteristic or typical of the natural marine ecosystem diversity of Otago.~~

~~**Rarity**~~

~~(d) An area that supports:~~

~~(i) An *indigenous species* that is threatened, at *risk*, Threatened,[150] or an important population of species that is At Risk,[151] or uncommon nationally or within~~

~~[146] 00221.018 Sanford~~

~~[147] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)~~

~~[148] 00221.018 Sanford Ltd~~

~~[149] 00306.081 Meridian~~

~~[150] As defined in the New Zealand Threat Classification System~~

~~[151] 00318.020 Contact, 00122.032 Sanford, 00221.018 Silver Fern Farms, 00313.033 Queenstown Airport, 00019.005 Straterra, 00320.020 Network Waitaki, 00511.023 PowerNet~~

an ecological district[152] or coastal marine biogeographic region, or

(ii) *Indigenous vegetation* or habitat of indigenous fauna that has been reduced to less than 20% of its former pre-human[153] extent nationally, regionally or within a relevant *land environment*, ecological district,[154] coastal marine biogeographic region or *freshwater environment* including *wetlands*, or

(iii) *Indigenous vegetation* and habitats within originally rare ecosystems, or.[155]

(iv) The site contains *indigenous vegetation* or an *indigenous species* that is endemic to Otago or that are at distributional limits within Otago.[156]

Diversity

(e) An area that supports a high diversity of indigenous ecosystem types, indigenous *taxa* or has changes in species composition reflecting the existence of diverse natural features or gradients.

Distinctiveness

(f) An area that supports or provides habitat for:

(i) *Indigenous species* at their distributional limit within Otago or nationally, or

(ii) *Indigenous species* that are endemic to the Otago region, or

(iii) *Indigenous vegetation* or an association of *indigenous species* that is distinctive,[157] of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors.

Ecological context

(g) The relationship of the area with its surroundings (both within Otago and between Otago and the adjoining regions),[158] including:

(i) An area that has important connectivity value allowing dispersal of indigenous flora and fauna between different areas, or

(ii) An area that has an important buffering function that helps to protect the values of an adjacent area or

[152] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)
[153] For example, 00221.018 Sanford Ltd.
[154] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)
[155] As defined in Williams et al, 2007. New Zealand's historically rare terrestrial ecosystems set in a physical and physiognomic framework
[156] 00230.147 Forest and Bird
[157] 00221.018 Sanford
[158] 00221.018 Sanford

feature of significant *indigenous vegetation* or significant habitat of indigenous fauna, or

(iii) An area that is important for a population of[159] indigenous fauna during some a critical[160] part of their life cycle, either seasonally or permanently, regularly or on an irregular basis[161] e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation, or

(iv) A *wetland* which plays an important hydrological, biological or ecological role in the natural functioning of a *river* or coastal ecosystem.

[159] 00221.018 Sanford
[160] 00221.018 Sanford
[161] 00221.018 Sanford

APP3 – ~~Criteria for *biodiversity* offsetting~~ Principles for *biodiversity offsetting*

These principles apply to the use of biodiversity offsets for adverse effects on *indigenous biodiversity*

(1) **Adherence to effects management hierarchy:** A biodiversity offset is a commitment to redress more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.

(2) **When *biodiversity offsetting* is not appropriate:** Biodiversity offsets are not appropriate in situations where *indigenous biodiversity* values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:

(a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the *indigenous biodiversity* affected:

(b) effects on *indigenous biodiversity* are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible:

(c) there are no technically feasible options by which to secure gains within an acceptable timeframe.

(d) the loss from an *ecological district* of any individuals of Threatened *taxa*, other than kānuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (Townsend et al, 2008); or

(e) the likely worsening of the conservation status of any *indigenous biodiversity* as listed under the New Zealand Threat Classification System (Townsend et al, 2008); or

(f) the removal or loss of health and *resilience* of a naturally uncommon ecosystem type that is associated with *indigenous vegetation* or *habitat* of indigenous fauna; or

(g) the loss (including through cumulative loss) of irreplaceable or vulnerable *indigenous biodiversity*.

(3) **Net gain:** This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in *indigenous biodiversity* values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the *indigenous biodiversity* values at the offset site are equivalent to or exceed those being lost at the impact site:

(a) types of *indigenous biodiversity*, including when indigenous species depend on introduced species for their persistence; and

(b) amount; and

(c) condition (structure and quality).

(4) **Additionality:** A biodiversity offset achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.

(5) **Leakage:** Biodiversity offset design and implementation avoids displacing harm to other *indigenous biodiversity* in the same or any other location.

(6) **Long-term outcomes:** A biodiversity offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.

(7) **Landscape context:** *Biodiversity offsetting* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, *habitats* and ecosystems, spatial connections, and *ecosystem function*.

(8) **Time lags:** The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

(9) **Science and mātauraka Māori:** The design and implementation of a biodiversity offset is a documented process informed by science and mātauraka Māori.

(10) **Mana whenua and stakeholder participation:** Opportunity for the effective and early participation of mana whenua and stakeholders is demonstrated when planning biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring.

(11) **Transparency:** The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

~~(1) *Biodiversity* offsetting is not available for an[162] if the activity that[163] will result in:~~

~~(a) the loss from an ecological district[164] -[165] of any individuals[166] of Threatened *taxa*, other than kānuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (Townsend et al, 2008); or~~

~~(b) reasonably measurable loss within the ecological district to an At Risk-Declining *taxon*, other than manuka (*Leptospermum scoparium*), under the New Zealand Threat Classification System (Townsend et al, 2008).[167]~~

~~(c) the likely[168] worsening of the conservation status of any *indigenous biodiversity* as listed under the New Zealand Threat Classification System (Townsend et al, 2008); or[169]~~

~~(d) the removal or loss of health and *resilience* of a naturally uncommon ecosystem type that is associated with *indigenous vegetation* or habitat of indigenous fauna; or[170]~~

~~(e) the loss (including through cumulative loss) of irreplaceable or vulnerable indigenous *biodiversity*, and[171]~~

~~[162] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.158 DOC~~
~~[163] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.158 DOC~~
~~[164] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)~~
~~[165] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.158 DOC~~
~~[166] 00137.158 DOC~~
~~[167] 00137.158 DOC~~
~~[168] 00311.0650 Manawa~~
~~[169] 00137.158 DOC~~
~~[170] 00137.158 DOC~~
~~[171] 00137.158 DOC~~

(2) *Biodiversity* offsetting may be is[172] available if the following criteria are met:

(a) the offset addresses only[173] residual adverse *effects* that remain after implementing the sequential steps required by ECO-P6(1) to (3),

(b) the proposal demonstrates that[174] the offset can reasonably[175] achieves[176] no net loss and preferably a net gain in indigenous *biodiversity*, as measured by type, amount and condition at both the impact and offset sites using an explicit quantitative[177] loss and gain calculation,

(c) the offset is undertaken where it will result in the best ecological outcome, and preferably as the first priority be:[178]

(i) close to the location of the activity, and

(ii) within the same ecological district[179] or coastal marine biogeographic region,[180]

(d) the offset is applied so that the ecological values being achieved are the same or similar to those being lost,

(e) the positive ecological outcomes of the offset endure at least as long as the impact of the activity and preferably in perpetuity,

(f) the proposal demonstrates that the offset will[181] achieves[182] *biodiversity* outcomes beyond results that are demonstrably additional to those[183] that would have occurred if the offset was not proposed, and are additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity,[184]

(g) the time delay between the loss of *biodiversity* and the gain or maturation of the *biodiversity* outcomes of the realisation of the[185] offset is the least necessary to achieve the best possible outcome,

(h) the outcome of the offset is achieved within the duration of the *resource consent*, and

(i) any offset developed in advance of an application for *resource consent* must be shown to have been created or commenced in anticipation of the specific *effect* of the proposed activity and would not have occurred if that *effect* was not anticipated., and

[172] Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00137.158 DOC
[173] Clause 16(2), Schedule 1, RMA – for consistency with APP4(2)(a)
[174] 00137.158 DOC
[175] 00137.158 DOC
[176] 00137.158 DOC
[177] 00137.158 DOC
[178] 00137.158 DOC
[179] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)
[180] 00237.007 Beef & Lamb and DINZ, 00137.016 DOC, 00226.035 Kāi Tahu ki Otago, 00120.011 Yellow-eyed Penguin Trust, 00230.016 Forest and Bird
[181] 00137.158 DOC
[182] 00137.158 DOC
[183] 00139.139 DCC
[184] 00137.158 DOC
[185] 00137.158 DOC

(j) the offset accords with mātauraka Māori when taoka species are affected,[186]

(k) the offset design and implementation do not displace harm to other locations (including harm to existing *biodiversity* at the offset site), and[187]

(3) *Biodiversity* offsetting proposed in any application for *resource consent*, plan change or notice of requirement must address all matters in APP3(2), and:

(a) describe and measure *biodiversity* at the impact and offset sites using metrics that allow for *biodiversity* losses and gains to be quantified and balanced on a like for like basis,[188]

(b) use a disaggregated accounting system for important and *high value species and vegetation types* to ensure they are transparently accounted for,[189]

(c) evaluate the ecological context, including the interactions between species, habitats and ecosystems, spatial connections and ecosystem function at the impact site and offset site,

(d) include application of mātauraka Māori where to available to an applicant, and[190]

(e) include a separate *biodiversity* offset management plan prepared in accordance with good practice and which incorporates a monitoring and evaluation regime.

[186] 00223.134 Ngāi Tahu ki Murihiku
[187] 00311.0650 Manawa, 00137.158
[188] 00137.158 DOC
[189] 00137.158 DOC
[190] 00311.0650 Manawa, 00137.158

APP4 – ~~Criteria for *biodiversity* compensation~~ Principles for biodiversity compensation

These principles apply to the use of *biodiversity compensation* for adverse effects on *indigenous biodiversity*:

(1) Adherence to effects management hierarchy: *Biodiversity compensation* is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.

(2) When *biodiversity compensation* is not appropriate: *Biodiversity compensation* is not appropriate where *indigenous biodiversity* values are not able to be compensated for. Examples of *biodiversity compensation* not being appropriate include where:

(a) the *indigenous biodiversity* affected is irreplaceable or vulnerable;

(b) effects on *indigenous biodiversity* are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;

(c) there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes.

(d) the loss from an ecological district of Threatened taxa, other than kānuka (Kunzea robusta and Kunzea serotina), under the New Zealand Threat Classification System (Townsend et al, 2008); or

(e) removal or loss of viability of the *habitat* of a Threatened *indigenous species* of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),

(f) removal or loss of health and *resilience* of a naturally uncommon ecosystem type that is associated with *indigenous vegetation* or *habitat* of indigenous fauna,

(g) the likely worsening of the conservation status of any Threatened or At Risk *indigenous biodiversity* listed under the New Zealand Threat Classification System (Townsend et al, 2008).

(3) Scale of biodiversity compensation: The *indigenous biodiversity* values lost through the activity to which the *biodiversity compensation* applies are addressed by positive effects to *indigenous biodiversity* (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects.

(4) Additionality: *Biodiversity compensation* achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.

(5) Leakage: *Biodiversity compensation* design and implementation avoids displacing harm to other *indigenous biodiversity* in the same or any other location.

(6) Long-term outcomes: *Biodiversity compensation* is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.

(7) Landscape context: *Biodiversity compensation* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the compensation site, taking into account interactions between species, *habitats* and ecosystems, spatial connections, and *ecosystem function*.

(8) Time lags: The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years)

(9) Trading up: When trading up forms part of biodiversity compensation, the proposal demonstrates that the *indigenous biodiversity* gains are demonstrably greater or higher than those lost. The proposal also shows the values lost are not to *Threatened or At Risk (declining) species* or to species considered vulnerable or irreplaceable.

(10) Financial contributions: A financial contribution is only considered if:

(a) there is no effective option available for delivering biodiversity gains on the ground; and

(b) it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.

(11) Science and mātauraka Māori: The design and implementation of *biodiversity compensation* is a documented process informed by science, and mātauraka Māori.

(12) Mana whenua and stakeholder participation: Opportunity for the effective and early participation of mana whenua and stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.

(13) Transparency: The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

(14) Achievability: The *biodiversity compensation* outcome is demonstrably achievable.

~~(1) *Biodiversity* compensation is not available if the for an[191] activity that[192] will result in:~~

~~(a) the loss from an ecological district[193] of an indigenous *taxon* (excluding *freshwater* fauna and flora) or of any ecosystem type from an *ecological district* or coastal marine biogeographic region,[194]~~

~~[191] Clause 10(2)(b)(i), Schedule 1, RMA – consequential change from 00137.158 DOC~~
~~[192] Clause 10(2)(b)(i), Schedule 1, RMA – consequential change from 00137.158 DOC~~
~~[193] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)~~
~~[194] 00237.007 Beef & Lamb and DINZ, 00137.016 DOC, 00226.035 Kāi Tahu ki Otago, 00120.011 Yellow-eyed Penguin Trust, 00230.016 Forest and Bird~~

(b) removal or loss of viability of the[195] habitat of a Threatened or At Risk[196] *indigenous species* of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),

(c) removal or loss of viability health and *resilience*[197] of a *naturally rare* or naturally[198] uncommon ecosystem type that is associated with *indigenous vegetation*[199] or habitat of indigenous fauna, or[200]

(d) the likely[201] worsening of the conservation status of any Threatened or At Risk *indigenous biodiversity* listed under the[202] New Zealand Threat Classification System (Townsend et al, 2008) of any Threatened or At Risk indigenous fauna., or[203]

(e) the loss (including through cumulative loss) of irreplaceable or vulnerable *indigenous biodiversity*, and[204]

(2) *Biodiversity* compensation may be[205] available if the following criteria are met:

(a) compensation addresses only residual adverse *effects* that remain after implementing the sequential steps required by ECO-P65(1) to (4),

(b) compensation is undertaken where it will result in the best ecological outcome and preferably:

(i) close to the location of the activity, and[206]

(ii) within the same ecological district,[207] or coastal marine biogeographic region,[208] and[209]

(iii) delivers indigenous *biodiversity* gains on the ground,[210]

(ba) where criterion (2)(b)(iii) is not met, any financial contributions considered must be directly linked to a specific indigenous *biodiversity* gain or benefit,[211]

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[195] Clause 16(2), Schedule 1, RMA
[196] 00115.022 Oceana Gold
[197] 00230.149 Forest and Bird
[198] Consequential to 0137.014 DOC
[199] Clause 16(2), Schedule 1, RMA
[200] Clause 16(2), Schedule 1, RMA
[201] 00311.0650 Manawa
[202] 00137.158 DOC
[203] Clause 16(2), Schedule 1, RMA
[204] 00137.158 DOC
[205] 00137.158 DOC
[206] 00137.158 DOC
[207] McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation (new footnote attributed to 00138.027 QLDC)
[208] 00237.007 Beef & Lamb and DINZ, 00137.016 DOC, 00226.035 Kāi Tahu ki Otago, 00120.011 Yellow-eyed Penguin Trust, 00230.016 Forest and Bird
[209] 00137.158 DOC
[210] 00137.158 DOC
[211] 00137.158 DOC

(c) the proposal demonstrates that the compensation will[212] achieves[213] positive *biodiversity* outcomes that that are demonstrably additional to those that[214] would not have occurred without that compensation, and are additional to any remediation, mitigation or offset undertaken in relation to the adverse *effects* of the activity;[215]

(d) the positive *biodiversity* outcomes of the compensation are enduring last at least as long as the impacts and preferably in perpetuity and are enough to outweigh the adverse *effects* on indigenous *biodiversity*;[216]

(e) the time delay between the loss of *biodiversity* through the proposal at the impact site[217] and the gain or maturation of the compensation's[218] *biodiversity* outcomes from the compensation,[219] is the least necessary to achieve the best possible ecological[220] outcome,

(f) the outcome of the compensation is achieved within the duration of the *resource consent*,

(fa) when trading up forms part of *biodiversity* compensation, the proposal must demonstrate the indigenous *biodiversity* values gained are demonstrably of higher indigenous *biodiversity* value than those lost, and the values lost are not[221] considered vulnerable or irreplaceable,[222]

(g) *biodiversity* compensation developed in advance of an application for *resource consent* must be shown to have been created or commenced in anticipation of the specific *effect* of the proposed activity and would not have occurred if that *effect* was not anticipated, and

(h) the *biodiversity* compensation outcome[223] is demonstrably achievable.; and

(i) the compensation accords with mātauraka Māori when taoka species are affected, and[224]

(i) the compensation design and implementation do not displace harm to other locations (including harm to existing *biodiversity* at the compensation site), and[225]

(3) *Biodiversity* compensation proposed in any application for *resource consent*, plan change or notice of requirement must address all matters in APP4(2), and:

(a) evaluate the ecological context, including the interactions between species, habitats and ecosystems, spatial connections and ecosystem function at the impact site and compensation site,

[212] Clause 10(2)(b)(i), schedule 1, RMA – consequential amendment arising from 00137.158 DOC
[213] 00137.158 DOC
[214] 00139.139 DCC
[215] 00137.158 DOC
[216] 00137.158 DOC
[217] 00137.158 DOC
[218] 00137.158 DOC
[219] 00137.158 DOC
[220] 00137.158 DOC
[221] 00137.158 DOC
[222] 00137.158 DOC
[223] 00137.158 DOC
[224] 00223.134 Ngāi Tahu ki Murihiku
[225] 00137.158 DOC

(b) include application of mātauraka Māori where available to an applicant,[226] and

(c) include a separate *biodiversity* compensation management plan prepared in accordance with good practice and which incorporates a monitoring and evaluation regime.[227]

[226] 00137.158 DOC
[227] 00137.158 DOC

APP12 – Specified highly mobile fauna

Scientific Name	Common name	Ecosystem	Threat category	Found in Otago?	Listed in ORC's Schedule?
Anarhynchus frontalis	ngutu parore/wrybill	Coastal/riverine	Threatened (Nationally Increasing)	Yes	Yes
Anas chlorotis	pāteke/brown teal	wetland/riverine	Threatened (Nationally increasing)		Yes
Anas superciliosa superciliosa	pārera/grey duck	wetland/riverine	Threatened (Nationally Vulnerable)		Yes
Anthus novaeseelandiae novaeseelandiae	pīhoihoi/NZ pipit	forest/open	At Risk (Declining)	Yes	
Apteryx australis 'northern Fiordland'	northern Fiordland tokoeka	forest/open	Threatened (Nationally Vulnerable)		
Apteryx australis australis	southern Fiordland tokoeka	forest/open	Threatened (Nationally Endangered)		
Apteryx haastii	roa/great spotted kiwi	forest/open	Threatened (Nationally Vulnerable)		
Ardea modesta	kotuku/white heron	wetland/riverine	Threatened (Nationally Critical)		Yes
Botaurus poiciloptilus	matuku/bittern	wetland/riverine	Threatened (Nationally Critical)	Yes	Yes
Bowdleria punctate stewartiana	mātātā/Stewart Island fernbird	wetland/riverine	Threatened (Nationally Vulnerable)		
Bowdleria punctata punctata	koroātito/South Island fernbird	wetland/riverine	At Risk (Declining)	Yes	
Bowdleria punctata vealeae	mātātā/North Island fernbird	wetland/riverine	At Risk (Declining)		
Calidris canutus rogersi	huahou/lesser knot	coastal/riverine	At Risk (Declining)	Maybe?	
Chalinolobus tuberculatus	pekapeka/long-tailed bat	forest/open	Threatened (Nationally Critical)	Yes	yes

Charadrius bicinctus bicinctus	pohowera/banded dotterel	coastal/riverine	At Risk (Declining)	Yes	
Charadrius obscurus aquilonius	tūtiriwhatu/northern NZ dotterel	coastal/riverine	Threatened (Nationally Increasing)		
Charadrius obscurus obscurus	tūtiriwhatu/southern NZ dotterel	coastal/riverine	Threatened (Nationally Critical)		
Chlidonias albostriatus	tara pirohe/blackfronted tern	coastal/riverine	Threatened (Nationally Endangered)	Yes	Yes
Egretta sacra sacra	matuku moana/reef heron	coastal/riverine	Threatened (Nationally Endangered)	Yes	Yes
Falco novaeseelandiae ferox	kārearea/bush falcon	forest/open	Threatened (Nationally Increasing)		
Falco novaeseelandiae novaeseelandiae	kārearea/eastern falcon	forest/open	Threatened (Nationally Vulnerable)		
Falco novaeseelandiae 'southern'	kārearea/southern falcon	forest/open	Threatened (Nationally Endangered)		
Gallirallus australis greyi	North Island weka	forest/open	At Risk (Relict)		
Gallirallus philippensis assimilis	moho pererū/banded rail	wetland/riverine	At Risk (Declining)		
Haematopus finschi	tōrea/South Island pied oystercatcher	coastal/riverine	At Risk (Declining)	Yes	
Haematopus unicolor	tōrea tai/variable oystercatcher	coastal/riverine	At Risk (Recovering)	Yes	
Himantopus novaezelandiae	kakī/black stilt	wetland/riverine	Threatened (Nationally Critical)	Yes	Yes
Hydroprogne caspia	taranui/Caspian tern	coastal/riverine	Threatened (Nationally Vulnerable)	Yes	Yes
Hymenolaimus malacorhynchos	whio/blue duck	riverine	Threatened (Nationally Vulnerable)	Yes	Yes
Larus bulleri	tarāpukā/black-billed gull	coastal/riverine	At Risk (Declining)	Yes	

Larus novaehollandiae scopulinus	tarāpunga/red-billed gull	coastal/riverine	At Risk (Declining)	Yes	
Limosa lapponica baueri	kuaka/eastern bartailed godwit	coastal/riverine	At Risk (Declining)	Yes	
Mystacina tuberculata aupourica	pekapeka/northern short-tailed bat	forest/open	Threatened (Nationally Endangered)		
Mystacina tuberculata rhyacobia	pekapeka/central shorttailed bat	forest/open	At Risk (Declining)		
Mystacina tuberculata tuberculata	pekapeka/southern short-tailed bat	forest/open	At Risk (Recovering)	Yes / maybe?	
Nestor meridionalis meridionalis	kākā/South Island kākā	forest/open	Threatened (Nationally Vulnerable)	Yes	
Nestor meridionalis septentrionalis	kākā/North Island kākā	forest/open	At Risk (Recovering)		
Nestor notabilis	kea	forest/open	Threatened (Nationally Endangered)	Yes	
Petroica australis australis	kakariwai/South Island robin	forest/open	At Risk (Declining)	Yes	
Phalacrocorax varius varius	kāruhiruhi/pied shag	coastal/riverine	At Risk (Recovering)	Yes	
Podiceps cristatus australis	kāmana/southern crested grebe	wetland/riverine	Threatened (Nationally Vulnerable)	Yes	Yes
Poliocephalus rufopectus	weweia/NZ dabchick	wetland/riverine	Threatened (Nationally Increasing)		
Porzana pusilla affinis	koitareke/marsh crake	wetland/riverine	At Risk (Declining)	Yes	
Porzana tabuensis	pūweto/spotless crake	wetland/riverine	At Risk (Declining)		
Sterna striata striata	tara/white-fronted tern	coastal/riverine	At Risk (Declining)	Yes	
Sternula nereis davisae	tara iti/NZ fairy tern	coastal/riverine	Threatened (Nationally Critical)		
Thinornis novaeseelandiae	tuturuatu/NZ shore plover	coastal/riverine	Threatened (Nationally Critical)		

Xenicus gilviventris 'northern'	pīwauwau/northern rock wren	forest/open	Threatened (Nationally Critical)		
Xenicus gilviventris 'southern	pīwauwau/southern rock wren	forest/open	Threatened (Nationally Endangered)	Yes	