

SUBMISSION ON National Policy Statement Indigenous Biodiversity

21 July 2022

To: Ministry for the Environment

Name of Submitter: Horticulture New Zealand

Tomatoes NZ, NZ Asparagus Council, Strawberries NZ, NZ
Kiwifruit Growers Inc

Contact for Service:

Sarah Cameron

Senior Policy Advisor

Horticulture New Zealand

Ph: 021446281

Email: sarah.cameron@hortnz.co.nz

OVERVIEW

Submission structure

- 1 Part 1: HortNZ's role
- 2 Part 2: Executive summary
- 3 Part 3: Submission

Our submission

Horticulture New Zealand (HortNZ) thanks the Ministry for the Environment (MfE) for the opportunity to submit on the National Policy Statement Indigenous Biodiversity (NPSIB) and welcomes any opportunity to continue to work with MfE to discuss our submission.

HortNZ could not gain an advantage in trade competition through this submission.

HortNZ wishes to be heard in support of our submission and would be prepared to consider presenting our submission in a joint case with others making a similar submission at any hearing.

The details of HortNZ's submission and decisions we are seeking from MfE are set out in later sections of our submission.

HortNZ's Role

Background to HortNZ

HortNZ represents the interests of approximately 5,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruit, and vegetables. The horticultural sector provides over 40,000 jobs.

There is approximately 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain; and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



HortNZ's Resource Management Act 1991 Involvement

On behalf of its grower members, HortNZ takes a detailed involvement in resource management planning processes around New Zealand. HortNZ works to raise growers' awareness of the Resource Management Act 1991 (RMA) to ensure effective grower involvement under the Act.

Executive Summary

It is important to recognise and acknowledge that a lot of good work towards improving biodiversity has already been undertaken by rural private landowners and the broader primary production sector. This includes the validation and uptake of good management practices to manage environmental risk and, in many instances, contribute to the enhancement and wellbeing of indigenous biodiversity.

It is fundamental that the NPSIB does not impinge on the management, maintenance and function of good management practices such as sediment ponds, buffers or riparian planting. The NPSIB accounts for some aspects of these management techniques, however greater clarity could be provided. [e.g expressly allowing for horticultural farming as part of 'maintenance' etc] Farm Environment Plans should be considered as a valid means of demonstrating adequate management and enhancement of biodiversity values as well as consideration to Good Agricultural Programmes (GAP) schemes.

Submission

The exposure draft of NPSIB has gone some way to recognising the issues with the catch-all approach of the previous version. The identifying factors for SNAs under Appendix 1 have been refined, to increase the threshold for several of the criteria. This will allow a less onerous application of the NPSIB and ensure that areas are not classified as SNAs simply because they contain indigenous vegetation or habitat for indigenous fauna. In addition, new clause 3.16 allows for greater discretion around activities outside of SNAs that have adverse effects on indigenous biodiversity, by ensuring that only those activities that cause irreversible adverse effects are brought under the effects management hierarchy.

HortNZ continues to support the intent of the NPSIB and its focus on the need to improve management of New Zealand's biodiversity however submits that the long-term management of New Zealand's biodiversity requires a national strategic planning approach. Utilising other legislation, such as the Local Government Act 2002 (LGA) will enable a broader range of mechanisms for achieving the vision of the NPSIB. It will also address inequitable issues arising from lack of compensation where private land is rendered economically unfeasible because of the NPSIB.

HortNZ supports non-regulatory measures for the NPSIB to succeed and supports the following actions to achieve this:

- Ensuring sufficient information, advice, knowledge, and support is provided to landowners, to enable landowners to incorporate biodiversity into their day-to-day farm management
- Ensuring targeted monitoring and reporting of biodiversity outcomes to provide appropriate tracking of success/failure of initiatives/progress
- Ensuring sufficient funding and resources are available upon request from councils, to enable them to meet obligations and provide support for landowners under the NPSIB
- Ensuring appropriate and sufficient funding is available such that landowner facing entities, for example the QEII National Trust and the NZ Landcare Trust can respond to the demand from private landowners regarding covenanting, and community-level interventions/approaches
- The establishment of a contestable national biodiversity fund for landowners/community groups to apply for assistance in relation to costs associated with preservation of biodiversity
- Carbon credits for climate change mitigation provided by areas of significant biodiversity

- Consideration of how tax incentives could be provided to encourage, or remove barriers to, expenses associated with private biodiversity efforts
- Amendments, funding or otherwise clarification on the Local Government Act regarding rates relief for QEII covenanted land.

1. Horticulture and Good Management Practice

While HortNZ does support the intent of the NPSIB, recognition of industry led initiatives to improve practices and achieve environmental outcomes is critical. Such initiatives include (but are not limited to):

- Farm Environment Plans
- Good Management Practice
- NZGAP, EUROGAP, and GLOBALGAP accreditation
- [HortNZ Erosion & Sediment Control Guidelines for Vegetable Production](#)
- [A Code of Practice \(and growers guide\) for the Management of Greenhouse Nutrient Discharges](#)
- [HortNZ Vegetable Washwater Discharge Code of Practice](#)
- [Kiwifruit industry Water Strategy](#)
- [Code of practice for Nutrient Management](#)

GAP schemes provide assurance for the safe and sustainable production and supply of fruit and vegetables in New Zealand and are independently audited self-management assurance schemes which provide a pathway for members to demonstrate compliance with regulatory and market requirements.

GAP schemes are already recognised by New Zealand regulators as meeting equivalent compliance outcomes. Growers who meet GAP standards can demonstrate that required practices are in place to produce New Zealand fresh produce to meet local and international regulatory and market requirements. GAP standards in New Zealand horticulture are benchmarked to internationally recognised standards including GLOBALG.A.P.

GLOBALG.A.P is reviewed regularly with new standards added to it as part of the review process. From May 2023, there will be mandatory requirements around the management of biodiversity and habitats that growers exporting into international markets will be required to comply with. In essence, the requirement will be for growers to have a biodiversity plan which they will be audited against. The NZGAP GLOBALG.A.P. equivalent will also be reviewed in the coming year to align with this GLOBALG.A.P. change, and the NZGAP Environment Management System add-on will incorporate requirements from the NPSIB in the next version which will be developed once Freshwater Farm Plan requirements have been finalised.

The biodiversity section of GLOBALG.A.P. V6 is attached as appendix one.

2. Highly Productive Land

Highly productive land is a finite resource and is critical for meeting food supply demands now and into the future. The use of such land should not be restricted or limited by the NPSIB. New Zealand's existing food production systems are coming under increased pressure from population growth (and competing land use demands reducing availability

of highly productive land) and to further reduce the amount of highly productive land that was available to grow food, and ensure New Zealand's own food security, does need to be considered and provided for in the final wording of the NPSIB. To support this work, Hort NZ submits that an assessment should be undertaken to quantify how many SNAs contain highly productive land. Depending on the number, a separate clause could be included to protect and secure domestic food supply.

Current projections around New Zealand's expected population increase and annual food volumes available for consumption show that domestic vegetable supply will not be able to sustain our future population consumption needs. Reasonably priced healthy food is essential for human health. Water and suitable soil are essential for the production of food.

Good horticultural land is characterised by a range of factors other than just soil quality including, favourable climate for the crop, access to water, a lack of reverse sensitivity constraints, access to energy for hothouses, and access to post-harvest processing facilities and transport routes.

3. Key Areas

3.1 National Policy Statement Alignment

It is not clear how the draft NPSIB and the draft National Policy Statement on Highly Productive Land (NPSHPL) will work together. In particular, how the balance would be managed if highly productive land was identified as a SNA or as a buffer or connection. The discussion document on the proposed NPSHPL notes that 'the value of this land for primary production is often given inadequate consideration, with more weight generally given to other matters and priorities. We acknowledge the fundamental importance of indigenous biodiversity but believe this needs to be balanced in recognition of the finite nature of highly productive land and the need to secure food supply now and in the future.

3.2 Te Rito o te Harake

HortNZ supports provision made for tangata whenua in the NPSIB. The updated concept of Te Rito o te Harakeke also recognises the role of the wider community in managing indigenous biodiversity however, there remains a lack of incentives for landowners to continue or take up any voluntary restoration on their property, given the cost outlay required in these projects. While activities of this kind will not be penalised, in order to achieve the policy of indigenous maintenance and restoration, private landowners should be offered greater support by regional and local councils for the part they play. National direction in relation to such support is required to ensure consistency across the country.

3.3 Maintenance of indigenous biodiversity

HortNZ recognises the importance of this fundamental concept. The current drafting does not impose anything too onerous upon private landowners - by effectively 'holding the line' on the status quo, and working in tandem with the effects management hierarchy, the maintenance of indigenous biodiversity is a clear concept which can be applied effectively in practice.

3.4 Effects Management Hierarchy

We continue to support the concept of the effects management hierarchy and welcome the adjustments to drafting which require that each step of the hierarchy is considered where practicable rather than where possible as in its previous version. The drafting also reflects current case law, and hence ensures ease and clarity in application.

However, we propose that consideration of compensation and offsetting should not be required as a blanket rule. Rather, equivalent considerations across all aspects should be taken into account, and hence where the adverse effects are transient, or a component of a small-scale consent only, a council should be enabled to consider more appropriate remedies.

HortNZ welcomes the adjustments to the definitions of biodiversity compensation and offsetting, to clarify that these are to be applied for “more than minor adverse effects” only but submits that a clear reference to transient effects and small-scale consents to also be incorporated.

3.5 Identification of Significant Natural Areas

Hort NZ supports the inclusion of S10A of the RMA which was a recommendation from Hort NZ included in our submission during the 2020 consultation period.

Allowing for existing activities to continue provided that their scale, character, and intensity does not increase will hopefully ensure that private landowners whose properties are identified as a SNA continue utilising their land in a manner that benefits the broader community values (i.e. food production to support the health and wellbeing of the community, and the economic wellbeing of the region). There should however be greater clarity as to the kinds of activities allowed under this clause. In HortNZ's earlier submission, we suggested that the definition of existing activities should be expanded to incorporate activities under section 20A of the Act as well. This submission remains relevant, as it would provide clarity and certainty in the application of the policy.

3.6 Restoration

The provisions relating to restoration in the NPSIB now extend to include wetlands:

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

In addition, local authorities must consider imposing or reviewing restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration.

We note that the National Policy Statement for Freshwater Management 2020 includes policy direction around promoting restoration of ‘natural inland wetlands’, and the National Environmental Standards for Freshwater 2020 includes a permitted activity rule for restoration of natural wetlands (in Regulation 38).

The reference to ‘wetlands’ in the NPSIB means artificial wetlands will likely be captured. It is not clear if this is the intent however Hort NZ strongly recommends that 3.21 (2)(d) be amended to refer to ‘natural wetlands’ (and the definition of this term in the NPSFM 2020) to align with the approach in the NPSFM and NESFM.

3.7 Incentive Pilots and Implementation Timeline

HortNZ supports the proposed incentive pilots and the timeline for implementation:

- **Funding a regional biodiversity coordinator** to better support communities to achieve biodiversity outcomes
- **Developing and implementing a digital platform** that connects resources (funding, information and support) and the users of those resources
- **Establishing an innovation fund** that supports alternative approaches for funding biodiversity action.

There is little detail on how the review process for the pilots would be undertaken. Hort NZ suggests canvassing landowners on the effectiveness of the pilots will assist in the review process. The implementation timeline states that further incentives will be implemented in early 2023 however there is no mention to what these are.

HortNZ would like to see guidance for landowners brought forward to coincide with the implementation of the incentive pilots.

Appendix One

Biodiversity section of GLOBALG.A.P. V6

FV-GFS 22	BIODIVERSITY AND HABITATS		
FV-GFS 22.01	Management of biodiversity and habitats		
FV-GFS 22.01.01	Biodiversity is managed to enable its protection and enhancement.	<p>A documented biodiversity plan for the farm shall be available. This can be a generic plan that has been made farm-specific. This biodiversity plan shall:</p> <ul style="list-style-type: none"> - Take into account local legislation and tailor the plan contents to the on-farm reality (e.g., open field, greenhouse, vertical farming, etc.) - Contain at least the following sections: Baseline: Initial situation of biodiversity Measures: How to enable protection and enhance biodiversity based on the baseline Monitoring: Summary of results of the implementation of the measures Adjustment: Refining the measures based on monitoring results - While recognizing that the legal scope of the producer is on the farm, take into account the landscape beyond the farm and encourage implementation of actions with other stakeholders, for 	Minor Must
Section	Principle	Criteria	Level
		<p>example via informal collaboration, formal projects, sector and network initiatives, etc.</p> <p>With regard to protection of biodiversity, the guideline provides reference.</p> <p>In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.</p>	
FV-GFS 22.01.02	Biodiversity is protected.	<p>The biodiversity plan shall be implemented in order to protect biodiversity, for example via one or more of the following practices or other similar practices:</p> <ul style="list-style-type: none"> - Integrated pest management (IPM) - Implementing measures to mitigate potential negative impact of artificial illumination on biodiversity, especially during the night (e.g., screens or painted glass that helps mitigate potential impacts on migratory birds or other nocturnal biodiversity) - Allowing for seasonal fallow - Creating shelters for beneficial predators - Leaving areas for habitat near fields or greenhouses - Creating buffer zones along aquatic ecosystems and between production areas or implementing other water management practices - Enabling soil health and soil biodiversity via crop rotation, reduced or no-tillage farming, erosion control, and/or other soil management practices - Optimizing and, if possible, reducing the use of agrochemicals and fertilizers - Implementing measures to protect species 	Minor Must

Section	Principle	Criteria	Level
		With regard to protection of biodiversity, the guideline provides reference. In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.	
FV-GFS 22.01.03	Biodiversity is enhanced.	Available evidence, such as maps, aerial photos, on-farm visual evidence, documents issued by local or national authorities or authorized service providers, should indicate that the biodiversity plan is implemented to enhance biodiversity, for example via one or more of the following practices: 1) Restoring, improving, or enlarging fragments of any size of: a) Forests, wetlands, mangroves, grasslands, peatlands, etc. b) Areas with legal protection or areas effectively protected by other means (e.g., protected areas with relevant categories of the International Union for Conservation of Nature (IUCN)) c) Areas recognized as "High Conservation Value" (HCV) areas 2) Avoiding or controlling invasive alien species 3) Other actions by the producer and partners With regard to protection of biodiversity, the guideline provides reference. In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.	Recom.
Section	Principle	Criteria	Level
FV-GFS 22.02	Ecological upgrading of unproductive sites		
FV-GFS 22.02.01	Unproductive sites are used as ecological focus area to protect and enhance biodiversity.	Available evidence should indicate that unproductive sites (e.g., low-lying wet areas, woodlands, headland strips, or areas of impoverished soil, etc.) are addressed in the biodiversity plan and used to protect or enhance biodiversity. The evidence used in the previous three principles and criteria on biodiversity, if applied in on-farm unproductive sites, can be accepted here too.	Recom.
FV-GFS 22.03	Natural ecosystems and habitats are not converted into agricultural area		
FV-GFS 22.03.01	On the farm (within the farm boundaries), no natural or seminatural ecosystems and habitats, and no areas with legally recognized conservation value (or effectively protected by other means), have been converted into agricultural area or into other uses since 1 January 2014.	Available evidence, such as maps, aerial photos, or documents issued by local or national authorities or authorized service providers, shall indicate that since 1 January 2014, no conversion into agricultural area or into other uses has occurred in parts of the farm (within the farm boundaries) that fulfil at least one of the following characteristics: - Natural ecosystems and habitats (e.g., forests, wetlands, mangroves, grasslands, peatlands, etc.) - Areas where legal protection prevents such conversions (e.g., protected areas recognized by national or local legislation, areas with relevant categories of the International Union for Conservation of Nature (IUCN), or areas that are protected via other effective means) - Areas recognized as "High Conservation Value" (HCV) areas	Major Must

Section	Principle	Criteria	Level
FV-GFS 22.03.02	On the farm (within the farm boundaries), all natural or seminatural ecosystems and habitats and all areas with legally recognized conservation value (or effectively protected by other means) which had been converted into agricultural area or into other uses between 1 January 2008 and 1 January 2014 are already restored, under restoration, or will enter binding restoration.	Available evidence, such as maps, aerial photos, or documents issued by local or national authorities or authorized service providers, shall indicate that restoration has been completed, or is in implementation or under planning for binding implementation, to recover the entire extent of the parts of the farm (within the farm boundaries) that have at least one of the characteristics listed below, where those parts of the farm had been converted into agricultural area or into other uses between 1 January 2008 and 1 January 2014: - Natural or seminatural ecosystems and habitats (e.g., forests, wetlands, mangroves, grasslands, peatlands, etc.) - Areas where legal protection prevents such conversions (e.g., protected areas recognized by national or local legislation, areas with relevant categories of the International Union for Conservation of Nature (IUCN), areas that are protected via other effective means) - Areas recognized as "High Conservation Value" (HCV) areas	Major Must
FV-GFS 22.03.03	Management of biodiversity is supported with metrics.	Acceptable metrics allow calculating, at minimum, the following: - The total area (in ha or m2) of natural or seminatural ecosystems and habitats, legally recognized protected areas, or areas effectively protected by other means (on 1 January of the certification body (CB) audit year) - The total area (in ha or m2) converted into agricultural use or into other uses between 1 January 2008 and 1 January 2014 (on 1 January of the CB audit year) - The total area (in ha or m2) that has already been restored (on 1 January of the CB audit year) - The total area (in ha or m2) that is under restoration (on 1 January of the CB audit year)	Recom.
Section	Principle	Criteria	Level
		- The total area (in ha or m2) that is planned for binding restoration (on 1 January of the CB audit year) Additional biodiversity aspects/metrics can also be calculated, where applicable. In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable. Results (data) on metrics at producer group and farm level should be available to indicate compliance.	

HortNZ's Submissions

Provision	Support /Oppose	Reason	Decision sought
Highly Productive Land	Support	Current projections around New Zealand's expected population increase and annual food volumes available for consumption show that domestic vegetable supply will not be able to sustain our future population consumption needs. Highly productive land needs to be protected	Assessment of SNAs that contain highly productive land
1.6 Definition - buffer	Oppose in part	<p>As drafted, this could apply to land or waterbody adjoining or containing a "core area of ecological value". Under draft Appendix 1, these buffer areas are identifiable as part of an SNA.</p> <p>We would oppose the identification of horticultural land, or highly productive land, as a buffer area or as part of an SNA. If such land was subject to additional rules as a buffer or an SNA, this would restrict the use of that land to the point that cultivation would not be practicably or financially feasible. This in turn would have significant impacts on the ability of New Zealand to meet current and projected demands on food supply.</p>	Amend to exclude land used for horticulture and food production
1.6 Definition - connectivity	Oppose in part	<p>Under draft Appendix 1, areas providing connections are identifiable as part of an SNA.</p> <p>We would oppose the identification of horticultural land, or highly productive land, as a connection area or as part of an SNA. Inclusion would restrict the use of that land to the point that cultivation would not be practicably or financially feasible. This in turn would have significant impacts on the ability of New Zealand to meet current and projected demands on food supply.</p>	Amend to exclude land used for horticulture and food production
1.6 Definition - existing activity	Support in part	Section 10 of the RMA addresses matters within District Plans, and many of the provisions within the NPSIB may be addressed through regional plans, unitary plans and	Amend definition: Existing activity in this National Policy Statement, means a

Provision	Support /Oppose	Reason	Decision sought
		regional policy statements. Protection of existing use rights outside that afforded through District Plans, is addressed within Section 20A of the Act.	subdivision, use or development that is Lawfully established at the commencement date; but Not a land use covered by section 10 or section 20A of the Act.
Definition - New subdivision, use or development	Support in part	<p>We have strong concerns about what will be classified as an existing activity, what will be treated as a new activity and how this will impact the future of horticulture.</p> <p>We believe if an activity has been legitimately carried out as part of a consented or permitted activity process previously, this should be considered an 'existing activity'. If it's treated as a new activity, it would be virtually impossible to get a new consent, given NPSIB provisions, particularly within an SNA. In many, if not most cases, previous consents have been obtained at considerable costs and resourcing implications for resource users and the overwhelming feedback provided to us is that these should be treated as existing legitimate activities.</p>	<p>Amend along the lines of below:</p> <p>New Subdivision, Use or Development, in this National Policy Statement, means a subdivision, use or development that is not an existing activity nor an activity enabled by section 10 or section 20A of the RMA. It specifically excludes activities legitimately being undertaken as either permitted or consented activities.</p>
Definition - Wetland	Support	Wetland has not been defined which means artificial wetlands are likely to be captured.	Inclusion of wetland definition to be included and align with NPSFM
2.1 Objective	Support	It is important to recognise the role landowners and tangata whenua have in being stewards and kaitiaki of their land and the need to allow social, economic and cultural wellbeing. The updated objective also clarifies the role of the wider community, and the new definition for "restoration" limits the objective by providing clarity as to extent.	Retain
2.2 Policies 9 and 10	Support in part	These policies together recognise the economic, social and cultural importance of existing activities, however, greater	Clearly provide in both guidance material and associated

Provision	Support /Oppose	Reason	Decision sought
		clarity around what those activities are could be provided, in particular to account for activities deemed important contributors under policy 10.	provisions within Part 3, that where productive farmland is involved, existing farm activities are to be considered appropriate. Clarification is also needed that existing activities include consented activities, and permitted activities that may subsequently need consent as a result of other regulation
Part 3: Implementation	Support in part	We note the use of tangata whenua throughout this NPS. This is in line with the RMA, however there are numerous documents which use mana whenua (for example, more recent local government, and water services legislation), and others which use Māori as a more general term (Local Governments Act). Though the definitions of each term can at times be circular, there are nuanced distinctions between them. Clarity and consistency across NPSs and legislation is preferable, or failing that, guidance in the choice of term used in each document.	Guidance of terms used in connection with Māori consultation and greater consistency with associated documents.
3.2 Te Rito o te Harakeke	Support	HortNZ supports the inclusion of the wider community into local authorities' obligations to consult when determining how to give effect to Te Rito o te Harakeke.	Retain
3.5 Social, economic, and cultural wellbeing	Support in part	Support the acknowledgement in subparagraph (b), i.e., that provisions in favour of indigenous biodiversity do not preclude subdivision, use, and development. Concern around the use of "appropriate" - this is subjective and may lead to contention.	Clearly provide in both guidance material and associated provisions within Part 3, that where productive farmland is involved, existing farm activities are to be considered appropriate.

Provision	Support /Oppose	Reason	Decision sought
3.6 Resilience to climate change	Support in part	<p>Support in principle the intention to provide for flexibility and resilience for climate change. In particular, support recognition given to the need to manage biosecurity risks. It is necessary to provide for clearance of indigenous vegetation, without onerous process, in times of biosecurity emergencies.</p> <p>However, there is uncertainty around the implementation of this clause. In particular, how to 'provide for the maintenance of ecological integrity through natural adjustments of habitats and ecosystems' or 'promoting the enhancement of the connectivity between ecosystems and potential habitats to enable migrations so that species continue to find viable niches as the climate changes'.</p>	<p>Amend to provide greater clarity as to what and how it should be implemented. Retain (b(ii))</p>
3.7 Precautionary approach	Oppose in part	<p>The qualifier "but" does not provide enough certainty for applicants. As written, local authorities may take a precautionary approach if only clause a) applies and effects may be minor or no more than minor.</p>	<p>Amend Delete "but" and replace with "and"</p>
3.10 Managing adverse effects on SNAs of new subdivision, use, and development	Support in part	<p>3.10 must only apply to genuinely 'new activities' and not those merely needing re-consenting.</p> <p>We support the principle underlying 3.10(1), understanding the intention to be to avoid those adverse effects of new subdivision, use or development that would seriously damage SNAs. However, as drafted any minor, insignificant or temporary affect would need to be avoided. In 3.10(3) the reference is to use the effects-management hierarchy for all other adverse effects: this could capture the need to then work through the hierarchy for any temporary or insignificant effect.</p>	<p>Amend the definition for 'new subdivision, use or development' as per our submission point above.</p> <p>Amend 3.10(3) as follows:</p> <p>Local authorities must make or change their policy statements and plans to require that all permanent adverse effects... must be managed by applying the effects management hierarchy."</p>

Provision	Support /Oppose	Reason	Decision sought
3.11 Exceptions to clause 3.10	Support	HortNZ supports the newly drafted 3.10, which provides for greater clarity on the exceptions to new use restrictions. In particular, HortNZ supports subparagraph 3.11(4) which recognises that indigenous vegetation may form part of a good management practice, and hence should not be subjected to the more stringent indigenous biodiversity protection policies.	Incorporate specific reference to farming into 3.10(2)(a), ensuring clarity that it is a development use that provides significant regional or national public benefit (being the production and supply of healthy food sources, and economic turnover).
3.15 Existing activities affecting SNAs	Support	<p>The updated clause is significantly simpler than the original version, and the amended reference to activities affecting an SNA will be easier to apply. HortNZ supports the provision for existing activities to continue, provided they do not significantly alter nor result in degradation or loss however seeks clarification on the definition of 'significantly'</p> <p>The reference to clause 3.10 also provides more flexibility, as it gives the opportunity for applicants to amend their activity and continue to operate. However, it remains uncertain how the "cumulative loss" of existing activities is to be measured and is likely to make the continuation of any existing activity very difficult.</p>	<p>Amend to provide an exclusion for primary production activities with a FEP audited by an accredited auditor or organisation.</p> <p>Provide greater clarity on how cumulative effects are to be measured.</p> <p>Provide greater clarity on the definition of significant</p>
3.16 Maintaining indigenous biodiversity outside SNAs	Oppose in part	<p>Updated clause 3.16 is a vast improvement, and HortNZ supports the simpler, more precise drafting used. In particular, we support the proviso that the effects management hierarchy need only apply where adverse effects may be irreversible - this increase in threshold is likely to be beneficial especially to regular maintenance of vegetation and habitats, where regrowth will occur.</p> <p>However, there are still concerns in the open-ended nature of this clause, in that it does not provide adequate direction as to how indigenous biodiversity outside SNAs is to be maintained.</p>	<p>Insert new 3.16(3):</p> <p>Sub-clause (2) does not apply to managing adverse effects where indigenous vegetation or habitat of indigenous fauna is established and managed for a purpose other than the maintenance, restoration or enhancement of indigenous biodiversity, and the use or development (including</p>

Provision	Support /Oppose	Reason	Decision sought
		<p>Clause 3.11 recognises that some indigenous vegetation or fauna may be established and managed for a purpose other than biodiversity. 3.11(4)(b) prioritises that primary function over and above biodiversity within a SNA. We believe this should be specified for indigenous vegetation or fauna outside SNA's also.</p> <p>As per the discussion above in this submission, an exclusion for those primary production activities with a FEP audited by a recognised auditor would allow for on-going operation and development of primary industries while providing for biodiversity initiatives where appropriate.</p>	<p>clearance) is necessary to meet that purpose.</p> <p>Amend to provide an exclusion for primary production activities with a FEP audited by an accredited auditor or organization.</p>
3.19 Identified taonga	Support in part	<p>We support the level of detail proposed from tangata whenua while working with council as opportunities should be created for mutually beneficial outcomes for the parties involved. We further support the clarification in subclause (4) which allows for protection to be "as far as practicable", in line with the updated definitions in the effects management hierarchy.</p> <p>However, there is a concern that if taonga are identified on private land, landowners have no express recognition or ability to engage in the process over and above any member of the public who may choose to submit during the Schedule 1 process.</p>	<p>Add an additional subclause (8) to include the following principles of engagement on privately owned land:</p> <p>Local authorities must use the following principles and approaches when undertaking actions under subclauses (3) to (5) in relation to privately owned land:</p> <p>a) partnership: local authorities and tangata whenua must seek to engage with affected landowners early and share information about taonga, potential management options and any support and incentives that may be available:</p>

Provision	Support /Oppose	Reason	Decision sought
			<p>b)transparency: local authorities must clearly inform landowners about how information gathered will be used and make existing information, draft assessments and other relevant information available to relevant landowners for review:</p> <p>c)quality: wherever practicable, the values and extent of taonga should be verified by physical inspection:</p> <p>d)access: where permission to access a property on a voluntary basis is not given, powers of entry under section 333 of the Act should only be used as a last resort.</p> <p>As discussed above, we consider considerable implementation guidance and supporting advice will be needed in this regard.</p>
3.21 Restoration	Oppose in Part Support in part	<p>Clarification is sought on the definition of wetlands.</p> <p>HortNZ would oppose the capture or inclusion of good management practices such as sediment ponds. These practices are support infrastructure to horticultural practices and are critical to managing environmental risks. The management of these entities as infrastructure is priority over the NPSIB objectives.</p>	<p>Clarify the definition of wetlands (noting that wetlands are defined in the RMA and further defined in the NPSFM) and exclude good management practices (such as sediment control ponds).</p> <p>Amend 3.21(1) as follows:</p>

Provision	Support /Oppose	Reason	Decision sought
		<p>We believe that a more strategic approach is required for restoration and enhancement and that non-regulatory methods will provide the best outcomes long-term. Non-regulatory methods could include advice, support, partnerships and incentivisation.</p> <p>We support the prioritisation of restoration areas, however, to avoid duplication and excessive process/costs, prioritisation should form part of the SNA assessment process. There also needs to be flexibility in prioritising projects in order to get buy-in from local communities.</p> <p>As mentioned, we have concerns relating to the ability to impose and review restoration and enhancement consent conditions. Consent conditions need to be relevant to the effects being generated by the proposed activity.</p>	<p>Local authorities must include objectives, policies, and methods in their policy statements and plans to promote, through their regional biodiversity strategy, the restoration of indigenous biodiversity, including through reconstruction of areas.</p> <p>Amend 3.21(2) as follows: The regional biodiversity strategy objectives, policies and methods must prioritise all the following for restoration:.....</p> <p>Retain 3.21(3)</p> <p>Delete 3.21(4)</p>
3.22 Increasing indigenous vegetation cover	Oppose	<p>We are particularly concerned that rural landowners and communities will end up bearing the costs of implementing a 10% target in rural areas. Urban areas have large tracts of public spaces such as parks and footpaths (for street trees). It is logical that these spaces will be used to accommodate the majority of target increases. However, these spaces are not as prevalent in rural areas, and it is likely that the onus will fall to private landowners to accommodate coverage increases on private land. This comes at significant cost, not only planting/implementation but also in terms of diminished use of land and long-term maintenance costs. There is no requirement for councils to provide incentives and as discussed above in this submission compensation under the RMA is unlikely.</p>	<p>Amend:</p> <ul style="list-style-type: none"> - So that the 10% target is part of strategic planning provisions under the LGA, rather than implementation on a resource consent specific basis - Provide incentives for indigenous biodiversity enhancement and restoration that assists in achieving the target set out above - Include guidelines on how regional councils are to determine an appropriate

Provision	Support /Oppose	Reason	Decision sought
		There is no guidance on how regional councils are to determine an appropriate percentage to increase indigenous vegetation in any given area. Such direction may be necessary to ensure appropriate and equitable distribution across different areas.	percentage increase in indigenous vegetation cover
3.23 Regional Biodiversity Strategy	Support	We support the development of Regional Biodiversity Strategies and believe they will be fundamental in achieving the restoration and enhancement goals of the NPSIB.	Retain
Part 4: Timing	Support in part	We consider that there should be more clear guidance on the interrelationship between NPSs. This is particularly important during this time of reform, where a number of NPS and RPS are under review. Greater clarity is required on what documents are to take precedence, and how they are to be applied when staggered reform is ongoing.	Add new clause providing guidance on interplay between NPS documents.
Appendix 1: Criteria for identifying significant indigenous vegetation and significant habitat of indigenous fauna.	Oppose	<p>HortNZ welcomes the amendments to Appendix 1 which result in more nuanced criteria. However, clarification is still sought on clause (1)(2) as to whether, for an area to be identified as an SNA, it is required to meet: one attribute from each criterion, or only one attribute from any one of the criteria.</p> <p>Clause (1) should be amended to provide clarity and certainty around the identification of SNA's. If it is the intent that only one attribute from any one of the criteria is required, then any and all indigenous vegetation or habitat would be identified as an SNA, and any land could be seen as a buffer or providing connectivity. This would mean that every activity regardless of scale or relevance, would be required to provide an assessment of effects and would be required to avoid adverse effects in the first instance. This is a particularly high bar to be placed on all activities.</p>	<p>Amend Clause (2)</p> <p>A significant natural area will meet any one of the attributes from each of the following four criteria:...</p>

Provision	Support /Oppose	Reason	Decision sought
Appendix 3: Principles for biodiversity offsetting	Support in part	HortNZ supports providing for biodiversity offsetting and generally supports the principles outlined in Appendix 3. Clause 3 and clause 4 appear to conflict where by clause 3 stipulates offsetting results in a net gain, and clause 4 requires offsetting to "achieve gains above and beyond gains that would have occurred in the absence of the offset..".	Delete Clause 4 'Additionality' entirely.
Appendix 4: Principles for biodiversity compensation	Generally support	As discussed above in this submission, further provision is required beyond what is provided under S85 of the RMA.	Include provision for where private land is rendered economically unfeasible as a result of the NPSIB.
Appendix 5: Regional biodiversity strategies	Oppose in part	HortNZ is generally in support of regional biodiversity strategies. However, as above with clause 3.16, there remains an open-ended nature to the measures imposed and provided for. We would encourage greater clarity on implementation measures, and also a recognition that not all indigenous biodiversity is created equal. A more granular approach may be preferable in achieving this.	Incorporate criteria references as with SNAs, to account for differences within indigenous biodiversity. More specific guidance as to application.