DairyNZ Submission on

Draft National Policy Statement for Indigenous Biodiversity – Exposure Draft

21 July 2021

SUBMISSION ON THE NATIONAL POLICY STATEMENT ON INDIGENOUS BIODIVERSITY

TO: Ministry for the Environment

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Introduction

DairyNZ welcomes the opportunity to provide feedback on the exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB). We would welcome to opportunity to meet with Ministry officials to discuss how to improve the workability of this NPS further.

DairyNZ is the industry-good organisation representing all 11,000 of New Zealand's dairy farmers. Our purpose is to provide a better future for farmers by enhancing their profitability, sustainability, and competitiveness. The dairy sector employs 50,000 people, is forecast to generate almost $21 billion in export earnings, and comprises one third of all goods revenue.

We deliver value to farmers through leadership, influencing, investing, partnering with other organisations and through our own strategic capability. Our work includes research and development to create practical on-farm tools, leading on-farm adoption of best practice farming, promoting careers in dairying and advocating for farmers with central and regional government.

DairyNZ is keenly aware that New Zealand's indigenous biodiversity is under pressure. DairyNZ supports the government's objective to protect, maintain, and restore indigenous biodiversity. We believe that the maintenance and restoration of indigenous biodiversity on-farm is best managed by farmers, guided through the farm-planning process.

DairyNZ encourages government to understand that farmers are the best stewards of native biodiversity on their land. It is critical that government works alongside the farming community to ensure that the maintenance and restoration of indigenous biodiversity is a farmer-driven, integral part of their business.

General Comments

While DairyNZ supports the general intent of the instrument, we have concerns about the workability of implementing the National Policy Statement on Indigenous Biodiversity (NPS-IB). There are gaps and challenges for understanding and improving biodiversity on-farm, and without resolving these gaps the regulatory burden on both farmers and local authorities is likely to be unworkable.

Prior to the implementation of the NPS-IB, DairyNZ recommends:

- Government develops the information and knowledge base for managing on-farm biodiversity by working with farmers to fully understand the practical implications of the NPS-IB provisions in different farm-systems.
- Government takes steps to increase the number of skilled biodiversity experts who understand farming by developing and training land advisors about indigenous biodiversity.
- Government work with farmers to create relevant resources (such as training videos, how to guides, and fact sheets) and make these resources easily available.

Throughout the body of this submission, DairyNZ proposes several solutions to mediate some of the gaps and challenges for improving biodiversity on-farm. DairyNZ would welcome the opportunity to meet with Ministry officials to further discuss these solutions, specifically integrated farm planning and co-design solutions, and how these can be used to drive better biodiversity outcomes.

DairyNZ supports the government's objective to protect, maintain, and restore indigenous biodiversity. Many farmers own and have conserved native areas on their farms and are working to improve their biodiversity. For example, in Taranaki, nearly 9,000km of streambanks were planted with 5.6 million natives to act as buffer zones to trap sediment, reduce nutrient run-off into rives, and provide aquatic habitat. More than 26,000 km of waterways on dairy land have also been stock-excluded through the voluntary sector Sustainable Dairy Water Accord.

We understand that biodiversity is in decline, and that we cannot continue to delay action. However, we do not support implementing regulation with significant gaps in the capacity and capability of councils and experts to deliver, and in knowledge and data to support the decision-making and consent processes. Various provisions in the NPS-IB require the input of a suitably qualified ecologist. There is currently a limited number of ecologists with skills in applying ecology to farm systems, and this one-to-one advice is costly. Tools, funding, and information exist, but can be dis-jointed or not applicable at a farm scale, hard to find, and vary in depth by region. Most farmers and farm advisors are not ecologically trained and do not have ready access to the information, or expert advice, required to manage native biodiversity to meet the requirements of the NPS-IB.

DairyNZ proposes that the consents process and implementation of the NPS-IB is aligned with integrated farm planning. All dairy farmers are working towards having farm environment plans to manage environmental risks by 2025, supported by dairy companies through the Dairy Tomorrow sector strategy. Integrated farm planning is a more efficient and effective process for managing on-farm indigenous biodiversity. It recognises that one action can serve multiple environmental outcomes (e.g., restoring native vegetation in a riparian area has freshwater, biodiversity, and climate benefits), and

prevents farmers from having to develop separate, or redevelop plans repeatedly as thinking progresses, and requirements or modules are developed or altered.

Farm planning already provides an opportunity for farmers to take ownership over environmental action on farm. A farm planning process begins as something based on farmer's vision and values, rather than something being 'done' to them. Simply creating more rules is the wrong way to engage landowners and motivate them to manage biodiversity.

DairyNZ recommends working with farmers and industry bodies to develop workable solutions, and to fully understand how the NPS-IB can be implemented through integrated farm-planning. This can be done by working in partnership with a range of farmers to fully understand the practical implications of the NPS-IB provisions across differing dairy farm-systems.

DNZ has developed a framework to support the delivery of a co-design[1] model with farmers. It is a repeatable end-to-end process that helps professionals and communities share power, in order to prioritise, plan, design and deliver and evaluate solutions that work in practice. Co-design can help in this instance to help close the knowledge gaps between lived experience and professional expertise. There is an opportunity to rethink the way government engage and consult especially on private land.

DairyNZ encourages government to work with farmers and we encourage supporting relationships where the farming community and professionals share power to design solutions together. Our co-design model brings together farmers and professionals to jointly make decisions, informed by each other's experience. It's not a community-only activity or a professional-only activity. However, the approach recognises farmers crucial role as stewards, guardians and caretakers of the land and moves them from passive recipients of regulations handed to them (a pre-determined outcome) to active participants in the process.

[1] The relationship where the farming community and professionals share power to design solutions together. Co-design is about bringing together people and professionals to jointly make decisions, informed by each other's experience.

Summary of DairyNZ's Recommendations

Recommendation 1: The consents process and implementation of the NPS IB is aligned with integrated farm planning.

Recommendation 2: Work with farmers, using co-design principles, to develop workable solutions, and to fully understand how the NPS-IB can be implemented through integrated farm-planning**.**

Recommendation 3: Government develop an information and knowledge base for managing on-farm biodiversity by working with farmers to fully understand the practical implications of the NPS-IB provisions across different farm-system types.

Recommendation 4: Government takes steps to increase the number of skilled biodiversity experts who understand farming by developing and training land advisors on indigenous biodiversity.

Recommendation 5: Regional councils and central government work with catchments groups, landowners, Mandated Iwi Authorities, dairy companies, and ecological experts to establish the foundations of an on-farm indigenous biodiversity knowledge base before enforcing the regulation through the consents process.

Recommendation 6: MfE provides detailed guidance to regional councils and territorial authorities on biodiversity metrics and the process to assess current state and change to the level of biodiversity.

Recommendation 7: MfE to work closely with MPI through the Integrated Farm Planning accelerator programme.

Recommendation 8: MfE to align with other biodiversity programmes, such as the Department of Conservation and Fonterra project, 'Farming with Native Biodiversity'.

Recommendation 9: MfE provide clear guidance to regional councils on which specific farming activities may constitute the definition of adverse effects. This guidance to councils needs to have specific regional application.

Recommendation 10: Land cannot be identified as a SNA without physical inspection and verification.

Recommendation 11: DairyNZ recommends the identification of SNAs and the consents process to be aligned with integrated farm planning.

Recommendation 12: The process of identifying existing activities and their impacts on indigenous biodiversity values is aligned with farm planning.

Recommendation 13: MfE work closely with regional councils, farmers, catchments groups, and industry bodies to co-design a definition of what constitutes 'adequate evidence'.

Recommendation 14: MfE provide direction to councils that further restoration of areas outside of SNAs should be driven through incentivisation rather than regulatory tools.

Recommendation 15: Government provide further support for training and professional development of advisory services, and on-going funding support for initiatives that support biodiversity outcomes.

Part 1: Preliminary Provisions

Question 3: Do you have any feedback on the workability of provision 1.5(3): Maintenance of indigenous biodiversity?

DairyNZ has concerns about the workability and practicality of implementing the concept of 'maintenance of indigenous biodiversity'.

For a regional council to ensure 'maintenance of indigenous biodiversity' they would need to establish a baseline of indigenous biodiversity in their region. This requires skills in applying ecology to farm systems, knowledge around what biodiversity attributes are present on-farm, the ecological values these attributes possess, and how farming activities may impact these values.

There is currently a lack of data and knowledge on on-farm indigenous biodiversity, and how specific farming activities impact the value of indigenous biodiversity. Without this knowledge base, assessing the 'maintenance of indigenous biodiversity' will lack consistency and robustness across different farm-systems and regions.

DairyNZ recommends that regional councils and central government work with catchments groups, landowners, Mandated Iwi Authorities, dairy companies, and ecological experts to establish the foundations of this knowledge base before enforcing the regulation through the consents process.

DairyNZ recommends MfE provides detailed guidance to regional councils and territorial authorities on biodiversity metrics and the process to assess current state (baseline) and change to the level of biodiversity.

Part 3: Implementation

Part 3 Subpart 1: Approaches to implementing this NPS

Question 10. Do you have any feedback on the workability of provision 3.4: Integrated approach?

DairyNZ strongly supports an integrated approach to implementing the NPS-IB. Biodiversity outcomes are strongly linked to other environmental outcomes, especially, climate and freshwater, as well as animal welfare. When seeking environmental outcomes on farm, DairyNZ emphasises the importance of taking a holistic approach and understanding impacts of actions across the whole farm-system.

DairyNZ believes that the **NPS-IB is best implemented through an integrated farm-planning process rather than individual farm consents**. Integrated farm planning is a more efficient and effective process for managing on-farm indigenous biodiversity. It recognises that one action can serve multiple environmental outcomes (e.g., restoring native vegetation in a riparian area has freshwater, biodiversity, and climate benefits), and highlights enhanced on-farm biodiversity also benefits farming through shelter, shade, soil retention and health, and nutrient management.

Farm planning processes will identify significant natural areas, risks from current activities, and set out actions needed on farm.

DairyNZ believes that the most effective way to manage biodiversity is through farm-level risk assessment and time bound actions to mitigate farm activities in a certified Farm Environment Plan. Some farmers are already using farm plans for compliance purposes for Regional Councils rules, and all farmers are working towards having farm plans to manage greenhouse gas emissions and freshwater regulations by 2025 under Dairy Tomorrow commitments. These plans already consider biodiversity objectives and current state.

DairyNZ believes that taking an integrated approach to environmental regulation through farm planning will reduce the regulatory and compliance burden on both farmers and local authorities. We encourage government to develop a farm planning process that encourages biodiversity and Mātauranga experts, and farm consultants to work alongside the farming community to ensure the process is farmer-driven, and an integral part of their business.

We encourage MfE to work closely with MPI through the Integrated Farm Planning accelerator funding initiative. As part of that work MPI is currently seeking feedback on their Biodiversity Farm Planning Module. This is an opportunity to align the implementation of regulation, existing government farm planning programmes and industry assurance programmes. The dairy sector has recently completed the development of sector-agreed Good Farming Practices (GFP) guidance that clearly outlines expectations of all dairy farmers for freshwater, climate, and waste management. The same approach applied to biodiversity would provide greater farmer ownership, help farmers identify co-benefits and could support the regulatory intent of the proposed NPS-IB.

DairyNZ also encourages MfE to align with other biodiversity programmes, such as the Department of Conservation and Fonterra project, 'Farming with Native Biodiversity'[2] or the Fonterra initiative 'Plant for Good'[3]. Farming with Native Biodiversity' has identified the biggest barriers to farmers acting on biodiversity are limited access to good advice, ecological expertise, and the cost of preparing farm biodiversity plans. The project aims to reduce these barriers by having biodiversity expertise and resources easily accessible to farmers and their advisors and increasing the number of skilled biodiversity experts who understand farming. The DairyNZ-Dairy Training Limited IFP Accelerator Fund application seeks to further support the development of training material and up-skilling of rural professionals and farmers.

Question 13. Do you have any feedback on the workability of provision 3.7: Precautionary approach?

DairyNZ has concerns with the workability of local authorities adopting a precautionary approach, due to the knowledge and skill gaps of indigenous biodiversity on-farm. This gap means that a precautionary approach may become the common approach. This would create a restrictive regulatory environment and a slow and expensive consents process.

There is a lack of knowledge of what biodiversity attributes are present on farmland, the ecological values these attributes possess, how farming activities impact these values, and what actions are needed to enhance these values. In addition, international guidance and approaches are not always suitable for the New Zealand context. For example, hedgerows are a common approach to increase biodiversity in Europe are not common approach in New Zealand. There is also a shortage of skilled professionals who can apply ecology to farm-systems and build the foundation for this necessary knowledge base.

DairyNZ recommends that regional councils and central government work with catchments groups, landowners, Mandated Iwi Authorities, dairy companies, education providers and ecological experts to establish the foundations of this knowledge base before enforcing the regulation through the consents process.

DairyNZ recommends that MfE provide clear guidance on biodiversity on farmland, and what specific farming activities may constitute the definition of adverse effects. This guidance to councils needs to have specific regional application.

[2] Farming with Native Biodiversity • Living Water

[3] Helping our farmers 'Plant for Good' (fonterra.com)

Part 3 Subpart 2: Significant Natural Areas

Question 14. Do you have any feedback on the workability of provision 3.8: Assessing areas that qualify as significant natural areas?

DairyNZ broadly supports the principles set out under provision 3.8. However, DairyNZ has concerns about the breadth of the assessment criteria in Appendix 1. The current criteria will essentially capture all native vegetation on-farm, not just that with significant ecological value.

DairyNZ supports the principles of partnership, transparency, access, consistency, and boundaries.

We have concerns about the workability of provision 3.8 (2) (a) "Quality – wherever practicable, the values and extent of natural areas are verified by physical inspection."

DairyNZ agrees that the value and extent of natural areas should be verified by physical inspection. However, regional councils and territorial authorities do not have the resources, expertise, and trust to manage and *physically* inspect the myriad of small habitat patches dotted across rural New Zealand, and regional councils do not have the capacity or capability [4]to *remotely* assess the biodiversity attributes of the rural landscape. Further, there are a range of industry assurance programmes that already capture much of the information needed to assess existing indigenous areas on farm. For example, through Dairy Tomorrow all dairy companies have agreed to monitor and report the area on farm that is stock excluded (riparian and other areas) and area that is stock excluded and vegetated/planted. DairyNZ suggest that the best approach and greatest buy in from farmers will come from aligning to existing sector-led work programmes.

DairyNZ does not support land being identified as a SNA without physical inspection and verification. A remote assessment creates risks of areas of land that are not significant natural areas being restricted under the NPS-IB, and it is well recognised that machine-learning still has some way to go.

DairyNZ recommends the identification of SNAs and the consents process to be aligned with integrated farm-planning. A biodiversity module in farm environment plans already exists for most dairy companies. Alignment of the NPS-IB with existing modules would introduce a mechanism to identify SNAs on-farm, assess risks from current activities, and set out actions needed on farm. This would create a more streamlined process and reduce the regulatory burden on farmers and regulators.

[4] Government's Land Use and Carbon Analysis System (LUCAS) does not have the capability to monitor, and regional councils do not have the mapping resolution or coverage to confirm that SNA criteria are being met.

Question 21. Do you have any feedback on the workability of provision 3.15: Existing activities affecting SNAs?

DairyNZ supports allowing the continuation of existing activities from the commencement date of the NPS. However, we have concerns about the practicality of implementing this provision.

The NPS-IB directs regional councils to determine what existing activities this clause applies to. We have concerns about the consistency of what councils accept as an 'existing activity' across different regions. DairyNZ recommends further guidance to regional councils on how to classify an existing activity to ensure national consistency.

There is a lack of clarity of what evidence would be required to prove existing activities. Further, this provision requires the landowner to prove that existing activities do not result in the loss of extent or degradation of ecological integrity of the SNA. The NPS-IB lacks clarity on what specific farming or management activities may constitute the definition adverse effects. It may be difficult for landowners to claim existing land use rights and to prove that these existing effects are not resulting in a loss of biodiversity, especially in the context of pasture management.

We encourage MfE to work closely with regional councils, catchments groups, landowners, Mandated Iwi Authorities, dairy companies, and ecological and Mātauranga experts, and industry bodies to co-design a process that helps understand impact of existing farm activities on indigenous biodiversity and determine an evidence base.

DairyNZ recommends the process for identifying existing activities and their impacts on biodiversity values is incorporated with farm planning. Farm planning processes will help provide an evidentiary basis for existing activities, assess any risks from current activities, and set out actions (if any) required on farm with the help of a certified farm advisor.

Question 23. Do you have any feedback on the workability of provision 3.17: Maintenance of improved pasture?

DairyNZ supports the provision allowing for the maintenance of improved pasture. However, DairyNZ is concerned with the lack of clarity and certainty provided to regional councils on evidence and consent requirements.

Specifically, we have concerns about the proof required for farmers to be able to maintain and improve their pasture. The NPS-IB currently states that farmers would need adequate evidence to show that improved pasture is part of a regular cycle of periodic maintenance and that any adverse effects of maintenance of improved pasture on an SNA are no greater than previously undertaken.

Guidance needs to be provided to councils on what constitutes adequate evidence. For these provisions to be practical for farm systems the detail of the evidence required by farmers needs to be flexible. This includes considering the variation across farming years that occur due to seasonal effects. For example, there may be some instances where pasture management may not be on a strictly annual due to the

weather that occurred over the previous year. We encourage MfE to work closely with regional councils, farmers, catchments groups, and industry bodies to co-design a standard of what constitutes 'adequate evidence'.

We encourage MfE and regional councils to align the implementation of this provision with integrated farm planning and existing industry assurance programmes. Farm planning processes can introduce flexibility in demonstrating the maintenance of improved pasture through farm-level risk assessment and farm-specific actions.

Part 3 Subpart 3: Specific Requirements

Question 27. Do you have any feedback on the workability of provision 3.21: Restoration?

DairyNZ does not support promoting restoration of indigenous biodiversity through imposing restoration or enhancement conditions on resource consents. We believe that restoration of areas of indigenous biodiversity will be more effective through incentivisation, and alignment with existing industry assurance programmes, than through imposing enhancement conditions on resource consents. For example, more than 50% of farmers have a riparian management plan and through these sorts of initiatives have collectively planted millions of trees on dairy farms. Incentive-based approaches will deliver similar or better outcomes and align to existing approaches (e.g., Fonterra's Plant for Good[5]).

As a first principle, biodiversity protection and improvement should be incentivised through education, professional advice, and financial support. Restriction on land use through significant natural areas should only apply to indigenous biodiversity with significant ecological value, and care should be taken not to inadvertently create habitat for weeds and pests

Government needs to rethink the way they do conservation, especially on private land. Simply creating more rules is the wrong way to engage landowners and motivate them to manage biodiversity. Taking an 'ownership' model where landowners are supported will lead to better biodiversity outcomes on New Zealand dairy farms.

DairyNZ recommends that the NPS-IB provide direction to councils that ensures ongoing restoration of areas outside of SNAs should be driven through incentivisation and industry assurance programmes rather than regulatory tools.

Question 30. Do you have any feedback on the workability of provision 3.24: Information requirements?

DairyNZ does not believe that provision 3.24 is workable due to knowledge and information gaps, and capability gaps and cost.

[5] Plant for Good | NZ Farm Source

Capability and cost

DairyNZ has concerns about the workability of provision 3.24 (1) (a) – 'If a resource consent application is required in relation to an indigenous biodiversity matter, the application is not considered unless it includes a report that *is prepared by a qualified and experienced ecologist.'*

DairyNZ recommends that MfE provides further clarity on what is meant by a 'suitably qualified and experienced ecologist' and provides provision for alignment with existing farm plan guidance.

There is currently a shortage of trusted advisors and skilled farm professionals. The broadness of the SNA criteria will result in a large amount of SNAs, and many resource consents requiring expert ecological input.

There is a large implementation risk in relying on ecologists to support landowners and farmers in the consent process. There aren't many independent ecologists with skills in applying ecology to farm systems. Additionally, one-to-one advice is costly. Department of Conservation has estimated that there is an average cost of $5,000 per farm to complete a biodiversity assessment (up to $12,000 for larger farms or where there is significant biodiversity to assess).

The implementation of this NPS-IB is also occurring at the same time as a barrage of other regulations impacting landowners and farmers (e.g., agricultural pricing, essential freshwater, animal welfare code changes). The Climate Change Commission's recent report on sector readiness for agricultural emissions pricing estimated that a minimum there would need to be 50-100 additional skilled advisors across the industry to help will farm-level pricing. Demand for these advisors will coincide with freshwater farm-planning regulations. According to projections from the Ministry for Primary Industries, the industry is likely to require an additional 130 skilled advisors by 2025 to meet the additional demand from freshwater reforms.

Most farmers and farm advisors are not trained in ecology and do not have ready access to the information or expert advice required to manage native biodiversity. Nor do they have the skill to integrate ecology with farm profitability, freshwater, and greenhouse gas management. Experienced farm advisors are currently in short supply, and difficulties in attracting and retaining employees mean that the industry struggles to grow.

DairyNZ recommends that government continues to support the training and professional development of advisory services and support the farm planning process as the implementation mechanism for the NPS-IB. Specifically, DairyNZ encourages the government to support an on-farm indigenous biodiversity training module through integrated farm planning, and industry assurance programmes. This support will help upskill farm professionals so they can make an informed decision and provide a more cost-effect way of providing expert biodiversity advice to the sector, aligned to work already underway through freshwater farm planning instruments and assurance programmes.

Knowledge and data gaps

DairyNZ also has concerns about the workability of subclause (2). There is currently a lack of data and knowledge on on-farm indigenous biodiversity, and how specific farming activities impact the value of indigenous biodiversity.

The requirements under subclause (2) require knowledge around which biodiversity attributes are present on-farm, the ecological values these attributes possess, how these attributes contribute to farm system outcomes, how farming activities impact these values, and what actions are needed to enhance these values.

This knowledge is fundamental to the workability of implementing the NPS-IB and currently a significant gap to its implementation. DairyNZ recommends that regional councils and central government work with catchments groups, landowners, Mandated Iwi Authorities, dairy companies, and ecological experts to establish the foundations of this knowledge base before enforcing the regulation through the consents process.

DairyNZ is aware that tools, funding, and information exist, but this can be dis-jointed or not applicable at a farm scale, hard to find, and vary in depth by region. In many cases international examples won't easily transfer to the New Zealand context and while machine learning and satellite imagery approaches are improving, work is needed before these approaches are robust enough to support the NPS-IB intent. DairyNZ recommends work is done to ensure farmers can readily access information and tools relevant to their farm-system and their ecological context, that existing farm advisors are unskilled and that government aligns their work with existing assurance programmes.

Question 31. Do you have any feedback on the workability of provision 3.25: Monitoring by regional councils?

DairyNZ does not think the provision as it stands is workable. We support the intent of a planned approach for monitoring NPS-IB, but monitoring must integrate with current compliance and auditing programmes to ensure the regulatory burden on both landowners and local authorities is manageable and that sharing of relevant data is efficient.

We encourage the government to understand that farmers are the best stewards of native biodiversity on their land. Regional councils lack the resources, expertise capacity, and at times, trust to monitor indigenous biodiversity across 11,500 dairy farms, let alone 45,000 total New Zealand farms.

DairyNZ suggests that guidance is provided to regional councils and territorial authorities on how farm planning can be used to streamline the regulatory and compliance process and align auditing and certification of plans with existing freshwater farm plan initiatives.

Appendix 1 – Criteria for SNA Identification

DairyNZ has concerns about the breadth of the assessment criteria in Appendix 1. The criteria will essentially capture all native vegetation on-farm, not just that with significant ecological value.

This does not align with the intent noted on page 5[6] of the Exposure Draft NPS-IB Summary, where it is stated that:

The intent of these provisions is not to identify all indigenous biodiversity, but to ensure the indigenous biodiversity that is most significant and precious is identified and protected.

There are limited resources, capability, capacity and financing within councils, communities and on private land. DairyNZ believes that the criteria are set too broadly, which creates the risk that the truly special biodiversity will get lost amongst the commonplace. If a majority or all remaining indigenous biodiversity is required to be 'protected' without appropriate prioritisation, endeavours will fail.

Submission ENDS

[6] https://environment.govt.nz/assets/publications/npsib-exposure-draft-summary.pdf at page 5