

Part B: Section 6

Hearing Stream 6 - Indigenous Ecosystems

1. Executive Summary

1. The Region's indigenous ecosystems have significantly reduced in extent and become fragmented.¹ Land use continues to impact on streams, wetlands, coastal ecosystems and vegetation. The Operative RPS provisions have been ineffective in preventing indigenous biodiversity decline² and stronger direction is needed in the RPS to reverse the historic trends described in *Biodiversity in Aotearoa*.³
2. The National Policy Statement on Indigenous Biodiversity (NPS-IB) contains strong direction and decision-making principles aimed at protecting and restoring indigenous biodiversity across Aotearoa New Zealand. Although the P24
3. NPS-IB came into effect after Proposed Change 1 was notified, it is appropriate for Proposed Change 1 to give effect to it. To do so aligns with councils' functions in ss 30 and 31 of the RMA, and also appropriately recognises and provides for matters of national importance in Part 2, including protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.
4. Having heard submitters, we recommend that Proposed Change 1 implement NPS-IB provisions where practicable and within scope, particularly where there is strong direction that leaves little flexibility in interpretation (such as the direction in clauses 3.8 to 3.11 and Appendix 1 regarding assessing and identifying significant natural areas (SNAs) in district plans, and avoiding (with limited exceptions) certain adverse effects on SNAs and otherwise managing effects by applying the effects

¹ Section 32 Report, para 70.

² Section 32 Report, para 71.

³ *Biodiversity in Aotearoa* - an overview of state, trends and pressures, the background report for the national biodiversity strategy Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy, 2020, Department of Conservation

management hierarchy). The direction for indigenous biodiversity outside SNAs is also expressed in mandatory terms (clause 3.16).

5. We consider it appropriate for Proposed Change 1 to take a non-regulatory approach to the restoration of ecosystems, habitats and indigenous biodiversity, working to support landowners, mana whenua / tangata whenua, and other key stakeholders to carry out protection, restoration and enhancement activities. This approach aligns with Policy CC.7 in the Climate Change provisions regarding ecosystems that provide nature-based solutions to climate change.
6. The technical evidence presented by the Council supported the approach in the provisions to protect SNAs, maintain indigenous biodiversity outside of SNAs, and promote restoration of indigenous biodiversity.
7. The Officers’ recommendations on the Indigenous Ecosystems provisions were modified in the course of the submissions and hearing process. We agree with the majority of the Officers’ recommendations. Our views differ from the Reporting Officers on the following provisions:

Provision	Panel’s views
Policy 24B	<p>We recommend an amendment to clause (3) to allow, in certain circumstances, the maintenance, operation and minor upgrade of <i>infrastructure</i> which is within or affects ecosystems or habitats with significant indigenous biodiversity values in the terrestrial environment.</p> <p>We recommend a minor drafting amendment in clause (2)(a) to improve readability</p>
Policy 24C	<p>We recommend an amendment to the third bullet point in the explanation to state that Policy 24CC applies to all <i>regionally significant infrastructure</i> and <i>REG activities</i></p>
Policy 24CC	<p>We recommend an amendment to include a provision enabling the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network to give effect to Policy 5 of the NPSET. We recommend an amendment in the Explanation to clarify the Policy applies to <i>ET activities</i></p>
Policy 24D	<p>We recommend amendments to apply the Policy to <i>ET activities</i>, and a new clause for new or</p>

	major upgrades of <i>ET activities</i> to give effect to Policy 4 of the NPSET
Policy 47	We recommend an amendment to enable established <i>REG activities</i> and <i>ET activities</i> that affect significant biodiversity values in the terrestrial environment to continue, to give effect to clause 3.15 of the NPS-IB. We also recommend amendments to carry through the amendments we have recommended to Policies 24A – Policy 24D.

8. A s 32AA evaluation for the amendments we support is provided below in our provision-by-provision analysis and recommendations.

2. Introduction, General Submissions and Statutory Framework

9. The Region's indigenous ecosystems are in a continuing state of fragmentation and decline.⁴ This reflects the legacy of historic loss and continued pressures from land use and management practices, development, climate change, and pressure from invasive species.⁵
10. Ms Maseyk presented technical evidence for the Council, which no submitter contested, on the state of the Region's indigenous biodiversity. Citing recent research, Ms Maseyk said that a high proportion of the Region's indigenous species are regionally threatened or at risk of local extinction, including 100% of bat, 85% of reptile, 79% of bird, 67% of freshwater fish, and 22% of plant species. Less than 3% of former wetland extent remains, 58% of forest types are regionally threatened, and 74% of naturally uncommon ecosystems are nationally threatened.⁶
11. The identification and protection of significant terrestrial sites (significant natural areas) has yet to be completed for more than half of the Region, despite being required by the RMA since 1991 and the RPS since 2013.⁷
12. As Ms Maseyk said:⁸

It is evident that adverse effects on indigenous biodiversity from development are occurring and contribute to indigenous biodiversity degradation and declines. Outcomes for indigenous biodiversity from consenting processes has been inconsistent, and in many instances poor.¹³ Improving outcomes for indigenous biodiversity from consenting processes is therefore critical when considered in this context.

⁴ Section 32 Report, para 70.

⁵ Section 32 Report, para 70; Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 18.

⁶ Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 18.

⁷ Section 32 Report, para 71.

⁸ Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 20.

13. Having reviewed the information in the s 32 Report and the technical evidence of Ms Maseyk and Dr Crisp on behalf of the Council, we agree with the Reporting Officer that:⁹
- the loss and degradation of indigenous biodiversity presents a significant challenge to the long-term well-being of our communities and requires immediate action if the Region’s indigenous biodiversity is to be in a healthy functioning state, with the resilience to persist in the long-term.
14. We did not hear any compelling evidence contradicting this position or the expert evidence presented by Council or cited in the Officer’s evidence saying that extensive restoration and conservation efforts are required to shift indigenous ecosystems and species out of Threatened categories.¹⁰
15. Proposed Change 1 proposed various amendments to Chapter 3.6: Indigenous Ecosystems including to:
- a. align the RPS with the (at the time draft) NPS-IB
 - b. amend policies 23 and 24 to specify a completion date for the identification of sites with significant biodiversity values, directing regional and district councils to have plan provisions in place to protect these sites by June 2025
- and
- c. set out new matters relevant to consent applications, NoRs, and plan changes, variations or reviews that may affect indigenous ecosystems and habitats with significant indigenous biodiversity values.
16. There were 574 original submissions and 521 further submissions on this topic.
17. All of the HS6 provisions were categorised to the Freshwater Planning Instrument. Some submitters challenged this approach. Forest and Bird said that while the provisions have some connection to freshwater or the concept of Te Mana o te Wai, the link is tenuous and the provisions have not been designed to “regulate activities in the catchment or receiving

⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 4.

¹⁰ See for instance Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 33 and the research cited.

environment, because of their effect on the quality of quantity of freshwater”.¹¹

18. There were two Reporting Officers for this topic, Ms Guest and Mr Wyeth, each focussing on specific provisions in the topic.
19. In the s 42A Report, the Officers agreed that the focus in the NPS-IB is on maintaining, restoring and enhancing indigenous biodiversity which will have direct or consequential benefits for freshwater ecosystems but the overall outcomes sought are broader than addressing matters that impact on freshwater quality or quantity. It was therefore appropriate in the Officer’s view, to assess all HS6 provisions through the P1S1 process.
20. We agree with the Officer’s reasoning and, as noted in Part A, the Panels recommend that the provisions are re-categorised and heard through the Standard Schedule 1 process. We recommend that as a consequential amendment, the Freshwater symbol is removed from each of the HS6 provisions.
21. Council Officers conducted pre-hearing discussions on HS6. The Reporting Officer summarises in the s 42A Report the key concerns submitters raised in these discussions.¹²
22. Some territorial authorities in particular were concerned that the Regional Council’s proposed approach does not give effect to the engagement requirements of the NPS-IB, and in particular clause 3.2 (decision-making principles). They also considered that giving effect to the NPS-IB through Proposed Change 1 could give rise to natural justice issues. PCC did not take part in pre-hearing discussions, but Mr Rachlin filed a statement questioning whether sufficient engagement had taken place to meet the requirements of the NPS-IB.¹³
23. The Reporting Officer Mr Wyeth did not consider this was a reason to defer implementation or renotify the provisions through a variation, as these submitters sought. One of the central reasons for this is that the provisions give effect to existing statutory requirements in the RMA

¹¹ Legal submissions on behalf of Royal Forest and Bird Protection Society of New Zealand Incorporated, 13 June 2023, Hearing Stream 1, para 10 citing *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777 at [200].

¹² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 97 – 99.

¹³ Response to request for pre-hearing discussion on Implementation of the NPS-IB, Michael Rachlin, 3 November 2023.

including ss 6(c) and 6(e). This is discussed further in the following section.

24. A range of General Submissions are discussed in the s 42A Report and relief is recommended throughout the Officer's Evidence in response, including further reference to mana whenua values and relationship with their culture, land, water, sites and other taonga (Ātiawa [S131.005]). Rangitāne [S168.0157] requested a definition of "indigenous ecosystems" but this was rejected by the s 42A Officer as there is no generally agreed definition available.
25. Muaūpoko [eg S133.019] supported the indigenous ecosystem provisions but requested specific mention of their relationship with indigenous ecosystems or alternative relief to ensure their connection to Te-Whanganui-a-Tara is recognised. As we have said in other chapters of this Report, the Panel is unable to make any determination on mana whenua status.
26. Fish and Game in various submission points (eg [S147.029] sought protection for valued species. We agree with the Officer that this relief is best addressed in the Freshwater provisions and various amendments have been recommended there in response as HS7 is focused on aquatic and terrestrial indigenous ecosystems. The Officer did not agree with the request by NeoLeaf Global to replace the concept of restoration with 'enhancement and improvement' on the basis that restoration is included in the provisions as part of a package of measures eg "protect, enhance and restore" in Objective 16, and the approach to restoration is a non-regulatory one in the provisions. We agree with the Officer that the term 'restore/restoration' need not be replaced with 'enhance' or 'improvement' throughout the provisions in response to NeoLeaf Global' submission.
27. We directed expert planners' caucusing on "regionally significant infrastructure" provisions with the aim of reaching consensus, or at least narrowing the issues in contention relating to the appropriateness and drafting of pathways for infrastructure in ecosystems and habitats with significant indigenous biodiversity values. The caucusing did reach a consensus position on some provisions and the main remaining issue of contention concerned the application of the Policy 24 suite to electricity transmission activities. We discuss this in some detail below and recommend some amendments which we consider align with RMA Part 2 direction and also reconcile the NPSET, NZCPS and NPS-IB. We agree with Mr Brass for the DGC and Reporting Officer Ms Guest that it is not

appropriate to provide a blanket exemption for the National Grid from the provisions implementing the NPS-IB.

28. Ms Heppelthwaite, Waka Kotahi's planner, was unable to attend caucusing but we offered her the opportunity to provide written comments on the Joint Witness Statement. Ms Heppelthwaite raised some important points and we have taken these into account in our Report as we discuss below.

2.1.1 Statutory Framework and implementing the NPS-IB

29. The legal framework that applies to Proposed Change is described in Part A. The following section discusses the specific tests and statutory principles applying to HS6.
30. The protection and management of indigenous biodiversity, and the indigenous vegetation, ecosystems and habitats that sustain and safeguard the life-supporting capacity of this biodiversity, are recognised and provided for in the RMA. The HS6 provisions in Proposed Change 1 are intended to give better effect to the statutory requirements in the RMA, including ss 6(c), 30(1)(c)(iiiia) and (ga), 31(b)(iii) and s 62(3).
31. The Operative RPS meets these statutory obligations at least in part by requiring district and regional plans to identify and evaluate “indigenous ecosystems and habitats with significant indigenous biodiversity values” (with assessment criteria provided in the RPS: Policy 23).
32. Te Mana o te Taiao Aotearoa New Zealand Biodiversity Strategy provides the overall strategic direction for managing biodiversity in Aotearoa New Zealand for the next 30 years.
33. Relevant to the discussion regarding Policy 24A and Appendix 1A, s 104(1)(ab) of the RMA requires consent authorities to consider any positive effects arising from offsetting or compensation measures from allowing a proposed activity.
34. The NPS-IB was gazetted on 7 July 2023 and came into force on 4 August 2023, almost one year after Proposed Change 1 was notified.

2.1.1 The NPS-IB

35. We agree with legal submissions from Counsel for the Council on the relevance to Proposed Change 1 of an NPS gazetted post-notification of the Change.¹⁴ The key points in our view are:
 - a. When considering amendments to Proposed Change 1 to respond to changes in national direction, we are limited by scope, regardless of the requirements in ss 61(1)(da) and 62(3) to change an RPS in accordance with a NPS, and give effect to a NPS.

¹⁴ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 9.

- b. Any changes to implement the NPS-IB must follow a Schedule 1 process (ie there are no provisions that the NPS requires are implemented directly without a Schedule 1 process)
 - c. Amendments to give effect to the NPS-IB must be made “as soon as practicable” or within the time period specific in the NPS (s 55(2D) of the RMA)
 - d. Clauses 4.1 and 4.2 of the NPS-IB state that: a local authority must give effect to the NPS-IB “as soon as reasonably practicable”
 - e. any changes required to an RPS must be publicly notified within eight years after the commencement of the NPS (i.e by 4 August 2031), and
 - f. any changes required to give effect to subpart 2 of Part 3 (significant natural areas) and clause 3.24 (information requirements) must be publicly notified within five years after the commencement date (i.e by 4 August 2028).
36. Part 3 of the NPS-IB sets out the implementation requirements. Clauses 3.1(1) and (2) state that Part 3 sets out a non-exhaustive list of things that must be done to give effect to the Objective and Policies in part 2 of the NPS-IB, but this does not limit the general obligation under the RMA to give effect to the NPS-IB, or limit the Council’s functions and duties under the RMA in relation to indigenous biodiversity.
37. In terms of paragraph d. above, there is no ‘bright line test’ for determining what is, and is not, considered to be “reasonably practicable”, and a case-by-case assessment and value judgement is required. We accept Counsel’s submissions on this point as set out in their Rebuttal legal submissions for HS3¹⁵, and summarised in the HS6 opening legal submissions.¹⁶
38. Counsel concluded their submissions on this point by saying:¹⁷

¹⁵ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 3, 22 August 2023, para 8.3.

¹⁶ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 10.

¹⁷ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, paras 12 – 14.

[the] obligation on [the Council] to give effect to the NPS-IB ... is to make changes as soon as reasonably practicable, and this obligation is still limited by scope...

... it is only where amendments are within the scope of Proposed Change 1 and [for 'non-freshwater provisions'] within scope of submissions on Proposed Change 1, that they can be made by the Panels in this process.

This means a further change process will be required for GWRC to give full effect to the NPS-IB, unless there is scope within Proposed Change 1 to fully give effect to the wide ranging NPS-IB provisions now.

39. We are satisfied that it is appropriate for Proposed Change 1 to give effect to the NPS-IB where reasonably practicable and within scope and where there is limited discretion in the implementation of specific NPS-IB provisions. No submissions were presented to us persuading us that, where these criteria are met, a delay in implementation is justified. As we noted in Part A, a recent Bill introduced to Parliament seeking to delay the timeframe for the mandatory identification of SNAs by territorial authorities is not yet law, and so has not affected our recommendations.
40. Proposed Change 1 sought to align with the publicly released draft NPS-IB. Numerous submitters supported this alignment and requested amendments to update the provisions in line with the notified NPS-IB.
41. At times, the direction in the gazetted NPS-IB differed from the exposure version. The Reporting Officer provided a helpful Appendix (Appendix 3 to the s 42A Report) assessing the Proposed Change 1 provisions against the NPS-IB and recommending changes in certain circumstances and in accordance with the following guiding principles:¹⁸
 - a. NPS-IB provisions should be given effect to where reasonably practicable and within scope.
 - b. The NPS-IB provisions that specifically require changes to RPS's within limited discretion in how these are implemented should be given effect to as a priority.
 - c. Where the NPS-IB provisions need to be given effect to following partnering with mana whenua/tangata whenua, engaging with communities and landowners, and/or require further technical work (e.g. identifying highly mobile fauna areas), it is more

¹⁸ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 93.

appropriate for these to be given effect to through a future RPS change.

- d. The scope to give effect to the NPS-IB is generally limited to indigenous biodiversity in the terrestrial environment.

42. Mr Wyeth went on to explain that in his view, of the different drafting approaches available to implement the highly directive provisions in the NPS-IB, he recommended:¹⁹

- a. Repeating or paraphrasing NPS-IB provisions where the implementation requirements for RPS’ “are more straightforward and succinct and can be more readily incorporated into Proposed Change 1 provisions without significant amendments”, and
- b. Cross-referencing NPS-IB provisions for more detailed NPS-IB implementation requirements that would require significant amendments through Proposed Change 1 (such as clauses 3.10, 3.11 and associated appendices and definitions).
- c. As set out in the s 42A report, while broad scope is provided by Proposed Change 1, parts of the NPS-IB implementation (being those that require engagement and additional technical work to identify and support such changes) will still need to be subject to a subsequent Schedule 1 process. However, where there is scope to amend Proposed Change 1, to give effect to parts, or in part, the NPS-IB and where the relevant information is available in order for the Panels to be satisfied that making those changes now is appropriate, then doing so now would comply with the direction in the NPS-IB to give effect to it as soon as reasonably practicable.

43. In the Officers’ Rebuttal Evidence, it was recommended that the Panels consider a different drafting approach for Policies 23 and 24, namely to essentially repeat the relevant NPS-IB provisions and NZCPS Policy 11 with minor wording modifications.²⁰ This is discussed further below.

44. Submitters presented differing views in their evidence and legal submissions on the approach to implementing the NPS-IB. There was

¹⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 94 – 95.

²⁰ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 26; Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2024, para 76.

general consensus that the RMA contains clear direction for the protection of indigenous biodiversity and the NPS-IB has to be given effect to as soon as reasonably practicable. However, submitters said:

- a. The NPS-IB is comprehensive and there is little need to reinterpret or provide additional direction at the RPS level (Mr McDonnell on behalf of HCC)
- b. Proposed Change 1 provisions should not repeat, paraphrase or cross-reference national direction for the sake of it as that adds unnecessary length and complexity (Mr McDonnell on behalf of HCC)
- c. If the NPS-IB is repealed, any cross-referenced provisions would require a further RPS change which is inefficient and leads to regulatory uncertainty (Mr McDonnell on behalf of HCC)
- d. The Proposed Change 1 amendments largely paraphrase or repeat NPS-IB provisions without adding regional specific direction, which should be the core purpose of the RPS (Ms Cook on behalf of WCC)
- e. There has not been sufficient evaluation of whether the changes are necessary or add value in giving effect to the NPS-IB objective (Ms Cook on behalf of WCC)
- f. Some provisions in the NPS-IB which are fundamental to achieving a robust regional policy framework for managing indigenous biodiversity and therefore require amendments to the RPS, have not been given effect through Proposed Change 1, and it is more appropriate to delay all amendments and implement the NPS-IB in full through a separate process (Ms Cook on behalf of WCC)
- g. Amendments that give effect to 'new' provisions (ie that were not in the exposure draft, such as the decision-making principles) are problematic as these have not been subject to full and meaningful community engagement (Ms Clarke on behalf of Winstone Aggregates)
- h. The Proposed Change 1 amendments are appropriate to achieve the purpose of the RMA and 'partial' effect can be given to the NPS-IB now – it does not require an "all or nothing" compliance/implementation approach (Mr Brass on behalf of the DGC).

45. The Reporting Officer said the evidence presented did not change his view that Proposed Change 1 should give effect to NPS-IB provisions where practicable and within scope.²¹ He also said that the majority of submitters that provided evidence supported his recommended approach to give effect to certain NPS-IB provisions now. In response to Ms Cook, the Officer says the s 42A Report explains that further technical work and engagement is needed before the RPS can give effect to clauses 3.20, 3.22 and 3.23 in the NPS-IB.²²
46. The NPS-IB includes principles stating when biodiversity offsetting and compensation may be inappropriate, that is, when the indigenous biodiversity affected is irreplaceable or vulnerable or there are no technically feasible options to secure gains within acceptable timeframes.
47. We agree with the Officer that it is appropriate for the RPS to give effect to the NPS-IB where practicable and within scope. We also agree that for directive provisions, such as clause 3.10 of the NPS-IB, there is limited scope to add regional context to the avoid policy direction. Clause 3.10 is a provision that must be implemented “as soon as reasonably practicable” (clause 4.1) and states that “Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause”. The direction in clauses 3.8 to 3.11 and Appendix 1 regarding assessing and identifying SNAs in district plans and avoiding (with limited exceptions) adverse effects on an SNA of any new subdivision, use or development, or otherwise managing effects by applying the effects management hierarchy, uses strong language that leaves little or no flexibility in interpretation. The direction for indigenous biodiversity outside SNAs is also expressed in mandatory terms (clause 3.16). We agree with the Officer’s approach summarised above to implement directive provisions in the NPS-IB in Proposed Change 1 where practicable and within scope.
48. We also agree that there are limited options for giving effect to highly directive provisions in the NPS-IB, and these are stay silent, cross-reference or repeat with minor amendments. We do not support ‘staying silent’ as this would not meet the Regional Council’s obligations to give effect to the NPS-IB, and it could create confusion as to whether Policy 24

²¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 19.

²² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 19.

and other policies have given effect to the NPS. It would also not fulfil the Council’s responsibilities under s 30.

49. Various parties presented legal submissions and planning evidence on the extent to which we are able to recommend amendments to provisions to give effect to the NPS-IB given that it was gazetted after Proposed Change 1 was notified. This issue also arose in relation to recent amendments to the NPS-FM and also the NPS-HPL. We commissioned independent legal advice on this issue from Brookfields. The advice was in broad agreement with the legal submissions of both the Regional Council and Winstone Aggregates, namely that amendments can be made to give effect to an NPS or any update to a NPS post-dating notification of Proposed Change 1:²³

- a. Where there is scope to do so (i.e. where an amendment is within the scope of the Change itself, and for P1S1 provisions, within the scope of submissions); and
- b. Subject to consideration of any specific implementation and transitional arrangements.

50. As set out in legal submissions for the Council, the NPS-IB requires implementation “as soon as reasonably practicable” with public notification by 4 August 2031 of changes to the RPS that are necessary to give effect to the NPS-IB, with an earlier implementation date of 4 August 2028 in respect of given effect to the provisions for SNAs.²⁴ The submissions also set out an interpretation of what “reasonably practicable” means, noting there is no bright line test and this depends on a case-by-case analysis and incorporates an element of reasonableness.²⁵

2.1.2 Terrestrial and coastal environments

51. The NPS-IB only applies in the terrestrial environment²⁶ (including the terrestrial coastal environment above mean-high water springs), and

²³ Procedural Advice, Plan Change 1 to the Regional Policy Statement for the Wellington Region, Brookfields, Advice provided to P1S1 / FHP Panels, 8 February 2024, para 8 (available on the Hearings Page as an attachment to Minute 23).

²⁴ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 9.7.

²⁵ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 11.

²⁶ Clause 1.3(1), NPS-IB.

national direction for coastal indigenous biodiversity is provided for in the NZCPS including Policy 11.

52. Questions arose at the Hearing about the areas of the Region where the HS6 provisions apply. We sought clarification on this issue in Minute 22. The Council Officers replied to say that all the objectives, policies and methods in HS6 apply to all indigenous ecosystem domains – coastal, freshwater, and terrestrial, and that certain policies apply in specific ecosystems as identified in the policies (i.e. Policies 24B, IE.2A (which apply in the terrestrial environment) and Policies 24C and 24CC (which apply in the coastal environment)).²⁷
53. The NZCPS prevails over the NPS-IB where there is conflict between the two documents in the terrestrial coastal environment (clause 1.4(2) of the NPS-IB). Both the NZCPS and NPS-IB have a range of effects management requirements in the coastal environment. Ms Heppelthwaite provided supplementary evidence after the Joint Witness Statement which was circulated following planners’ caucusing.²⁸ This helpfully identified for us that the Change 1 provisions as proposed to be amended by the Reporting Officers contain a gap regarding managing effects on significant natural areas (which are described in Change 1 as “indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna”) from established activities (including infrastructure) that are not *REG activities* or *ET activities* and outside NZCPS Policy 11 areas. We recommend the addition of a new clause to enable these activities.

²⁷ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 15.

²⁸ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1, Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024, section 5.

3. Provision by Provision Analysis

3.1 Introduction and Regionally Significant Issues

54. The notified version of the Introductory text stated:

Chapter introduction	
<p>An ecosystem may be described as a community of plants, animals and micro-organisms interacting with each other and their surrounding environment.</p> <p>As well as contributing to the region’s natural character and having their own intrinsic values, healthy ecosystems provide us with life’s essentials – such as plants and animals for food, fibre for clothing, timber for construction. This is true even in an industrialised age, although the connections are less immediately obvious. Healthy ecosystems supply us with ‘services’ that support life on this planet – such as:</p> <ul style="list-style-type: none">• Processes to purify air and water• Decomposition and detoxification of wastes• Creation and <i>maintenance</i> of productive soils• Reduction of the impact of climate extremes• Capture of carbon and <i>maintenance</i> of a functioning atmosphere <p>Ecosystems are dynamic (constantly changing) and the many diverse natural processes that drive ecosystems are as important as the biodiversity values within them. In addition, all parts of an ecosystem are interconnected. The species that make up an ecosystem, including humans, cannot exist in isolation from the other species and non-living parts of the ecosystem. The primacy of healthy ecosystems is central to Māori cultural values, whereby harm to mauri directly affects the wellbeing of the people. More specifically, degradation of ecosystems threatens mahinga kai (places where food is gathered) and other natural resources used for customary purposes.</p> <p>The Wellington region has a distinctive range of ecosystems – such as forests, mountains, wetlands, lakes, rivers and coastal and marine ecosystems. Some ecosystems have <u>retained</u> a high degree of <u>indigenou<u>sness</u> dominance</u> – such as the Tararua, Rimutaka and Aorangi ranges, while others are dominated by exotic species – such as pastoral farmlands.</p> <p>The area of indigenous ecosystems has been in decline since humans first settled in our region. This loss greatly accelerated from the time of European settlement. Around 70 per cent of the indigenous forest and more than 90 per cent of the wetlands that existed in 1840, have been cleared for agriculture and urban development. Most of the remaining forest and wetlands and dune ecosystems have been degraded or modified in some way. In addition, many of the processes that ensure ecosystems remain healthy and viable into the future have been compromised, including reproduction, recruitment, dispersal and migration.</p> <p>Human actions that continue to impact on the remaining indigenous ecosystems include:</p> <ul style="list-style-type: none">• Modification and, in some cases, destruction of ecosystems by pest plants and animals grazing animals and clearance of indigenous vegetation• Contamination of aquatic ecosystems by sediment, pollutants and nutrients	

- Destruction of ecosystems as a result of development
- Modification of natural waterways, such as draining wetlands and channelling, constraining or piping of natural waterways-rivers and streams
- Contamination of coastal ecosystems by stormwater and sewage discharges

Although New Zealand has an extensive network of public conservation land (comprising over a third of the country), this does not adequately represent all types of indigenous ecosystem. With few options to expand the public conservation estate, the restoration of ecosystems relies upon the good will and actions of landowners. There are a number of individuals, iwi, community groups and organisations throughout the region that are working to restore indigenous ecosystems. Public support for restoring indigenous ecosystems on public land and landowners retiring farmland has led to the regeneration of indigenous bush in rural gullies, along riparian margins, in regional parks and in urban backyards. This has led to increases in some indigenous habitats, such as in the hills around Wellington City, with sanctuaries such as Zealandia and pest control efforts increasing the number and variety of native birds and invertebrates around the city. However, there is still much work to be done to improve the conservation status of many native ecosystems and species. The restoration of indigenous ecosystems on public, iwi and private land provides both public and private benefit.

Ecosystem health can be measured in a number of ways, including the composition, richness and indigenous dominance of communities, function of ecosystem processes (e.g., degree to which it is connected or fragmented), or the extent of the ecosystem remaining. loss of individual species, loss of overall diversity of species, loss of an ecosystem's ability to function on an ongoing basis, and loss of complete ecosystems and types of ecosystems. While the dramatic collapse of species or whole ecosystems can capture attention, the gradual erosion of ecosystems' sustainability is also a significant issue.



The regionally significant issues and the issues of significance to the Wellington region's iwi authorities for indigenous ecosystems are:

1. The region's indigenous ecosystems are reduced in extent



The region's indigenous ecosystems have been significantly reduced in extent and are being increasingly fragmented. Loss of area, ecological integrity and ecological connectivity reduce the resilience of ecosystems to respond to ongoing pressures, threatening their persistence and that of the indigenous biodiversity and mahinga kai they support. The indigenous ecosystems most reduced in extent are specifically:

- wetlands
- lowland forests
- lowland streams
- coastal duneslands and escarpments
- estuaries
- eastern 'dry land' forests.

<p>2. The region’s remaining indigenous ecosystems are under threat</p> <p><u>The region’s remaining indigenous ecosystems, and the ecosystem processes that support them, continue to be degraded or lost due to ongoing pressure from invasive species, human use and development, and the effects of climate change.</u></p>	
<p>3. <u>Iwi and landowner values and roles are not adequately recognised and supported</u></p> <p><u>Mana whenua /tangata whenua values, including kaitiakitanga, are not adequately recognised and supported by the current approach to managing indigenous biodiversity. The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.</u></p>	

3.1.2 Submissions, Evidence and Analysis

55. Some submitters supported the introductory text and sought it be retained as notified. Meridian [S100.009] sought that references to “native” be replaced with “indigenous”. It also sought changes to reflect the regulatory response to “natural wetlands”. Taranaki Whānui [S167.034 and 167.036] supported Issues 1 and 3 in full, and Issue 2 in part [S167.035], and requested that reference to the damage done to indigenous ecosystems by farming practices, in particular grazing animals/land clearance, be included. This was opposed by BLNZ [FS15.019]. WFF [S163.028] requested that the proposed amendments to the Introduction are deleted and deferred to the full review of the RPS in 2024. It also said that the data referred to was out of date, did not show the level of protection for significant sites provided by district plans, and there was insufficient evidence in the s 32 Report.
56. Ātiawa [S131.030] supported the intent of Chapter 3.6, but requested amendments to recognise whānau and hapū as well as iwi, and that a distinction be drawn between mana whenua and landowners to recognise the difference in values and roles. Ngāti Toa [S170.016] also sought that this distinction be made in the Introduction and Issue statements. Taranaki Whānui [S167.033] sought amendments to reflect the partnership with mana whenua / tangata whenua and the intrinsic value and mauri of indigenous biodiversity and people’s connections and relationships to it.
57. The Officer recommended various amendments to the Introduction and Issue statements, including to replace “native” with “indigenous” for consistency, including additional text to explain the “decision-making principles for indigenous biodiversity” as set out in the NPS-IB (which replaced the term Te Rito o te Harakeke in the draft NPS-IB), and to

separate Issue Statement 3 into two Issue statements to better differentiate between iwi and landowner values and roles. The Officer did not recommend including reference to farming in Issue 2 as this was already captured through the reference to “human use and development”. We agree with the Officer’s recommendations on these matters. In particular, we agree with including references to whānau and hapū to better recognise the levels of tangata whenua engagement and involvement as kaitiaki of indigenous biodiversity. This appropriately reflects clauses 3.3 and also 1.5(3)(c) of the NPS-IB, while still recognising the stewardship role of communities including landowners.

58. The Officer disagreed with some of WFF’s assertions and referred to research confirming that ecosystems in the Region continue to be lost or fragmented, and a significant proportion of the Region’s indigenous biodiversity is at risk or threatened with extinction.²⁹ The Officer agreed that, while all of the territorial authorities in the Region have carried out some form of assessment of significant indigenous ecosystems and habitats, only three of the district plans in the Region (Kāpiti, Porirua and Wellington) include schedules of sites identified in accordance with the RPS and protected as required by s 6(c) of the RMA.³⁰ At the Hearing, Mr Matich on behalf of WFF considered that the Council had overstated the urgency of a need for a regulatory response to require restoration at a regional level and that there is a fairly stable situation for remnant regional indigenous biodiversity in the Region. Mr Matich said:³¹

In my experience, regulation pursuing restoration is a costly pursuit for consent authorities, enforcement agencies and consent holders, and the wider community of interested parties. In my opinion, reliance on regulatory implementation provides little or no guarantee of biodiversity restoration outcomes.

59. At the Hearing, Ms McGruddy for WFF said she supported a non-regulatory approach for restoration but felt that this intent should be more “front and centre” and clear in the RPS.³² The Officer stated that the policies and methods to give effect to the restoration outcomes in the objectives are all non-

²⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 152 – 153.

³⁰ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 154.

³¹ Statement of Evidence of Peter Matich on behalf of Wairarapa Federated Farmers (Planning), 30 January 2024, para 4.12.

³² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 24, lines 1182 – 1183.

regulatory, but said in Reply Evidence that the Introduction could be amended to say:³³

Restoration of indigenous ecosystems will be achieved by working collaboratively with landowners and in partnership with mana whenua/tangata whenua, rather than through the use of a regulatory approach.

60. We agree with this recommendation and consider it addresses Ms McGruddy’s concerns on this issue.
61. The Officer did not agree with Meridian’s request to replace all references to “wetlands” with “natural inland wetlands” on the basis that the RMA provides protection to all wetlands in s 6(a). Ms Foster, in her planning evidence for Meridian, explained that the amendment was to ensure the RPS protection provisions do not apply to constructed wetlands, consistent with s 6(a). The Officer agreed with this request to the extent it applied to provisions directing a regulatory response (consistent with the NPS-FM and NRP). The Officer recommended amendments in Policies 23 and 47 to refer to “natural wetlands”, but said that:³⁴
- a. the RPS was not only concerned with natural wetlands
 - b. the RPS approach to restoration is non-regulatory
 - c. it was appropriate that the policies and methods in the RPS supporting restoration and enhancement apply to wetlands generally
 - d. there are only 3% of the Region’s wetlands remaining, and
 - e. areas that were previously fully functioning wetlands present important opportunities for restoration.
62. We agree with the Officer’s approach to this issue and recommendations.
63. Ms McCormick, on behalf of Ngā Hapū o Ōtaki sought that the decision-making principles prioritise the mauri and intrinsic value of indigenous biodiversity and recognise that the health and wellbeing of people and communities depends on the health and wellbeing of indigenous biodiversity. In return, people have a responsibility to care for and nurture indigenous biodiversity.

³³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 75.

³⁴ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 18 - 19.

64. In Minute 22, we asked the Officers whether the Introductory text could better reflect the decision-making principles in clause 1.5(3) of the NPS-IB. Ms Guest recommended amending the text to better align with clause 1.5, and to acknowledge the priority to be given to *mauri*, intrinsic values and well-being of indigenous biodiversity, and the connections and relationships of people with indigenous biodiversity. We agree with Ms Guest’s recommendations and think that these changes provide useful context in the Introduction that accurately reflects the NPS-IB.

3.1.3 Finding

65. We agree with the Reporting Officer’s recommendations on the Introduction and Issues Statements for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.1.4 Recommendation

Chapter introduction

An *ecosystem* may be described as a community of plants, animals and micro-organisms interacting with each other and their surrounding environment.

As well as contributing to the region’s natural character and having their own *intrinsic values*, healthy ecosystems provide us with life’s essentials – such as plants and animals for food, fibre for clothing, timber for construction. This is true even in an industrialised age, although the connections are less immediately obvious. Healthy ecosystems supply us with ‘services’ that support life on this planet – such as:

- Processes to purify air and water
- Decomposition and detoxification of wastes
- Creation and *maintenance* of productive soils
- Reduction of the impact of climate extremes
- Capture of carbon and *maintenance* of a functioning atmosphere.

Ecosystems are dynamic (constantly changing) and the many diverse natural processes that drive ecosystems are as important as the biodiversity values within them. In addition, all parts of an *ecosystem* are interconnected. The species that make up an *ecosystem*, including humans, cannot exist in isolation from the other species and non-living parts of the *ecosystem*. The primacy of healthy ecosystems is central to Māori cultural values, whereby harm to *mauri* directly affects the wellbeing of the people. More specifically, degradation of ecosystems threatens *mahinga kai* (places where food is gathered) and other natural resources used for customary purposes.

The Wellington region has a distinctive range of ecosystems – such as forests, mountains, *wetlands*, *lakes*, *rivers* and coastal and marine ecosystems. Some ecosystems have retained a high degree of *indigenouness dominance* – such as the Tararua, Reimutaka and Aorangi ranges, while others are dominated by exotic species – such as pastoral farmlands.

The area of *indigenous* ecosystems has been in decline since humans first settled in our region. This loss greatly accelerated from the time of European settlement. Around 70 percent of the *indigenous* forest and more than 90 percent of the *wetlands* that existed in 1840, have been cleared for agriculture and *urban development*. Most of the remaining ~~forest and wetlands and dune~~ ecosystems have been degraded or modified in some way. In addition, many of the processes that ensure ecosystems remain healthy and viable into the future have been compromised, including reproduction, recruitment, dispersal and migration. Human actions that continue to impact on the remaining *indigenous* ecosystems include:

- Modification and, in some cases, destruction of ecosystems by pest plants and animals, grazing animals and clearance of *indigenous* vegetation
- Contamination of aquatic ecosystems by sediment, pollutants and nutrients
- Destruction of ecosystems as a result of development
- Modification of natural waterways, such as dDraining wetlands and channelling, constraining or piping of natural waterways ~~rivers and streams~~
- Contamination of coastal ecosystems by stormwater and sewage discharges

Although New Zealand has an extensive network of public conservation *land* (comprising over a third of the country), this does not adequately represent all types of *indigenous ecosystem*. With few options to expand the public conservation estate, ~~the~~ *restoration* of ecosystems relies upon the good will and actions of landowners. There are a number of individuals, *whānau*, *hapū*, *iwi*, and community groups and organisations throughout the region that are working to restore *indigenous* ecosystems. Public support for *restoring indigenous ecosystems on public land and landowners retiring farmland* has led to the regeneration of *indigenous* bush in rural gullies, along *riparian* margins, in regional parks and in urban backyards. This has led to increases in some *indigenous habitats*, such as in the hills around Wellington City, with sanctuaries such as Zealandia and pest control efforts increasing the number and variety of *native indigenous* birds and invertebrates around the city. However, there is still much work to be done ~~to improve the conservation status of for many native of the region's indigenous ecosystems and species so that to be in a healthy functioning state, with the resilience to persist in the long-term.~~ *The restoration of indigenous*

ecosystems on public, *whānau, hapū, iwi* and private *land* provides both public and private benefit. Restoration of indigenous ecosystems will be achieved by working collaboratively with landowners and in partnership with mana whenua/tangata whenua, rather than through the use of a regulatory approach.

The decision-making principles for indigenous biodiversity prioritise the mauri, intrinsic value and well-being of indigenous biodiversity and recognise people's connections and relationships with indigenous biodiversity. They recognise that the health and well-being of people and communities depend on the health and well-being of indigenous biodiversity and that, in return, people have a responsibility to care for and nurture it. The principles acknowledge the interconnectedness between indigenous species, ecosystems, the wider environment, and the community, at both a physical and metaphysical level. These principles must inform and be given effect to when managing indigenous biodiversity across the Wellington Region, ensuring that te ao Māori, mātauranga, and tikanga Māori are applied appropriately to protect, maintain and restore indigenous biodiversity.

Ecosystem health can be measured in a number of ways, including the composition, richness and indigenous dominance of communities, function of ecosystem processes (e.g., degree to which it is connected or fragmented), or the extent of the ecosystem remaining. ~~loss of individual species, loss of overall diversity of species, loss of an ecosystem's ability to function on an ongoing basis, and loss of complete ecosystems and types of ecosystems.~~ While the dramatic collapse of species or whole ecosystems can capture attention, the gradual erosion of ecosystems' sustainability is also a significant issue.

The regionally significant issues and the issues of significance to the Wellington region's *iwi* authorities for indigenous ecosystems are:

1. The region's indigenous ecosystems are reduced in extent

The region's indigenous ecosystems have been significantly reduced in extent and are being increasingly fragmented. Loss of area, *ecological integrity* and *ecological connectivity* reduce the *resilience* of ecosystems to respond to ongoing pressures, threatening their persistence and that of the *indigenous biodiversity* and *mahinga kai* they support. The indigenous ecosystems most reduced in extent are specifically:

- (a) wetlands
- (b) lowland forests
- (c) lowland streams
- (d) coastal duneslands and escarpments
- (e) estuaries
- (f) eastern 'dry land' forests.

2. The region's remaining *indigenous* ecosystems are under threat.

The region's remaining *indigenous* ecosystems, and the *ecosystem processes* that support them, continue to be degraded or lost due to ongoing pressure from invasive species, human use and development, and the effects of climate change.

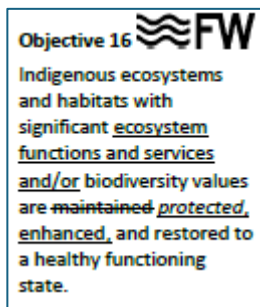
3. ~~Mana whenua /tangata whenua~~ ~~lwi and landowner~~ values and roles are not adequately recognised and supported.

~~Mana whenua /tangata whenua~~ values and roles, including *kaitiakitanga*, are not adequately recognised and supported by the current approach to managing *indigenous biodiversity*. ~~The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.~~

4. ~~Landowner values and roles are not adequately recognised and supported.~~
~~The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.~~

3.2 Objective 16

66. The proposed amendments to Objective read:



67. Objective 16 is in the Operative RPS. The Change 1 amendments express the desired environmental outcome for the Region to regain significant biodiversity, rather than just retain the current low levels present.³⁵ The Objective also acknowledges that indigenous ecosystems and habitats can have significant values that are broader than for indigenous biodiversity (such as increasing resilience). In addition, the amendments recognise that protecting significant ecosystems and habitats also requires protection of the underpinning ecosystem functions.³⁶

68. The s 32 Report says replacing “maintained” with “protected” improves certainty in the outcome sought and achieves better alignment with s 6(c) of the RMA.³⁷ As noted earlier, this section requires protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance that must be recognised and provided for. The Report goes on to state that “protection” is already used in Operative Policy 24 which requires plans to include provisions to protect indigenous ecosystems and habitats with significant indigenous biodiversity values.

3.2.1 Submissions, Evidence and Analysis

69. Some submitters supported the Objective and NZ Centre for Sustainable Cities (NZCSC) [S151.016] sought stronger supporting policies and methods. Forest and Bird [S165.021] sought better alignment with s 6(c) of the RMA, noting that exotic forest could be important habitat for indigenous fauna. Other submitters said the direction to “protect” and “enhance” went beyond what was required under the RMA (e.g. DairyNZ

³⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 40.

³⁶ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 186.

³⁷ Section 32 Report, page 95.

[S136.006]), would be difficult to achieve with limited resources (e.g. KCDC [S16.057] and UHCC [S34.072], and should not go beyond a requirement to “maintain”.

70. Waka Kotahi [S129.021] supported the intent but said “protection” was too strong a directive. UHCC sought the addition of the words “and where possible enhanced” instead of “protected, enhanced”, and DairyNZ [FS15.024] sought alternative relief to focus the Objective on significant indigenous habitats. SWDC [S79.009] said enhancement should be allowed to occur “over time”, and Meridian [S100.010] said it should occur “where appropriate”. Powerco [S134.003] also said enhancement and restoration may not be appropriate in all circumstances and WIAL [S148.039] sought that the Objective recognise that restoration occur “where appropriate”. WFF [S164.030] requested the Objective be deleted.
71. The Officer did not agree with submitters seeking deletion of “protection” from the Objective, on the basis that this direction was consistent with the current policy settings, specifically s 6(c) of the RMA, Policy 7 of the NPS-IB (which provides for protection of SNAs), and Operative Policy 24 of the RPS which requires plans to include provisions to protect indigenous ecosystems and habitats with significant indigenous biodiversity values.³⁸
72. The Officer also did not agree that qualifiers were appropriate in Objective 16 as:³⁹

The role of an objective at the level of a RPS is to provide a clear outcome or end point that policies seek to achieve at a regional scale. In my opinion, the use of general qualifiers in objectives acts to weaken the objective, leaving it open to debate and making it difficult to monitor its effectiveness.

73. We agree with the Officer’s statement. The Objective recognises that a range of measures is required to achieve the desired outcome with articulation of the ‘what’ and ‘how’ (including in relation to infrastructure projects), to come through policies, methods and lower-order plans. The RPS is reviewed every ten-years so we also agree with the Officer that there is no need to include the words “over time” in the Objective. Ms Hunter for WIAL sought reference to the effects management hierarchy in the Objective, but we agree with the Officer that the implementation or achievement of the Objective is a matter for the cascading policies.

³⁸ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 178 – 179.

³⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 181.

74. The RPS does not require a regulatory response for the enhancement and restoration of indigenous biodiversity⁴⁰ and the NPS-IB recognises this supportive rather than directive approach. For instance, Policy 13 says “Restoration of indigenous biodiversity is promoted and provided for” and clause 3.21 also refers to promoting restoration. Clause 1.7(b) says that maintaining indigenous biodiversity requires “where necessary, the restoration and enhancement of ecosystems and habitats”. Various submitters interpreted the notified and recommended s 42A recommendations as signalling a regulatory response to restoration and enhancement. We therefore agree with the Officer’s recommendation in her Rebuttal evidence to include the qualifier “where appropriate” in relation to enhancement and restoration.
75. We also agree with the Officer that a qualifier is not justified in Objective 16 in relation to “protection”. While Objective 2.1(b)(iii) of the NPS-IB refers to “protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity”, and this could be used to argue that a qualifier is justified for “protection”, based on the evidence we heard and mandatory direction in the NPS for SNA protection, we consider that “protection” is a clear and justified outcome for the Region. We agree with the Officer that “protect” implies retaining what is already present and “enhance and restore” seek to improve something or return it to its previous (healthy functioning) state.⁴¹
76. The Officer agreed that an amendment to Objective 16 is appropriate to protect significant habitats of indigenous fauna, not just indigenous habitats, to give effect to RMA s6(c). In response to DairyNZ and WFF’s relief, and as further refined in Reply Evidence, the Officer recommended replacing “ecosystem functions and services” with a defined term for “ecosystem processes”. Mr Matich for WFF had said in evidence that neither the RMA nor the NPS-IB requires protection or enhancement of indigenous ecosystems and habitats with “significant ecosystem functions and services”. The Officer agreed but noted research by Maseyk and Parlato stating that the threat status of many of the indigenous species and ecosystems in the Region will continue to worsen if

⁴⁰ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 24 – 25, and also see Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para s 534 – 536.

⁴¹ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 40.

ecosystem processes, connectivity, and condition, are not addressed.⁴²
Based on this research the Officer said:⁴³

Protecting these underpinning ecosystem processes is essential to protect significant habitats and ecosystems and enable them to adjust to pressures, such as climate change.

77. Also based on the research the Officer recommended that Objective 16 refer to “ecosystem processes” rather than functions, and that this should be defined to assist the interpretation of Objective 16. The definition the Officer recommended is “Ecosystem processes: The physical, chemical and biological processes that link organisms and their environment.”
78. We understand that among other things, Objective 16 gives effect to s 6(c) of the RMA and clause 3.10 of the NPS-IB which provides specific direction on managing adverse effects of subdivision, use and development on SNAs. Clause 3.10 is referred to in the s 42A analysis of Objective 16.⁴⁴ Clause 3.10(7) of the NPS-IB states that “Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause” (emphasis added). In our view, this clause, together with s 6(c), provide higher order support for including the proposed amendments to Objective 16 in Proposed Change 1.

3.2.2 Finding

79. We agree with the Reporting Officer’s recommendations on Objective 16 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

2.1.3 Recommendation

Objective 16

Indigenous ecosystems and habitats with significant ecosystem functions and services and/or indigenous biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes functions that support these ecosystems and habitats, are maintained protected and, where appropriate, enhanced; and restored to a healthy functioning state.


⁴² Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 39.

⁴³ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 39.

⁴⁴ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 178.

3.3 Objective 16A

80. As notified the Objective read:

Objective 16A 
The region's indigenous ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving their resilience to increasing environmental pressures, particularly climate change, and giving effect to Te Rito o te Harakeke.

81. The intent of this new Objective is to recognise the wider values of maintaining, enhancing and restoring indigenous biodiversity generally (in accordance with s 7(f) and s 30(ga) of the RMA.⁴⁵ The Objective also recognises that healthy ecosystems are more resilient to increasing environmental pressures.

3.3.1 Submissions, Evidence and Analysis

82. Some submitters sought that the Objective be deleted. Others raised similar concerns as with Objective 16, stating that enhancement and restoration were not always the most appropriate response (e.g. Meridian [S100.011] and Powerco [S134.004]). In his planning evidence, Mr McDonnell for HCC said that Objective 16A is not achievable as it is not possible to restore the region's biodiversity without reverting entire urban and rural catchments back to indigenous vegetated landscapes.⁴⁶

83. Ātiawa [S131.032] sought reference to the attributes of ecosystem health, ecological integrity and ecological connectivity of indigenous ecosystems. WCC [S140.019] supported the Objective but said it should refer to indigenous biodiversity rather than ecosystems. Meridian also sought that giving effect to Te Rito o te Harakeke should be addressed by the policy suite. DairyNZ [S136.007] was concerned that the meaning of "restoring to a healthy functioning state" was unclear and would depend on the outcome of the freshwater regional planning process.

84. The Officer supported WCC's requested relief and also recommended a definition of "indigenous biodiversity" be included to align with the NPS-IB.

⁴⁵ Section 32 Report, page 96.

⁴⁶ Statement of evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), 30 January 2024, para 33.

The Officer also agreed with removing reference to Te Rito o te Harakeke from the Objective as the “decision-making principles” that replaced this concept in the NPS-IB are process focused. The Officer agreed with including the words “where appropriate” in relation to restoration and enhancement, for similar reasons as in Objective 16⁴⁷ and considered that this would also address the concerns raised by HCC. The Officer recommended retaining the reference to “healthy functioning state” as this set a clear desired outcome and the details of ‘how’ would be set through cascading provisions. The Officer also recommended retaining resilience and environmental pressures to align with Policies 4 and 7 of the NPS-IB, and respond to direction in the Biodiversity Strategy, the NAP and ERP. The Officer did not think referencing particular attributes was necessary as requested by Ātiawa as these were provided for in the definition of “maintenance of indigenous biodiversity”.

85. In Minute 22 we asked the Officer about the policies and methods that give effect to Objective 16A to provide for the maintenance of indigenous biodiversity outside of areas with significant indigenous biodiversity values. The Officer responded in Reply Evidence to list the provisions that give effect to the Objective, including Policies 61, IE.1, IE.2A, IE.3 and Method 54.⁴⁸ The Officer also referenced relevant provisions in both the Climate Change (HS3) and Freshwater (HS5) suite of provisions.

3.3.2 Finding

86. We agree with the Reporting Officer’s recommendations on Objective 16A for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.3.3 Recommendation

Objective 16A

The region’s indigenous ~~biodiversity is ecosystems are~~ maintained and, where appropriate, enhanced, and restored to a healthy functioning state, improving ~~its their~~ resilience to increasing environmental pressures, particularly climate change, and giving effect to the Te Rito o te Harakeke.

⁴⁷ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 49.

⁴⁸ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 67.

3.4 Objective 16B

87. As notified the Objective read:

Objective 16B
Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.

88. The s 32 Report says that's the intent of this new Objective is to recognise and provide for Māori values for indigenous biodiversity and their role as kaitiaki.⁴⁹

3.4.1 Submissions, Evidence and Analysis

89. Submitters generally supported the Objective and its principles. Amendments were sought including in relation to resourcing for mana whenua / tangata whenua (Taranaki Whānui [S167.039 and Ātiawa [S131.033]) and incorporation of community values (Fish and Game [S147.030]). Some submitters opposed the Objective on the basis that its outcome was not clear (PCC [S30.015]) and it recreated NPS-FM policy [Wellington Water [FS19.094].

90. The Officer said that funding for work programmes where Council and mana whenua / tangata whenua are working as partners is provided through Kaupapa Funding Agreements and this detail did not need to be included in the RPS.⁵⁰ Community values were provided for in Objective 16C and it is appropriate for Objective 16B to focus on mana whenua / tangata whenua as kaitiaki of indigenous biodiversity as recognised in the NPS-IB.

91. The Officer considered that the outcome sought by Objective 16B is clear, measurable and gives effect to s 6(e) of the RMA and the NPS-IB, and should be retained as notified.⁵¹ Section 6(e) requires that the relationship

⁴⁹ Section 32 Report, page 96.

⁵⁰ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 218.

⁵¹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 221 – 222; Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 56 – 57.

of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga are recognised and provided for as a matter of national importance.

3.4.2 Finding

92. We agree with the Reporting Officer’s recommendations on Objective 16B for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.4.3 Recommendation

Objective 16B

Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.

3.5 Objective 16C

93. As notified the Objective read:

Objective 16C
Landowner and community values in relation to indigenous biodiversity are recognised and provided for and their roles as stewards are supported.

94. This new Objective seeks to better recognise the important role that landowners have as stewards for indigenous biodiversity.

3.5.1 Submissions, Evidence and Analysis

95. DairyNZ [S136.008] opposed the Objective in part, requesting that reference to the role of landowners as ‘stewards’ is deleted as this infers a responsibility of landowners to deliver ‘community values’, with no clarity about what this may mean in a practical sense. The Officer did not agree with removing the word “steward” as the Objective aims to support community and landowners’ roles as stewards rather than placing undue burden on them.⁵² In addition, the Objective aligns with ss 5 and 7(aa) of the RMA, the direction in ss 30 and 31 to maintain indigenous biodiversity and NPS-IB Objective 2.1(1)(b)(ii) and clause 1.5(3)(e) which recognise people and communities, including landowners, as stewards of indigenous biodiversity.

3.5.2 Finding

96. We agree with the Reporting Officer’s recommendations on Objective 16C for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.5.3 Recommendation


Objective 16C

Landowner and community values in relation to *indigenous biodiversity* are recognised and provided for and their roles as stewards are supported.

⁵² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 221 – 222.

3.6 Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

97. The notified amendments to Policy 23 stated:

<p>Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans</p>	
<p><u>By 30 June 2025</u>, district and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:</p> <ul style="list-style-type: none"> (a) Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and: <ul style="list-style-type: none"> (i) are no longer commonplace (less than about 30% remaining); or (ii) are poorly represented in existing protected areas (less than about 20% legally protected). (b) Rarity: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare. (c) Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area. (d) Ecological context of an area: the ecosystem or habitat: <ul style="list-style-type: none"> (i) enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or (ii) provides seasonal or core habitat for protected or threatened indigenous species. (e) <u>Mana whenua / t</u>angata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to <u>mana whenua / tangata whenua</u>, identified in accordance with tikanga Māori. 	
<p>Explanation</p> <p>Policy 23 sets out criteria as guidance that must be considered in identifying indigenous <i>ecosystems</i> and <i>habitats</i> with significant <i>biodiversity</i> values. <u>This evaluation is to be undertaken by 30 June 2025.</u></p> <p>Wellington Regional Council, and district and city councils are required to assess indigenous ecosystems and habitats against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an indigenous ecosystem or habitat must fit one or more of the listed criteria. Wellington Regional Council and district and city councils will need to engage directly with landowners and work collaboratively with them to identify areas, undertake field evaluation, and assess significance. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.</p> <p>Indigenous ecosystems and habitats can have additional values of significance to <u>mana whenua / tangata whenua</u>. There are a number of indigenous ecosystems and habitats across the region that are significant to tangata whenua for their ecological characteristics. These ecosystems will be considered for significance under this policy if they still exhibit the ecosystem functions which are considered significant by <u>mana whenua / tangata whenua</u>. Access and use of any identified areas would be subject to landowner agreement. Wellington Regional Council and district and city councils will need to <u>partner engage directly with mana whenua / tangata whenua</u> and work collaboratively with them and other stakeholders, including landowners, to identify areas under this criterion.</p> <p>Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the <i>beds</i> of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values for all land, except the coastal marine area and the <i>beds</i> of lakes and rivers.</p>	

98. The Reporting Officer described the Operative provision in these terms:⁵³

Policy 23 in the operative RPS sets out the criteria to be used to identify “areas of significant indigenous vegetation and significant habitats of indigenous fauna” as required by RMA s 6(c). These criteria apply to indigenous biodiversity in all environments. These criteria have been operative since 2013 and have already been used by the Council to identify sites, ecosystems or habitats that have significant indigenous biodiversity values in rivers, lakes, wetlands, and the coastal marine area, which are listed in Schedule F of the NRP. The operative Policy 23 criteria have also been used by a number of district councils in the Wellington Region to identify sites of significance for indigenous biodiversity in the terrestrial environment, with these sites listed in schedules to the district plans and referred to as Significant Natural Areas (SNAs).

99. Proposed Change 1 amends Operative Policy 23 to include a June 2025 deadline for the identification in district and regional plans of ecosystems and habitats with significant indigenous biodiversity values in accordance with the Policy 23 criteria. The Officer explained that the regional council has given effect to Policy 23 to identify ecosystems and habitats with significant indigenous biodiversity values in aquatic environments including the CMA, with these listed in Schedule F of the NRP. This schedule is updated through plan changes as new information comes to hand.

3.6.1 Submissions, Evidence and Analysis

100. Various submitters sought amendments regarding the timeframe proposed (including removal of the deadline), alignment with the NPS-IB, and that the identification and protection of valued ecosystems and habitats occur in partnership with mana whenua (Ātiawa [S131.071]). The s 42A Report notes that at the time Proposed Change 1 was notified, only three of the Region’s district plans had given effect to Policy 23. Policy 6 and clause 3.8 of the NPS-IB direct a district-wide assessment using the criteria in Appendix 1 of areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs. In accordance with clause 4.2, a TA must notify a plan or plan change by 4 August 2028 to include identified SNAs in accordance with clause 3.9 of the NPS-IB.

⁵³ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 40.

101. The Reporting Officer recommended in the s 42A Report that the timeframe in the notified amendments to Policy 23 be amended to align with the final date in the NPS-IB. Some submitters sought an earlier date be included in Policy 23, but the Officer did not support this given the directiveness of the NPS-IB requirement, the process and criteria to be followed, and the different stages in SNA identification across the Region's TAs.⁵⁴
102. Ms Cook for WCC sought amendments to clarify the respective roles of the Regional Council and TAs. Mr McDonnell on behalf of HCC thought the cross-references to the NPS-IB should be deleted as they added unnecessary length and could become redundant if the NPS-IB is subsequently repealed. Ms Hunter, WIAL's planning expert, was concerned that the criteria in Policy 23(2) were so broad that they would likely capture significant areas of the Region including potentially highly modified areas which could not sensibly be identified as SNAs.
103. The Officer recommends substantial amendments to Policy 23 to give effect to the NPS-IB. Clause 3.8 and Appendix 1 of the NPS-IB specify direction to TAs regarding the terrestrial environment and the Officer recommends that the criteria and principles in the NPS-IB are included in Policy 23. The Officer recommends that the Operative criteria continue to apply for all other environments, including the CMA and the beds of lakes, rivers, and wetlands.
104. The Officer noted the directiveness of clause 3.9 and Appendix 1 of the NPS-IB regarding the identification of SNAs by TAs and considered that the recommendations in Policy 23(1) were appropriate.⁵⁵ The Officer agreed with the suggested drafting proposed by Ms Cook for WCC clarifying the respective roles of councils.
105. The Officer did not think that the concerns Ms Hunter raised required amendments to Policy 23 as the criteria have been operative since 2013 and already used by the regional council to identify sites and habitats with significant indigenous biodiversity values in rivers, lakes, wetlands and the CMA which are listed in Schedules in the NRP (having gone through a Schedule 1 process), and by several district councils in terrestrial environments. Further, Ms Hunter's relief would not give effect to Policy 11

⁵⁴ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 251.

⁵⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 75 – 76.

of the NZCPS as it would apply only a sub-set of the criteria listed there.⁵⁶ The Officer noted that the higher order direction for Policy 23(2) derives from ss 6(c) and 30(1)(ga) of the RMA and has been reformatted to clarify the relationship between the criteria set in the NPS-IB and the RMA.⁵⁷

106. In Minute 22, we queried with the Officers whether the wording they supported in Objective 16 regarding other significant habitats of indigenous fauna should also be included in Policy 23. The Officers recommended in their Reply Evidence that this change be made in the Policy, but that it not require the identification of ecosystem processes that support habitats and ecosystems as this level of detail is too much to be expected in a plan, but instead should be considered when determining appropriate protection and restoration measures.⁵⁸
107. We consider the Officers' final recommendations on Policy 23 align with RMA, NPS-IB and NZCPS direction, and the outcomes sought by Objective 16.

3.6.2 Finding

108. We agree with the Reporting Officer's recommendations on Policy 23 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

Policy 23: Identifying *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna – district and regional plans

~~By June 2025; As soon as reasonably practicable and by no later than 4 August 2028; District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values.; Ecosystems and habitats will be considered significant if:~~

- 1) ~~District plans shall identify and map *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna in the terrestrial environment, they meet the criteria in that qualify as significant natural areas; and are identified in accordance with Appendix 1B the principles in Clause 3.8, of the National Policy Statement for Indigenous Biodiversity 2023; and~~

⁵⁶ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 74.

⁵⁷ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 42.

⁵⁸ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 17.

- 2) *Regional plans* shall identify and map *indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the coastal marine area, the beds of lakes and rivers, and natural wetlands*, ~~they that~~ meet one or more of the following criteria:
- (a) Representativeness: the *ecosystems or habitats* that are typical and characteristic examples of the full range of the original or current natural diversity of *ecosystem and habitat* types in a district or in the region, and:
 - (i) are no longer commonplace (less than about 30% remaining); or
 - (ii) are poorly represented in existing protected areas (less than about 20% legally protected).
 - (b) Rarity: the *ecosystem or habitat* has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.
 - (c) Diversity: the *ecosystem or habitat* has a natural diversity of ecological units, *ecosystems*, species and physical features within an area.
 - (d) Ecological context of an area: the *ecosystem or habitat*:
 - (i) enhances *connectivity* or otherwise *buffers* representative, rare or diverse *indigenous* ecosystems and habitats; or
 - (ii) provides seasonal or core habitat for protected or threatened *indigenous* species.
 - (e) *Mana whenua / tFangata whenua* values: the *ecosystem or habitat* contains characteristics of special spiritual, historical or cultural significance to *mana whenua / tangata whenua*, identified in accordance with *tikanga* Māori.

Explanation

Policy 23 sets out the criteria as guidance that must be met for an considered in identifying indigenous ecosystems and/or habitats to be considered to have with significant indigenous biodiversity values. This evaluation is to be undertaken completed and the ecosystems and habitats identified as having significant indigenous biodiversity values included in a district or regional plan as soon as reasonably practicable and by no later than 4 August 2028by 30 June 2025.

Wellington Regional Council, and district and city councils are required to assess *indigenous ecosystems and habitats* against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an *indigenous ecosystem or habitat* must meet fit one or more of the listed criteria in Policy 23(1) or (2). Wellington Regional Council and district and city councils will need to engage directly with landowners and work collaboratively with them to identify areas, undertake field evaluation, and assess significance. In the terrestrial environment, significance assessments must be

~~undertaken in accordance with the principles in Clause 3.8 of the National Policy Statement for Indigenous Biodiversity 2023. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.~~


Indigenous ecosystems and habitats can have additional values of significance to *mana whenua / tangata whenua*. There are a number of *indigenous ecosystems* and *habitats* across the region that are significant to *tangata whenua* for their ecological characteristics. These *ecosystems* will be considered for significance under this policy if they still exhibit the *ecosystem functions* which are considered significant by *mana whenua / tangata whenua*. Access and use of any identified areas would be subject to landowner agreement. Wellington Regional Council and district and city councils will need to ~~partner~~ ~~engage directly~~ with *mana whenua / tangata whenua* and work collaboratively with ~~them and other~~ stakeholders, including landowners, to identify areas under this criterion.

~~Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the beds of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values in the terrestrial environment for all land, except for the coastal marine area, and the beds of lakes and rivers wetlands.~~

3.7 Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

Appendix 1A: Limits to biodiversity offsetting and biodiversity compensation

109. As notified Policy 24 read:

<p>Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans</p>	
<p>By 30 June 2025, Ddistrict and regional plans shall include policies, rules and methods to <i>protect</i> indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.</p> <p><u>Where the policies and/or rules in district and regional plans enable the use of <i>biodiversity offsetting</i> or <i>biodiversity compensation</i> for an ecosystem or habitat with significant indigenous biodiversity values, they shall:</u></p>	
<p>(a) <u>not provide for <i>biodiversity offsetting</i>:</u></p> <p style="margin-left: 20px;">(i) <u>where there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset; or</u></p> <p style="margin-left: 20px;">(ii) <u>when an activity is anticipated to causes residual adverse effects on an area after an offset has been implemented if the ecosystem or species is <i>threatened</i> or the ecosystem is <i>naturally uncommon</i>;</u></p> <p>(b) <u>not provide for <i>biodiversity compensation</i> where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is <i>threatened</i> or the ecosystem is <i>naturally uncommon</i>;</u></p> <p>(c) <u>ecosystems and species known to meet any of the criteria in (a) or (b) are listed in Appendix 1A (Limits to <i>biodiversity offsetting</i> and <i>biodiversity compensation</i>);</u></p> <p>(d) <u>require that the outcome sought from the use of <i>biodiversity offsetting</i> is at least a 10 percent net biodiversity gain, or from <i>biodiversity compensation</i> is at least a 10 percent net biodiversity benefit.</u></p>	
<p>Explanation</p> <p>Policy 24 applies to provisions in regional and district plans.</p> <p><u>The policy provides clarity about the limits to, and expected outcomes from, <i>biodiversity offsetting</i> and <i>biodiversity compensation</i> for an ecosystem or habitat with significant indigenous biodiversity values. Ecosystems and species known to meet the criteria in clauses (a and b) are listed in Appendix 1A (Limits to <i>biodiversity offsetting</i> and <i>biodiversity compensation</i>).</u></p>	

Calculating a 10 percent net biodiversity gain (offsetting) or a 10 percent net biodiversity benefit (compensation) employs the same or a similar calculation methodology used to determine 'no net loss or preferably net gain' under a standard offsetting approach. The distinction between 'net gain' and 'net benefit' is to recognise that the outcomes achievable through the use of offsetting and compensation are different. An offsetting 'net biodiversity gain' outcome is expected to achieve an objectively verifiable increase in biodiversity values while a compensation 'net biodiversity benefit' outcome is more subjective and less preferable.

Table 16 in Appendix 1 identifies rivers and lakes with significant indigenous ecosystems and habitats with significant indigenous biodiversity values by applying criteria taken from policy 23 of rarity (habitat for threatened indigenous fish species) and diversity (high macroinvertebrate community health, habitat for six or more migratory indigenous fish species).

Policy 47 will need to be considered alongside policy 24 when changing, varying or reviewing a regional or district plan.

Policy 24 is not intended to prevent change, but rather to ensure that change is carefully considered and is appropriate in relation to the biodiversity values identified in policy 23.

3.7.1 Submissions, Evidence and Analysis

110. Various submitters supported the Policy and sought that it be retained as notified. Some submitters were concerned about the timeframe, the interaction of the Policy with effects management hierarchies in higher order instruments, pathways for infrastructure and mineral extraction, and principles for biodiversity offsetting and compensation.⁵⁹
111. The Officer recommended the implementation timeframe be amended for consistency with the NPS-IB (as recommended for Policy 23). In terms of recognising the effects management hierarchies in other national direction, the Officer recommended in his s 42A evidence including cross-references to this direction in Policy 23. He considered this to be an effective and efficient approach which also gives effect to s 6(c).
112. Legal submissions from Forest and Bird did not support the cross-referencing in Policy 24 of the different NPS effects management hierarchies on the basis that this did not meet the requirement to give effect to the NPS-IB under s 62(3) of the RMA and created potential policy gaps if the NPS-IB is amended in the future.⁶⁰ Forest and Bird did not support infrastructure being exempt from bottom lines in higher order

⁵⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 303.

⁶⁰ Legal submissions for the Royal Forest & Bird Protection Society Inc, Hearing Stream 6 (Indigenous Ecosystems), 5 February 2024, paras 6 – 7.

direction and submitted that this would (unlawfully) override s 6 of the RMA and the policy lacuna could be filled by recourse to Part 2 in accordance with *King Salmon*.⁶¹

113. Ms Burns for Rangitāne also thought the cross-referencing approach in Policy 24 added unnecessary duplication, did not provide further clarity or interpretation at a local scale of how effects on indigenous biodiversity would be made, and would have no weight if the NPS-IB is replaced or repealed.
114. Ms Heppelthwaite for Waka Kotahi supported the amendments to Policy 24 recommended in the s 42A Report. Various other submitters continued to seek amendments, including a pathway for infrastructure with a functional, operational or technical need to locate in areas with significant biodiversity values. Ms Clarke for Winstone Aggregates noted that the approach in revised Policy 24 was inconsistent with the amendments the Officer for HS5 had recommended to Policies 40A and 40B.
115. In his Rebuttal Evidence, in response to submitters' concerns, the Reporting Officer recommends replacing clauses (a) to (c) in Policy 24 with two new policies, two new appendices for biodiversity offsetting and compensation, and some new definitions. The approach recommended was:⁶²
- (a) Policy 24B: Managing adverse effects on significant indigenous biodiversity values in the terrestrial environment (largely replicating clauses 3.10 and 3.11 of the NPS-IB, with amendments to align with RPS terminology)
 - (b) Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment (largely replicating Policy 11 of the NZCPS, with amendments to align with RPS terminology)
 - (c) Appendix 1B (Biodiversity offsetting and aquatic offsetting)
 - (d) Appendix 1C (Biodiversity compensation and aquatic compensation)
116. The Officer said that while this approach may result in some duplication with the NPS, it avoids the need to cross-reference multiple documents,⁶³

⁶¹ Legal submissions for the Royal Forest & Bird Protection Society Inc, Hearing Stream 6 (Indigenous Ecosystems), 5 February 2024, paras 13 – 15.

⁶² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 43 – 49.

⁶³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 9, lines 404 – 408; and page 8, line 381.

it helps ensure alignments with NRP terminology, and can also ensure regional specificity which is one of the main tasks for the RPS.

117. We directed expert planners' caucusing on this issue which is discussed further below. We note that Mr McDonnell for HCC queried the extent of the 'blue' Rebuttal amendments and cautioned that there may be scope and natural justice issues arising and similar concerns were raised by Ms Cook for WCC. We have considered this concern but do not share Mr McDonnell's concerns about scope. WIAL's submission [S148.043] refers to Policy 11 of the NZCPS, and various infrastructure providers (e.g. Transpower [S10.002]) sought that the provisions recognise that RSI may have a functional or operational need to locate in a particular location. The proposed new Policies 24B – 24D are an attempt to provide for Part 2 matters and reconcile national direction, including the NZCPS and NPS-IB (regarding the terrestrial coastal environment). Parties were able to further submit and become involved in these issues through the Hearings process.

3.7.1.2 Effects management hierarchy

118. Dr Maseyk explained the sequential steps to be implemented through the effects management hierarchy to manage adverse effects on indigenous biodiversity:⁶⁴

The first three steps of the effects management hierarchy ... are to avoid adverse effects in the first place, then to minimise, then remedy [the mitigation hierarchy]. Any residual adverse effects on biodiversity may then be offset or, where an offset is not possible, compensated.... The NPS-IB, the NPS-FM, and the NRP include a sixth step to the effects management hierarchy, whereby if biodiversity compensation is not possible then the activity is to be avoided.

119. The Reporting Officer explained that:⁶⁵
- a. In the coastal environment, the NZCPS requires adverse effects to be avoided where Policy 11(a) is engaged, and therefore Policy 11(a) does not allow for any residual adverse effects to be offset through an effects management approach. In other words, offsetting in this

⁶⁴ Statement of Evidence of Fleur Maseyk on behalf of Greater Wellington Regional Council Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, paras 22 and 25; page 28, lines 1369 – 1370.

⁶⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 444 – 462.

environment for these species and ecosystems “is completely off the cards”,

- b. The NPS-IB requires that any adverse effects on a SNA, and any significant adverse effects on indigenous biodiversity outside of SNAs be managed via the effects management hierarchy, and
- c. The NPS-IB provides a pathway and effects management hierarchy for specified infrastructure, but
- d. Clause 1.42 of the NPS-IB says that the NZCPS prevails where there is conflict between the NZCPS and the NPS-IB, so in the terrestrial coastal environment (the CMA), the NZCPS prevails.

3.7.1.1 Offsetting and compensation: Policy 24A and Appendix 1A (Table 17)

120. Submitters raised a range of concerns about the limits and constraints on the use of biodiversity offsetting and compensation in Policy 24, including with the “at least 10 percent net biodiversity gain” or benefit in clause (d). WIAL [S148.041] said the limits were inconsistent with s 104(1)(b) of the RMA, and other submitters sought that they be deleted. Forest and Bird [S165.057] also opposed clause (d) on the basis that it added a new concept that is unnecessary, adds complexity, and is inappropriate. They said the 10% gain or benefit will require some form of calculation of losses and gains and assumes there is adequate information about the species or ecosystem, which will not always be available.

121. Dr Maseyk presenting technical evidence for the Council said:⁶⁶

biodiversity offsetting is complex, challenging and high risk, and this is something we really need to keep front and centre of our minds in the context of our dual biodiversity and climate crises. Therefore policy frameworks need to recognise this risk and take a precautionary approach. Defining limits to acceptability of offsetting and compensation is a key component of that necessary caution.

122. Dr Maseyk’s technical evidence explains why, in her expert opinion, a 10% net gain outcome from biodiversity offsetting is justifiable in the context of the poor state of biodiversity in the Region and continued biodiversity

⁶⁶ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 516 – 519.

decline from land use and development proposals. Dr Maseyk said that while:⁶⁷

no net loss returns a neutral outcome, and that means there will be no loss in that particular biodiversity element net gain outcomes do achieve positive outcomes for target biodiversity over and above that point of no net loss.

123. Dr Maseyk identified some unintended consequences with the 10% net benefit provision, and recommended some amendments to Policy 24 to clarify the concept. In reliance on Dr Maseyk’s evidence, the Officer recommend amending the requirement for a net gain from offsetting to require “at least a net gain and preferably a 10% or greater net gain”. The Officer also recommended amending the requirement for a net benefit for compensation to a requirement to achieve positive effects in indigenous biodiversity that outweigh the residual adverse effects, consistent with the NPS-IB and NPS-FM.
124. In the s 42A Report, the Officer recommended a new Policy 24A be included clarifying that offsetting and compensation can only be applied as part of an effects management hierarchy and that the principles for offsetting and compensation in the NPS-IB and NPS-FM be complied with as relevant. The proposed new Policy 24A also includes more direction on when offsetting and compensation is not appropriate. The Officer describes biodiversity offsetting as a “form of positive effect to address a residual effect that cannot be avoided.”⁶⁸ Ms Burns for Rangitāne and Mr Brass for the DGC supported Policy 24A. Mr Brass said he considered it reflected expert evidence and best practice for biodiversity offsetting and compensation and gives effect to the NPS-IB in a regional context.
125. Table 17 in Appendix 1A sets out a list of threatened and naturally uncommon ecosystems and species in the Region. Policy 24A and Appendix 1A operate together to say that biodiversity offsetting affecting one of the listed ecosystems and species is inappropriate unless a net gain can be achieved. The list was developed and updated by Dr Crisp and the Officer relies on her technical evidence. In the Officer’s view, the list of species and ecosystems in Appendix 1A is an appropriate and effective way to give effect to the principles in the NPS-IB by providing a regional interpretation of where biodiversity offsetting and compensation may be

⁶⁷ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 533 – 538.

⁶⁸ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 88.

inappropriate in the Wellington Region. The column on the far right of Table 17 identifies species or ecosystems in the coastal environment of the Wellington Region that meet the criteria set out in Policy 11(a) of the NZCPS, and within which the adverse effects of activities are to be avoided.

126. Some submitters supported Appendix 1A, with the DGC [S32.037] saying that Table 17 is an appropriate reflection of the status of the listed ecosystems and species and is useful for implementation of Policy 24, but will need to reflect the most up-to-date information which should be done prior to decisions on Change 1. Forest and Bird [S165.0148] also supported the Appendix but requested that it use the most up to date information when applying limits to offsetting and compensation. Rangitāne supported the inclusion of ecosystems and species but similarly emphasised that the list is not exhaustive and additional ecosystems or species may need to be included. Meridian [S100.027] opposed Appendix 1A and sought it be deleted, as did Winstone Aggregates [S162.018] and also WIAL [S148.043] on the basis the list of species and ecosystems in the table is too broad.
127. Ms Burns for Rangitāne and Mr Brass for the DGC supported Policy 24A. Mr Brass said he considered it reflected expert evidence and best practice for biodiversity offsetting and compensation and gives effect to the NPS-IB in a regional context. He also supported the changes to Table 17. Forest and Bird remained concerned with the reference to “preferably a 10% net gain or greater” and said the NZCPS makes no express reference to offsetting and compensation, the CMA is not within the scope of the NPS-IB and the NZCPS prevails in the event of conflict. They also raised concerns about the static nature of Appendix 1A and the ability for additional threatened species and habitats to be considered as limits to biodiversity offsetting and compensation. Ms Downing for Forest and Bird requested that the words “and coastal” are deleted from the first paragraph of the Explanation to Policy 24A⁶⁹ as offsetting and compensation is not available for residual adverse effects in areas of significant biodiversity value in the CMA.
128. Ms Foster for Meridian opposed Appendix 1A as it applies to renewable electricity generation (REG) activities and electricity transmission (ET) activities and said the effects management hierarchies in the NPS-IB, NPS-FM and draft amendments to the NPS-REG and draft NPS-ET do not

⁶⁹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 12, lines 583 – 586.

include additional limits to offsetting and compensation and therefore there was no basis for applying these to REG and ET activities.

129. Ms Heppelthwaite for Waka Kotahi was also concerned about the ‘rigid approach’ in Appendix 1A as it did not allow applicants and decision-makers to adapt to advanced information, methods and approaches. Ms Cook for WCC said the 10% net gain target was arbitrary and the phrase “at least net gain and preferably a 10% net gain or greater” target will create additional uncertainty for applicants and consent authorities as there will be no set standards to measure the biodiversity outcomes/gains from offsetting and compensation. Mr Matich for WFF said the “preferably 10% net gain or greater” target in clause (d) of Policy 24A is inconsistent with clause 3.22 of the NPS-IB and the justification for the requirement had not been established.
130. Ms Hunter for WIAL was of the view that the RPS should enable all specified or regionally significant infrastructure to access the effects management hierarchy and that this should apply across all environments – coastal, terrestrial and freshwater in part because of the general obligation in s 104(1)(ab) of the RMA for consent authorities to consider any positive effects arising from offsetting or compensation measures from allowing a proposed activity. Ms Hunter said a strict avoidance approach was not appropriate in light of the *Port Otago* Supreme Court decision, and it was well established that infrastructure activities, particularly those which are regionally significant, often have technical, functional or operational requirements and constraints that mean they may have to co-locate in areas that have significant biodiversity values. The NZCPS recognises the functional and operational needs of infrastructure and it is appropriate for the RPS to give further direction on how to resolve this tension with Policy 11 of the NZCPS.
131. Ms Hunter also said Appendix 1A prevents offsetting and compensation from being considered for species and habitats listed in Policy 11(a) of the NZCPS and potentially the species and habitats listed in Policy 11(b) of the NZCPS, and Table 17 covers a wide range of species/sites, and the potential costs of these restrictions had not been adequately justified. Ms Hunter’s view was that “there is more grey than simply saying Policy 11 with regard to regionally significant infrastructure [must take] a strict avoidance [approach]”⁷⁰ and that the structured analysis in the *Port Otago*

⁷⁰ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 41, lines 2056 – 2070.

Supreme Court decision allows a pathway to be recognised for RSI that has a functional or operational requirement to locate in the coast.

132. Ms Hunter talked about the upgrade work the Airport was planning for the seawall and that there would be mixed kelp assemblages in that environment so ‘avoidance’ is:⁷¹

just not practicable because there are safety and operational concerns if the seawall is not sufficiently upgraded.

133. Ms Dewar, counsel for WIAL, said that a court would probably have to reconcile the conflict and the RPS provisions should not preclude their ability to do that through strong directive language.⁷² Ms Dewar said that WIAL was not asking “for an easy road” but just that “there is an appropriate consenting pathway” and that *Port Otago* confirmed that ‘avoid’ is not always ‘avoid’ but “it will depend on the circumstances as to when you have to totally avoid”.⁷³

134. In response to a question we asked at the Hearing about the pathway for RSI in a Policy 11(b) NZCPS situation (that is, ecosystems/species that did not have significant biodiversity values), Ms Hunter said that if there was no ability to offset and compensate, then the consenting barrier would be too high. Ms Hunter said:⁷⁴

If you look at the seawall itself, it's probably created some sort of habitat for marine invertebrates or whatever it might be, algae or those sorts of things. I can't comment on that. I haven't seen any evidence of that. But, just for an example, they might have existed within the existing environment there and they may need to be removed. But, Wellington Airport is prepared to offset or compensate by recreating that habitat within the new seawall or somewhere else.

135. In Supplementary Evidence Ms Hunter attached technical reports on the seawall and the existing marine environment, and confirmed the presence of habitats which are listed in Table 17 of Appendix 1A. The habitats comprise mixed kelp assemblages and Giant kelp. Red algae was also discovered and Ms Hunter notes that Table 17 includes some species of red algae although those species were not described in the technical

⁷¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 43, lines 2177 – 2182.

⁷² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, pages 41 – 42, lines 2084 – 2090.

⁷³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 44, lines 2199 – 2203.

⁷⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 45, lines 2245 – 2251.

reports.⁷⁵ In addition, the reports suggested reef heron are likely to be present and orca have been sighted, being species listed in Table 17. Ms Hunter said:⁷⁶

Given the presence of these species in and around the seawall area, it is clear that the combination of the proposed policies, Appendix 1A and Table 17 will create difficulties for any seawall replacement project to meet the requirement to avoid all adverse effects. Where such habitats or species may be unavoidably adversely affected, there is also an inability to consider offsetting or compensation. This would pose a major policy obstacle for a project that is crucial to safeguard the Airport and other essential infrastructure in the area.

136. Ms Hunter also raised issues of consistency between sites of significance identified in the NRP and Appendix 1 and sought a separate provision in the RPS similar to Policy 24D for REG activities. The Policy would allow RSI to be located in areas with significant biodiversity values where there was an operational or functional need and effects were managed in accordance with the effects management hierarchy.⁷⁷ Ms Hunter said this approach would eliminate the need to modify the NRP to better comply with the RPS and would therefore be more efficient and reduce costs. Ms Hunter said a region-specific approach to RSI and existing infrastructure activities, similar to that taken in the NRP, was appropriate. Ms Hunter also noted that kelp beds are not considered in the NRP as meeting Policy 11(a) criteria, but instead they are classified under Policy 11(b) of the NZCPS.⁷⁸
137. Ms Clarke for Winstone Aggregates said Policy 24A will significantly restrict the ability to undertake biodiversity offsetting or compensation in the Wellington Region and insufficient evidence had been provided to support this approach.
138. In his Rebuttal Evidence, the Officer recommended various amendments to Policy 24A and also the introductory text to Appendix 1A. He said the words “must be considered as a minimum” in Policy 24A(b) make it clear that Appendix 1A is not an exhaustive list of threatened or naturally uncommon ecosystems and species and amendments to the introductory text of Appendix 1A ensure that the conservation status of other

⁷⁵ Supplementary Statement of Evidence by Claire Hunter, HS6, 20 March 2024, paras 8 – 9.

⁷⁶ Supplementary Statement of Evidence by Claire Hunter, HS6, 20 March 2024, para 10.

⁷⁷ Supplementary Statement of Evidence by Claire Hunter, for WIAL, 20 March 2024, paras 21 – 22.

⁷⁸ Supplementary Statement of Evidence by Claire Hunter, for WIAL, 20 March 2024, para 16.

ecosystems and species not listed in the Appendix can be considered as appropriate when assessing a particular offsetting or compensation proposal.

139. The Officer’s Rebuttal Evidence contains a discussion regarding reconciling the avoid direction in Policy 11 of the NZCPS with the NPS-IB and concludes that because the NZCPS prevails in accordance with clause 1.4(2) of the NPS-IB and the NPS-IB does not apply in the CMA, there is no clear statutory basis to accept the relief sought by Ms Hunter to allow the pathway and effects management framework for specified infrastructure in Clause 3.11(1) of the NPS-IB.⁷⁹ Policy 11 is, as the Officer describes, a “hard avoid”.⁸⁰ The Officer recommends retaining the column in Appendix 1A that lists species and ecosystems that meet the criteria in Policy 11(a) of the NZCPS and a statement that consideration of biodiversity offsetting and compensation of these ecosystems and species is not provided for. He also recommends corresponding amendments to the explanatory text to Policy 24A and Policy 24C to say that that Policy 24C prevails over Policy 24B in the coastal environment above mean high water springs when there is a conflict between the two policies that cannot be reconciled.
140. Dr Maseyk provided technical Rebuttal Evidence in response to concerns raised in submitter evidence. On the basis of this evidence, the Officer said that the concerns raised by submitters that the preferably 10% net gain or greater target will increase complexity of the calculations and reliance on technical experts were overstated and inaccurate.⁸¹ The Officer recommended retaining the direction in Policy 24A for offsetting to achieve “at least a net gain and preferably a 10% net gain or greater” outcome of indigenous biodiversity.
141. In Reply Evidence and following caucusing, the Officer supported adding in the words “but that may change over time due to changes in knowledge, methods or expertise, or mechanisms” into Policy 24(d) in response to Ms Heppelthwaite’s concerns that the provisions reflect changes in offsetting techniques which may occur in the future. The Officer emphasised that the policy direction is that offsetting is likely to be inappropriate as a

⁷⁹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 89; also see Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 451 – 456.

⁸⁰ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 447 – 448.

⁸¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 93.

starting point.⁸² The Officer also recommended amendments to Appendix 1A to refer to “currently (at 2024)” which recognises that changes may occur over time.

142. In Reply Evidence, the Officer said that he and Ms Guest had discussed the accuracy of Table 17 in Appendix 1A with technical experts at Council, and that he also understood that at caucusing the experts attending had recommended removing ‘Mixed kelp assemblages’ from the ecosystems/species identified as having Policy 11(a) classification.⁸³ The Officer noted that this had been incorrectly captured in the Joint Witness Statement following caucusing which said that ‘mixed kelp assemblages’ would be deleted completely from Appendix 1A.
143. We accept the technical evidence presented by the Council on the list of ecosystems and species and when offsetting and compensation may be inappropriate due to the vulnerability or irreplaceability of the species affected. The list in Appendix 1A is supported by Dr Crisp as a list of ecosystems and species that meet national criteria for nationally Threatened/naturally uncommon criteria. There is an error in the heading of the third column of Table 17. It should read: “Policy 24A(d)” rather than “Policy 24A(b)”. We recommend this is amended as a minor drafting change.
144. We agree with the Officer’s recommended changes that state the list of species in the Appendix is not static and the status needs to be considered at the time as relevant for planning and consenting processes.

3.7.1.2 Implementation of other national instruments

145. A key issue raised by submitters related to the drafting approach to give effect to higher order instruments (that is, cross-referencing or repeating higher order directions).
146. Clause 1.3 of the NPS-IB has a carve out for renewable electricity generation and transmission activities. The reason for this was to not pre-empt proposed amendments to the NPS-ET and NPS-REG which were under consultation at the time the NPS-IB came into effect. Those amendments contain a specific pathway and effects management hierarchy for electricity transmission and renewable electricity generation

⁸² Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 79.

⁸³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 83.

in “areas with significant environmental values”, including SNAs, but the amendments remain in draft form. The issue then was how Policy 24 should recognise the carve-out, also noting Forest and Bird’s caution that the carve-out “ousts” the role of s 6(c) of the RMS where there is no statutory basis to do so. Forest and Bird said that the RPS should “go to Part 2 to fill that gap”⁸⁴ caused by the carve-out, and that REG and ET activities should still be subject to the relevant effects management hierarchy to meet s 6(c) obligations. Ms Downing also took us to clause 3.1(2) of the NPS-IB which says that nothing in this Part limits a local authority’s functions and duties under the Act in relation to indigenous biodiversity.⁸⁵

147. Ms Foster’s view is that the policy intention is that SNAs affected by REG and ET activities are managed differently from the more stringent approach that the NPS-IB takes for other activities, and that the NPS-IB and proposed NPS-REG and proposed NPS-ET were intended to work together (hence the carve out), but the NPS-IB was gazetted before the draft instruments were finalised.
148. Ms Foster said that a more enabling approach for REG and ET activities should be included in the RPS as the policy intent was clear, and failing to do so would mean a more enabling approach for other specified infrastructure. Ms Whitney, providing planning evidence for Transpower, raised similar concerns but preferred for the RPS to preserve the ‘carve out’ position for ET activities. Ms Whitney sought an exemption from Policies 24 and 24A for ET activities but she did not seek a new effects management policy, saying that any such policy should be formulated once the proposed NPS-ET is finalised and gazetted, rather than pre-empting those provisions through Proposed Change 1.
149. The Officer agreed that the intent of government policy through clause 1.3(3) of the NPS-IB and the proposed NPS-REG and proposed NPS-ET is to provide a more enabling pathway for REG and ET activities recognising the need to significantly increase renewable electricity generation capacity to address climate change and meet New Zealand’s emission reduction targets. He noted there is an issue of timing and it was uncertain when these amendments would take effect but that the intent, as he understood it, was for the more enabling policy pathways to be

⁸⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 17, line 802.

⁸⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 17, lines 839 – 840.

included into regional policy statements and plans without a Schedule 1 process. Therefore, they could override any direction in the RPS.⁸⁶

150. The Officer recommended including a new specific policy for REG and ET activities (Policy 24D) that is aligned to the pathway in the proposed NPS-REG and NPS-ET. He said this was likely to be an interim policy framework until the national direction amendments come into effect. The Officer did not support a blanket exemption for ET activities as that would not meet s 6(c) obligations, but also recognised that a more stringent approach for REG and ET activities than for other specified infrastructure which has a pathway in the NPS-IB is also not appropriate. As the Officer says:⁸⁷

The clear intent from government was to still maintain those specified infrastructure pathways, but have something that's more enabling for renewable electricity generation [and for electricity transmission activities].

151. The Officer also acknowledged that while the government's intention was to amend the NPS-REG and NPS-ET as a priority, and insert provisions directly into RPS' and regional plans, the amendments to national policy had not yet been made.⁸⁸
152. We agree with the views expressed by Mr Brass for the DGC, that the carve-out in the NPS-IB for REG and ET activities may mean that the NPS-IB does not apply, but the application of Part 2 and ss 30 and 31 of the RMA means that it is appropriate to address effects from these activities on indigenous biodiversity. The issue then has to be dealt with on its merits as Mr Brass explained "as opposed to just automatically flowing from an NPS".⁸⁹

3.7.1.3 Expert Caucusing

153. In Minute 22 we directed facilitated expert caucusing on the "regionally significant infrastructure provisions" in Policies 24, 24B, 24C, 24D, 47 and IE2A in an attempt to reach agreement or narrow the points in contention in order to reconcile the relevant national direction. While Waka Kotahi, Meridian, Transpower, WIAL, the DGC and the Council were directed to attend, other experts with relief on the relevant provisions were also able to attend. Forest and Bird presented legal submissions and not planning

⁸⁶ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 112.

⁸⁷ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 30, lines 1477 – 1479.

⁸⁸ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 30, lines 1488 – 1490; 1468 – 1472.

⁸⁹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 58, lines 2940 – 2948.

evidence on the provisions, but were given the opportunity to provide comments on the Joint Witness Statement as could other submitters. Caucusing was facilitated by Jason Jones, Principal Consultant Planner with RM Group.

154. The planners attending caucusing agreed on amendments to Policies 24, 24A and 24B. There was no consensus on particular aspects in Policies 24C and 24D.
155. There was general consensus during caucusing that the key issues for discussion were whether a greater level of nuance between the provisions relating to ET and REG activities was appropriate and, if so, how the provisions should be refined in relation to the coastal environment.⁹⁰ The Joint Witness Statement records fairly broad consensus for the inclusion of *REG activities* in the policy framework.
156. Ms Whitney for Transpower raised natural justice concerns about the extent of changes, especially in relation to ET, and that a number of parties had not had the opportunity to participate in the discussions on these provisions. The Council Officers attending said they acknowledged the natural justice concerns but that the issues are about alignment with national direction or policy drafting already agreed in the NRP.
157. The experts did not agree on Policy 24A or Appendix 1A, but some issues were narrowed, including agreement on changes to the explanatory text to Policy 24A. In response to concerns raised by Ms Hunter for WIAL, the Council Officers said they had consulted with Council technical experts and agreed to delete “mixed kelp assemblages” from Appendix 1A. Ms Hunter supported this but noted that further errors may arise in the application of the Appendix. Mr Brass also agreed with the deletion of “mixed kelp assemblages” but otherwise supported retaining the Appendix. As noted earlier, the Officer clarified in Reply that it had been agreed to delete “mixed kelp assemblages” from identification as NZCPS Policy 11(a) ecosystems/species.
158. The experts agreed that the NPS-IB does not apply to ET or REG activities, but that the NPS-ET, NZCPS, NPS-REG, s 6(c) and the functions in ss 30 and 31 apply to these activities.⁹¹

⁹⁰ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 14.

⁹¹ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 36.

159. The issues of most contention seemed to be the application of the policy framework for existing and new *ET activities* and *REG activities* in the coastal environment. Ms Whitney's preference was that ET activities be removed from Policy 24C and instead Policy 47 provide for an interim regulatory approach until changes are made to the NPSET. Ms Foster, Ms Hunter and Ms Whitney said that Policy 24C does not reconcile Policy 6(a) of the NZCPS or other NPS policy direction in relation to infrastructure, energy generation and transmission. Mr Brass and Ms Guest considered that Policy 24C could be reconciled with NZCPS Policy 6(a) and other direction, and that regional and district plans would be required to reconcile these⁹² so that RPS direction was important and required.
160. The Reporting Officers considered that Policy 24A and new recommended Policy 24CC reconcile Policy 6(a) of the NZCPS and other higher order documents in relation to regionally significant infrastructure in the coastal environment, aligning with the policy approach in the operative NRP.⁹³
161. Ms Whitney's view was that Policy 24C, newly recommended Policy 24CC and Policy 24D needed to be better reconciled in terms of *ET activities* to give effect to the operative NPSET.⁹⁴ One of Ms Whitney's criticisms of the approach proposed in the Officer's Rebuttal Evidence is that it provided no structured analysis of the NPSET and NZCPS.⁹⁵ Ms Whitney's preference was for *ET activities* to be removed from Policy 24D and 24, relying instead on Policy 47 as an interim approach until changes are made to the NPSET.
162. We understand Ms Whitney's concerns with the lack of a broader policy framework in the RPS in relation to ET and comprehensive implementation of the NPSET, and we note that we have recommended a more enabling framework for both *ET activities* and *REG activities* in the Climate change provisions (eg Policy 7). Even though the NPSET may not have been implemented in full and things are in limbo until the changes are made to the operative NPSET, we do not consider it appropriate to provide a carve out in the RPS for existing *ET activities* in the coastal environment, or new *ET activities* in indigenous ecosystems and habitats with significant indigenous biodiversity values. The 'carve out' in the NPSIB cannot justify effectively ignoring s 6(a) of the RMA, the NZCPS and also the NPSET.

⁹² Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 38.

⁹³ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 39.

⁹⁴ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 40.

⁹⁵ Speaking notes of Pauline Whitney for Transpower New Zealand Ltd, 21 February 2024, page 6.

Also, despite the carve out, the Officer supports *REG activities* being included in the policy framework.

163. We agree with the views of Mr Brass and Ms Guest expressed in the Joint Witness Statement, that Policy 24C is able to be reconciled with NZCPS Policy 6(a) and other national direction in a structured analysis as directed by the Supreme Court in *Port Otago* as the approach that ought to be taken in an RPS to resolve conflicts in national direction.⁹⁶

3.7.1.4 Summary of the approach we recommend in the coastal environment

164. In summary, we recommend the provisions:
- a. Provide for an avoid adverse effects approach for Policy 11(a) ecosystems, habitats and species
 - b. Provide for an avoid significant adverse effects approach for Policy 11(b) ecosystems, habitats and species
 - c. Provide for an ‘avoid, minimise, remedy, offsetting, compensation’ sequential approach for non-significant adverse effects in Policy 11(b) ecosystems, habitats and species, and
 - d. Provide for the operation, maintenance, upgrade and extension of existing RSI and REG activities in the coast in Policy 11(a) and Policy 11(b) ecosystems, habitats and species provided certain criteria are met; but that despite this, the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network are enabled.
165. We discuss this approach and reasoning in our assessment below.

3.7.1.5 Policy 24B – Managing adverse effects in the terrestrial environment

166. We recommend a minor drafting amendment to Policy 24B(2)(a) – although if Council prefers, the reference to *REG and ET activities* could be deleted as the exclusion is captured in the heading to Policy 24B and the Explanation.
167. Ms Heppelthwaite, Waka Kotahi’s planner was not able to attend planners’ caucusing. Ms Heppelthwaite was provided the opportunity to comment

⁹⁶ *Port Otago Ltd v Environmental Defence Society In* [2023] NZSC 112.

on the JWS and did so in a supplementary statement of evidence.⁹⁷ Among other comments, Ms Heppelthwaite said that the provisions did not provide for established infrastructure outside the coastal environment and inside ‘SNAs’ and therefore did not give effect to clause 3.15 of the NPS-IB.⁹⁸ We agree and recommend amendments to Policy 24B to provide for the maintenance, operation and minor upgrade of infrastructure in accordance with clause 3.15 of the NPS-IB.

3.7.1.6 Policy 24C – Managing adverse effects in the coastal environment

168. Policy 24C applies to all RSI in the coastal environment. The Policy gives effect to Policy 11 of the NZCPS. The definition of RSI includes Transpower’s assets. In caucusing, Ms Whitney said *ET activities* should be removed from Policy 24C for the reasons set out in the Joint Witness Statement.⁹⁹ Ms Whitney said there was a carve-out in the NPS-IB for *ET activities*, and without an exclusion in the Policy, Transpower’s maintenance, upgrade and new assets would be captured which would have major implications and also not give effect to the operative NPSET. Ms Whitney said a proper structured analysis had not been undertaken of the relevant planning framework as it applies to Transpower’s assets and there was considerable risk in getting it wrong by attempting to do this analysis at this stage.

169. We agree with Ms Whitney that the NPSET provides for Transpower’s maintenance activities. Policy 5 says:

... decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

170. Another Policy of note in the NPSET is Policy 8 which says:

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

⁹⁷ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024.

⁹⁸ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024, paras 5.1 – 5.2.

⁹⁹ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 41.

171. Policy 8 applies in rural environments but does not specifically refer to indigenous biodiversity values.

172. Transpower’s submission had sought:

Amend Policy 24 to recognise that regionally significant infrastructure may have a functional or operational need to locate in a particular location. This could be achieved by adding a qualifying statement: This does not apply to nationally and regionally significant infrastructure that has a functional or operational need to locate in a particular location. In the case of the National Grid, following a route, site and method selection process and having regard to the technical and operational constraints of the network, new development or major upgrades of the National Grid shall seek to avoid adverse effects, and otherwise remedy or mitigate adverse effects, on ecosystems or habitats with significant indigenous biodiversity values.

173. Ms Whitney’s preference was for Transpower’s relief in its submission to be inserted in Policy 47 and apply only to new ET assets. Mr Wyeth said he would prefer that Policy 24C applies to *ET activities*, but he said he appreciated this will cause issues due to the nature, complexity and scale of *ET activities* – especially the operation, maintenance and upgrading of ET assets. He also noted there was no scope to give effect to the NPSET in full through Change 1.

174. Mr Wyeth concluded that he would prefer for Transpower’s relief with amendments, be included as a new clause in Policy 47 for *ET activities* “recognising that this is an interim policy framework until the NPSET is given effect to in full.”¹⁰⁰

175. Mr Brass and Ms Guest preferred that ET is addressed within the 24A, 24C and 24D suite of policies, but that if it was imported to Policy 47, it should apply to both new and major upgrades of ET, and be restructured to align with Policy 14 in the NRP. Policy 14(c) of NRP says (to paraphrase) that new development or major upgrades of National Grid assets in the coastal environment that have a functional need or operational requirement to locate there, must ‘seek to avoid adverse effects’ on (among other things) indigenous biodiversity values listed in Policy 38(a), and ‘seek to avoid

¹⁰⁰ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 43.

significant adverse effects' on indigenous biodiversity values that meet the criteria in Policy P11(b) of the NZCPS.

176. Ms Whitney said that, while she would support a policy approach as provided in Policy 14 of the NRP, a future plan change is the most appropriate way to give effect to the NPSET in the context of indigenous biodiversity.
177. This is a complex issue but as we stated earlier, we did not consider it appropriate for the provisions to be completely silent on *ET activities*. To do so would not meet the Council's obligations under s 6(c) of the RMA or s 62(3) which requires that the RPS give effect to NPS', nor would it reconcile the NPSET's policies with Policies 6 and 11 of the NZCPS. As the Officer acknowledged at the Hearing, the NPS-IB has created a gap with respect to *REG* and *ET activities* "that the RPS needs to address to meet obligations under s 6(c)" and that a "new policy specific to these activities is the most effective and efficient option to address that gap".¹⁰¹
178. The Officer had initially recommended a new policy be included that is based on the draft amendments to the NPSET and NPSREG to ensure a pathway, while also ensuring that adverse effects are appropriately managed.¹⁰²
179. We do not see there to be any particular issues of scope as the application of the NPSET to the HS6 provisions was raised in Transpower's submission. For instance Transpower [S10.002] stated: "Transpower is concerned that the amendments to Policy 24 are overly broad in their application and potentially impractical to implement in practice. They do not recognise that some infrastructure has a functional or operational need to be constructed or operated in certain locations". In addition, implementation of the NZCPS was also raised in WIAL's submission.
180. We agree with Ms Foster for Meridian that the NZCPS directs an avoid adverse effects approach for Policy 11(a) sites and species, and avoid significant adverse effects for Policy 11(b) sites and species, but the NZCPS does not explicitly prevent an effects management approach being applied for the management of non-significant adverse effects on Policy 11(b) sites and species.¹⁰³ We agree with the Officer's recommendation to include a new clause in Policy 24C setting out a sequential approach to

¹⁰¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 493 – 497.

¹⁰² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 501 – 507.

¹⁰³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 38, lines 1912 – 1915.

manage non-significant effects where Policy 11(b) is engaged which includes offsetting and compensation in some circumstances, and management of others (i.e. non-Policy 11(a) and (b) sites/species) through the effects management hierarchy. This approach is consistent with Policy P38 of the NRP which Ms Foster, Ms Hunter and others spoke to at Hearing, and we note that Ms Anton for the DGC also supported this approach for Policy 11(b) ‘non-significant’ effects.¹⁰⁴

3.7.1.7 Policy 24CC – Existing activities in the coastal environment

181. Ms Foster on behalf of Meridian, supported Policy 24CC applying to *REG activities*. We can see no logical basis to exclude ET activities and consider that the direction in s 6(c) of the RMA to areas of significant indigenous vegetation and significant habitats of indigenous fauna must prevail over the ‘carve out’ in the NPS-IB. We could not understand how the carve out in clause 1.3(3) of the NPS-IB could apply to *ET activities* but not *REG activities*. We recommend therefore that Policy 24CC applies to *ET activities* (as Transpower’s assets and activities come within the definition of *RSI*), but that the National Grid’s reasonable operational, maintenance and minor upgrade requirements are enabled in accordance with Policy 5 of the NPS-ET.

3.7.1.8 Policy 24D

182. At the Hearing, Ms Downing for Forest and Bird accepted there were some consenting pathways in the NPS-FM (for example clause 3.24) but this required demonstration of functional need and it was important that Policy 24D be constrained to terrestrial biodiversity.¹⁰⁵ In caucusing, the planners attending either agreed that the Policy should apply to *REG activities* or they were neutral on this point.¹⁰⁶ Ms Whitney and Mr Wyeth supported *ET activities* being excluded from Policy 24D, Ms Foster and Ms Hunter were neutral, and Mr Brass and Ms Guest opposed the exclusion.

183. For the reasons we have discussed above in relation to Policy 24C, we consider it inappropriate that the National Grid is excluded, or that *REG activities* are included and the National Grid is excluded. The RMA and the Council’s functions require protection of significant indigenous vegetation and significant habitats of indigenous fauna, and excluding *ET activities* would not give effect to the NZCPS or Policies 4, 6 and 8 which all require

¹⁰⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 56, lines 2828 – 2831.

¹⁰⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 13, lines 603 – 612.

¹⁰⁶ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 46.

management of new, or major or substantial upgrades of transmission infrastructure.

184. We recommend amendments in proposed Policy 24D to apply Policy 4 of the NPS-ET to new or major upgrades.

3.7.2 Finding and s 32AA Evaluation

185. We largely agree with the Reporting Officer's recommendations on Policy 24 and proposed new Policies 24A – 24D and Appendix 1A for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. However, we recommend:
- a. An amendment to Policy 24(b) to cross refer to Policy 24CC
 - b. In relation to Policy 24B:
 - i. a drafting amendment to Policy 24B(a) to clarify the intent and improve readability, and
 - ii. a new clause (e) to give effect to clause 3.15 of the NPS-IB and provide for established activities (namely maintenance, operation and minor upgrade of *infrastructure* given provision made elsewhere in Policy 24B for other activities) in SNAs and where the requirements in clause 3.15(2) of the NPS-IB are met,
 - c. An amendment to the explanation to Policy 24C to state that Policy 24CC applies to all existing RSI
 - d. An amendment to Policy 24CC to provide for the reasonable operational, maintenance or minor upgrade requirements of Transpower's assets, and
 - e. Amending Policy 24D to include specific provision for new or major upgrades of *ET activities* when certain requirements are met.
186. These recommendations reconcile, in our view, competing higher order direction (including Policy 11 of the NZCPS and Policies 2, 4, 5 and 8 of the NPSET) and s 6(c) and ss 30 and 31 of the RMA, and are the most appropriate way to achieve the purpose of the RMA. The amendments are also consistent with Policies P38 and P39 in the NRP.
187. We also recommend a minor drafting amendment to the heading of the third column in Table 17 in Appendix A, to refer to Policy 24A(d). We

recommend the rest of the Table is adopted as recommended in the Officer's Reply Evidence.

3.7.3 Recommendations (Policies 24, 24A, 24B, 24C, 24CC and 24D, Appendix 1A)

We note the entirety of Appendix 1A is not included below. The version we recommend the Council adopts is that set out in the Reporting Officer's Reply Evidence.

Policy 24: Protecting *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna – district and regional plans

~~As soon as reasonably practicable, and by no later than 4 August 2028, By 30 June 2025,~~ District and regional plans shall include policies, rules and methods to protect *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values, other significant *habitats* of *indigenous* fauna, and the *ecosystem* processes that support these *ecosystems* and *habitats*, from inappropriate subdivision, use and development, ~~including by applying:~~

- ~~(a) Policy 24B Clause 3.10 and Clause 3.11 of the National Policy Statement for Indigenous Biodiversity 2023 to manage adverse effects on significant *indigenous biodiversity* values in the terrestrial environment;~~
- ~~(b) Policy 24C and Policy 24CC 11 of the New Zealand Coastal Policy Statement 2010 to manage adverse effects on *indigenous biodiversity* values in the coastal environment; and~~
- ~~(c) Policy 24D to manage the adverse effects of REG activities and ET activities on significant *indigenous biodiversity* values (these activities are not subject to Policy 24A and Policy 24B). Policies 18A and 18B in this Regional Policy Statement to manage adverse effects on the values and extent of natural inland wetlands and rivers.~~

~~Where the policies and/or rules in district and regional plans enable the use of biodiversity offsetting or biodiversity compensation for an ecosystem or habitat with significant *indigenous biodiversity* values, they shall:~~

- ~~(a) not provide for biodiversity offsetting:~~
 - ~~(i) where there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset; or~~

~~(ii) when an activity is anticipated to causes residual adverse effects on an area after an offset has been implemented if the ecosystem or species is threatened or the ecosystem is naturally uncommon;~~

~~(b) not provide for biodiversity compensation where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is threatened or the ecosystem is naturally uncommon;~~

~~(c) ecosystems and species known to meet any of the criteria in (a) or (b) are listed in Appendix 1A (Limits to biodiversity offsetting and biodiversity compensation);~~

~~(d) require that the outcome sought from the use of biodiversity offsetting is at least a 10 percent net biodiversity gain, or from biodiversity compensation is at least a 10 percent net biodiversity benefit.~~

Explanation

Policy 24 applies to provisions in *regional* and *district plans*. ~~This requires the protection of significant *indigenous biodiversity* values in terrestrial, *freshwater* and *coastal environments* consistent with section 6(c) of the RMA. It also clarifies the effects management provisions for significant *indigenous biodiversity* values in [higher order national direction instruments that need to be applied when giving effect to this policy in *regional* and *district plans*. Policies 18A and 18B in this Regional Policy Statement include effects management provisions to manage adverse effects on the values and extent of natural inland *wetlands* and *rivers*.](#)~~

~~The policy provides clarity about the limits to, and expected outcomes from, biodiversity offsetting and biodiversity compensation for an ecosystem or habitat with significant *indigenous biodiversity* values. Ecosystems and species known to meet the criteria in clauses (a and b) are listed in Appendix 1A (Limits to biodiversity offsetting and biodiversity compensation).~~

~~Calculating a 10 percent net biodiversity gain (offsetting) or a 10 percent net biodiversity benefit (compensation) employs the same or a similar calculation methodology used to determine ‘no net loss or preferably net gain’ under a standard offsetting approach. The distinction between ‘net gain’ and ‘net benefit’ is to recognise that the outcomes achievable through the use of offsetting and compensation are different. An offsetting ‘net biodiversity gain’ outcome is expected to achieve an objectively verifiable increase in biodiversity values while a compensation ‘net biodiversity benefit’ outcome is more subjective and less preferable.~~

Table 16 in Appendix 1 identifies *rivers* and *lakes* with significant *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values by applying criteria taken from policy 23 of rarity (*habitat* for threatened *indigenous*

fish species) and diversity (high *macroinvertebrate* community health, *habitat* for six or more migratory *indigenous* fish species).

Policy 47 will need to be considered alongside policy 24 when changing, varying or reviewing a regional or *district plan*.

Policy 24 is not intended to prevent change, but rather to ensure that change is carefully considered and is appropriate in relation to the biodiversity values identified in policy 23.

Policy 24A: Principles for biodiversity offsetting and biodiversity compensation (except for REG and ET activities) – regional and *district plans*

- (a) *Where ~~district and regional plans provide for biodiversity offsetting or aquatic offsetting or biodiversity compensation or aquatic compensation as part of an effects management hierarchy for indigenous biodiversity and/or for aquatic values and extent, they shall include policies and methods to:~~*
- (i) *ensure this meets the requirements of the full suite of principles for ~~biodiversity offsetting and/or aquatic offsetting-biodiversity compensation set out in Appendix 1C Appendix 3 and 4 of the National Policy Statement for Indigenous Biodiversity 2023 or for biodiversity compensation aquatic offsetting and/or aquatic compensation set out in Appendix 1D 6 and 7 of the National Policy Statement for Freshwater Management 2020;~~*
 - (ii) *provide further direction on where ~~biodiversity offsetting, aquatic offsetting, biodiversity compensation, and aquatic compensation are not inappropriate, in accordance with clauses (b) to (d) and (c) below;~~*
 - (iii) *provide further direction on required outcomes from ~~biodiversity offsetting, aquatic offsetting, biodiversity compensation, and aquatic compensation, in accordance with clauses (de) and (ef) below; and~~*
- (b) *In evaluating whether ~~biodiversity offsetting or aquatic offsetting is inappropriate because of irreplaceability or vulnerability of the indigenous biodiversity, extent, or values affected, the feasibility to offset residual adverse effects on any threatened or naturally uncommon ecosystem or threatened species must be considered, including those listed in Appendix 1A must be considered as a minimum; and~~*
- (c) *In evaluating whether ~~biodiversity compensation or aquatic compensation is inappropriate because of the irreplaceability or vulnerability of the indigenous biodiversity, extent, or values affected, recognise that it is inappropriate to use biodiversity compensation or aquatic compensation where residual adverse effects affect an ecosystem or species that is listed in Appendix 1A as a threatened or naturally uncommon ecosystem or threatened species, including those listed in Appendix 1A as a minimum; and~~*

- (d) In evaluating whether *biodiversity offsetting* or *aquatic offsetting* is inappropriate because there are no technically feasible methods to secure gains in acceptable timeframes, recognise that this is likely to be inappropriate for those species and ecosystems listed in column Policy 24A(d) in Appendix 1A but that may change over time due to changes in knowledge, methods or expertise, or mechanisms; and
- (e) *District and regional plans* shall include policies and methods that require *biodiversity offsetting* or *aquatic offsetting* to achieve at least a net gain, and preferably a 10% net gain or greater, in *indigenous biodiversity* outcomes to address residual adverse effects on *indigenous biodiversity*, extent, or values. This requires demonstrating, and then achieving, net gains in the type, amount, and condition of the *indigenous biodiversity*, extent, or values impacted. Calculating net gain requires a like-for-like quantitative loss/ gain calculation of the *indigenous biodiversity* values (type, amount, and condition) affected by the proposed activity; and
- (f) *District and regional plans* shall include policies and methods to require *biodiversity compensation* or *aquatic compensation* to achieve positive effects in *indigenous biodiversity*, extent, or values that outweigh residual adverse effects on affected *indigenous biodiversity*, extent, or values.

Explanation

Policy 24A recognises that the outcomes achievable through the use of *biodiversity offsetting* or *aquatic offsetting* and compensation are different. A 'net gain' outcome from offsetting is expected to achieve an objectively verifiable increase in the target values, while a compensation outcome is more subjective and less preferable. This policy applies to the use of *biodiversity offsetting* and *biodiversity compensation* to address the residual adverse effects on *indigenous biodiversity* in the terrestrial and *coastal environments* and *aquatic offsetting* and *aquatic compensation* to address the loss of extent or values of natural inland *wetlands* and *rivers*.

Policy 24A is to be read with Policy 24C(1) which sets out adverse effects on *indigenous biodiversity* in the *coastal environment* that need to be avoided, meaning that applications for *biodiversity offsetting* or *biodiversity compensation* cannot be considered. These ecosystems and species are also listed in Table 17 and Appendix 1A. Policy 24A does not apply to *REG activities* and *ET activities* which are subject to 24D. Instead, Policy 24D(3) requires *REG activities* and *ET activities* to have regard to the principles for *biodiversity offsetting* and *biodiversity compensation*.

Policy 24B: Managing adverse effects on significant *indigenous biodiversity* values in the terrestrial environment (except for REG and ET activities) – *district and regional plans*

As soon as reasonably practicable, and by no later than 4 August 2028, *district plans* shall include policies, rules and methods to protect *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats of indigenous fauna* in the terrestrial environment by:

- 1) Except as provided for by clause (2) and (3), avoiding the following adverse effects:
 - (a) loss of ecosystem representation and extent;
 - (b) disruption to sequences, mosaics, or ecosystem function;
 - (c) fragmentation of *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values or the loss of *buffers* or connections within these ecosystems and *habitats*;
 - (d) a reduction in the function of *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values as a *buffer* or connection to other important *habitats* or ecosystems;
 - (e) a reduction in the population size or occupancy of *Threatened or At Risk* species that use a *habitat* with significant *indigenous biodiversity* values for any part of their life cycle.
- 2) Applying the *effects management hierarchy* to adverse effects not referred to in clause (1) and to the following new *subdivision, use and development activities*, which are exempt from clause (1):
 - (a) ~~the development, operation, maintenance~~ Construction or upgrade of specified infrastructure (excluding other than REG activities and ET activities) if:
 - (i) it provides significant national or regional public benefit;
and
 - (ii) there is a *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
 - (b) ~~the development, operation and maintenance of m~~Mineral extraction activities if:

- (i) it provides a significant national public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
- (c) ~~The development, operation and maintenance of a~~Aggregate extraction activities if:
- (i) it provides a significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
- (d) 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) if;
- (i) there is *functional need* or operational need to be in that particular location; and
 - (ii) there are no practicable alternative locations for the activity.
- (e) ~~Activities to develop~~New use and development associated with a single residential dwelling on an allotment that was created before 4 August 2023 and where there is no practicable location within the allotment where a single residential dwelling and essential associated on-site *infrastructure* can be constructed without avoiding the adverse effects referred to in clause (1).
- (f) ~~Use or development Activities that are~~ for the purpose of maintaining or restoring ecosystems and *habitats* provided it does not involve the permanent destruction of significant *habitat* of *indigenous biodiversity* (or an alternative management approach established to restore *indigenous biodiversity*).
- (g) ~~Use or development Activities~~ in an area of *indigenous* vegetation or *habitat* of *indigenous* fauna (other than an area managed under the

Forests Act 1949) that was established and is managed primarily for a purpose other than the *maintenance* or *restoration* of that *indigenous biodiversity* and the loss of *indigenous biodiversity* values is necessary to meet that purpose.

(h) Use and development Activities associated with the harvest of *indigenous* tree species, such as track clearance or timber storage (but not the harvest itself managed under clause (3)(d)), from within an ecosystem or *habitat* with significant *indigenous biodiversity* values that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

3) Allowing the following use, development, work and activities without being subject to clause (1) and (2):

(a) Use and development Activities required to address a high risk to public health or safety;

(b) The sustainable customary use of *indigenous biodiversity* conducted in accordance with *tikanga*;

(c) Work or activity of the Crown within the boundaries of any area of *land* held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than *land* held for administrative purposes), provided that the work or activity:

(i) Is undertaken in a way that is consistent with any applicable conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987, or any other Act specified in Schedule 1 of that Act; and

(ii) Does not have a significant adverse effect beyond the boundary of the *land*.

(d) The harvest of *indigenous* tree species that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

(e) The maintenance, operation and minor upgrade of *infrastructure* (other than that covered in Policy 24CC), which is within or affects *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna, where the effects (including cumulative effects) on the ecosystem or *habitat* are no greater in intensity, scale or character than they were when the Plan's provisions under this Policy came into effect, and which do not result in the loss of extent or degradation of the ecological integrity of the ecosystem or *habitat*.

Explanation

Policy 24B applies to *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant habitats of *indigenous* fauna in the terrestrial environment. Clause (1) sets out a list of adverse effects that need to be avoided to ensure the protection of these ecosystems and *habitats*, their *ecosystem function* and values. Clause (2) sets out a list of activities that are exempt from clause (1) and instead adverse effects are to be managed in accordance with the *effects management hierarchy* and other relevant requirements are met (e.g. there is an operational need or *functional need* for the activity to be in that particular location). Clause (3) sets out a list of essential activities, customary activities, or activities undertaken in accordance with conservation management plan or forest management plan that are exempt from clause (1) and (2). **Policy 24B does not apply to REG activities and ET activities.**

Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment – district and regional plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage adverse effects on *indigenous biodiversity* values in the *coastal environment* to:

- (1) Avoid adverse effects of activities on the following ecosystems, habitats and species with significant indigenous biodiversity values:
 - (a) *indigenous* taxa that are listed as *Threatened* or *At-Risk species* 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) *threatened indigenous ecosystems* and vegetation types that are threatened in the *coastal environment*, 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* biological diversity under other legislation; and
- (2) Avoid significant adverse effects ~~and avoid, remedy or mitigate other adverse effects of activities~~ on the following indigenous ecosystems and habitats:

- (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 to modification, including estuaries, lagoons, coastal *wetlands*, dunelands, *intertidal zones*, rocky reef systems, eelgrass and saltmarsh;
 - (d) *habitats* of *indigenous* species in the *coastal environment* that are important for recreational, commercial, traditional or cultural purposes;
 - (e) *habitats*, including areas and routes, important to migratory species; and
 - (f) ecological corridors, and areas important for linking or maintaining biological values.
- (3) Manage non-significant adverse effects on the *indigenous* ecosystems and *habitats* referred to in clause (2) by:
- (a) avoiding adverse effects where practicable; then
 - (b) where adverse effects cannot be avoided, minimising them where practicable; then
 - (c) where adverse effects cannot be minimised they are remedied where practicable; then
 - (d) where residual adverse effects cannot be avoided, minimised, or remedied, *biodiversity offsetting* is provided where possible; then
 - (e) if *biodiversity offsetting* of residual adverse effects is not possible, the activity itself is avoided unless the activity is *regionally significant infrastructure* then *biodiversity compensation* is provided, and
 - (f) the activity itself is avoided if *biodiversity compensation* cannot be undertaken in a way that is appropriate as set out in Appendix 1D.
- (4) for all other ecosystems and *habitats* not listed in clause (1) and (2), manage significant adverse effects on *indigenous biodiversity* values using the *effects management hierarchy*.

Explanation:

This policy applies to provisions in district and *regional plans*. This requires district and *regional plans* to manage adverse effects on *indigenous biodiversity* in the

coastal environment by applying a hierarchy approach based on the values of the indigenous species, ecosystem or habitat. Policy 24C is to be read together with:

- Policy 24A which sets out principles for *biodiversity offsetting* and *biodiversity compensation* which apply in the *coastal environment*.
- Policy 24B in relation to the *coastal environment* above mean high water springs, with Policy 24C to prevail where there is conflict that cannot be resolved.
- Policy 24C is to be read alongside Policy 24CC which relates to existing *regionally significant infrastructure* (excluding *ET activities*) and *REG activities* in the *coastal environment*. and
- Policy 24D which applies to *REG activities* in terrestrial, *freshwater* and *coastal environments*.

Policy 24CC: Existing *regionally significant infrastructure* and *REG activities* in the *coastal environment* - regional and district plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to consider providing for the operation, maintenance, upgrade and extension of existing *regionally significant infrastructure* and *REG activities* that may have any of the adverse effects referred to in clause (1) and (2) of Policy 24C where:

- (1) There is a *functional need* or operational need for the *regionally significant infrastructure* or *REG activities* to be in the area; and
- (2) There is no practicable alternative on *land* or elsewhere in the *coastal environment* for the activity to be located; and
- (3) The activity provides for the *maintenance* and, where practicable, the *enhancement* or *restoration* of the affected significant *indigenous biodiversity* values and attributes at, and in proximity to, the affected area, taking into account any consultation with the Wellington Regional Council, the Department of Conservation and *mana whenua*.

If the activity provides for the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network, (1) to (3) do not apply and the activity must be enabled.

Explanation:

Policy 24CC is to be read with Policy 24C and is intended to enable the consideration of the operation, maintenance, upgrade and extension of existing *regionally significant infrastructure* (excluding *ET activities*) and existing *REG activities* with adverse effects that would otherwise need to be avoided under

clause (1) and (2) of Policy 24. It only allows for consideration of these adverse effects when certain requirements are met, including demonstrating that there are no practicable alternative locations for the activity and the activity provides for maintenance, enhancement or restoration of significant indigenous biodiversity values at the area affected.

Policy 24D: Managing the effects of REG activities and ET activities on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna – district and regional plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage the effects of REG activities and ET activities on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna to:

- 1) Allow REG activities or ET activities to locate in areas with significant indigenous biodiversity values and other significant habitats of indigenous fauna if:
 - (a) there is an operational need or functional need for the REG activities or ET activities to be located in that area; and
 - (b) the REG activities or ET activities are nationally or regionally significant; and
 - (c) clause (2) is applied to manage adverse effects.
- 2) Manage adverse effects by applying the following hierarchy:
 - (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 practicable; then
 - (e) if biodiversity offsetting of more than minor adverse effects is not practicable, biodiversity compensation is provided; then
 - (f) for REG activities, if biodiversity compensation is not appropriate to address any residual adverse effects:

- i. the *REG activities* or *ET activities* must be avoided if the residual adverse effects are significant; but
 - ii. if the residual adverse effects are not significant, the *REG activities* or *ET activities* must be enabled if the national significance and benefits of the activities outweigh the residual adverse effects.
- (g) For *ET activities* which are new or major upgrades, where the route, site or method is the outcome of a best practice evaluation of alternatives, any residual adverse effects remaining after applying clause 2(a) to (e) must be discounted
- 3) When considering *biodiversity offsetting* and *biodiversity compensation*, have regard to the principles set out in Appendix 1C and Appendix 1D.

Explanation

Policy 24D applies to *REG activities* and *ET activities* or *ET activities* and applies a specific pathway and effects management framework for these activities to ensure adverse effects of these activities on *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* and other significant *habitats of indigenous fauna* values are appropriately managed.

Appendix 1A: Limits to biodiversity offsetting and biodiversity compensation¹⁰⁷

This appendix identifies the ecosystems and species that either meet or exceed the limits to the use of *biodiversity offsetting* and *biodiversity compensation* in the Wellington Region¹⁰⁸. The setting of limits to the use of offsetting is one of the ten internationally accepted principles of *biodiversity offsetting* recognised by the Business and Biodiversity Offset Programme.¹⁰⁹ Policy 24A gives effect to this direction in the Wellington Region.

Policy 24 A (a) directs that where policies and/or rules in district and *regional plans* enable the use of *biodiversity offsetting* or *biodiversity compensation* they shall not provide for *biodiversity offsetting* or *biodiversity compensation* where: there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset (clause (ib)); or when an activity is anticipated to cause residual adverse effects on an area after an offset or compensate has been implemented if the ecosystem or species is threatened or the ecosystem is naturally uncommon (clause (ic)). **This appendix identifies the species and ecosystems that meet these criteria in the Wellington Region.**

~~Policy 24(b) directs that where policies and/or rules in district and regional plans enable the use of biodiversity compensation they shall not provide for biodiversity compensation where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is threatened or the ecosystem is naturally uncommon.~~

This appendix also identifies the *ecosystems* and species in the Wellington Region meeting the criteria for Policy 11(a) of the New Zealand Coastal Policy Statement 2010 (NZCPS) 2020, and for which adverse effects must be avoided. Consideration of *biodiversity offsetting* or *biodiversity compensation* for these ecosystems or species is therefore not provided for.

~~To avoid doubt, ecosystems and species that meet the criteria for:~~

- ~~• Policy 24(a)(i) exceed the limits of biodiversity offsetting meaning that applications for biodiversity offsetting cannot be considered:~~
- ~~• Policy 24(a)(ii) meet the limits of biodiversity offsetting. Applications for offsetting can be considered only if the anticipated offset plans to redress all residual adverse effects.~~

¹⁰⁷ Appendix 1A added 18/12/23

¹⁰⁸ As identified in Crisp P and Oliver M. 2022. Limits to offsetting – Thresholds of concern for biodiversity. Greater Wellington Regional Council, Publication No. GW/ESCI-G-22/11, Wellington.

¹⁰⁹ Business and Biodiversity Offsets Programme (2018). The BBOP principles on biodiversity offsets, https://www.forest-trends.org/wpcontent/uploads/2018/10/The-BBOP-Principles_20181023.pdf

- ~~Policy 24A(c)(b) exceed the limits of biodiversity compensation meaning that applications for compensation cannot be considered.~~

Where ecosystems or species meet the criteria for both Policy 24(a)(ii) and NZCPS Policy 11(a) the NZCPS direction prevails.

To avoid doubt:

- ~~Applications for biodiversity offsetting or aquatic offsetting of adverse effects on ecosystems and species that meet the criteria in Policy 24A(b) can only be considered if at least a net gain, and preferably a 10% net gain or greater, in the indigenous biodiversity values affected can be reasonably demonstrated.~~
- ~~Policy 24A(c) describes the situations when biodiversity compensation or aquatic compensation are is not appropriate meaning that, where Policy 24A(c) applies, applications for biodiversity compensation cannot be considered.~~
- ~~Policy 24A(d) describes the situations where biodiversity offsetting or aquatic offsetting compensation is are likely to be inappropriate because there are currently (at 2024) no technically feasible methods to secure gains in an acceptable timeframe.~~
- ~~NZCPS Policy 11(a) exceed the limits of Policy 24C(1) sets out adverse effects on indigenous biodiversity in the coastal environment that need to be avoided biodiversity offsetting and biodiversity compensation meaning that applications for biodiversity offsetting or biodiversity compensation cannot be considered.~~

~~The species listed in Table 17 are the nationally Threatened species and ecosystems and naturally uncommon ecosystems that are found within the Wellington Region, as detailed in the relevant publications listed on the Department of Conservation's New Zealand Threat Classification web page. These ecosystems and species are assessed as being "vulnerable" or "irreplaceable" in accordance with the principles as to when biodiversity offsetting and biodiversity compensation are is inappropriate. Note that the species list will change over time as national threat lists are updated or more knowledge is gained about the presence or absence of a species in the Wellington Region. The most up-to-date threat classification should be used at the time of making an assessment under Policy 24A or Policy 47 (h) and (i).~~

Table 17: Ecosystems and species that either meet or exceed the limits to the use of *biodiversity offsetting* and *biodiversity compensation* in the Wellington Region (there are some duplicates of ecosystems and species as some *habitats* relate to more than one *ecosystem* type).

Wetland ecosystems



Ecosystem or species name	Policy 24A(b)&(c) (a)(iii) Threatened species or ecosystem or naturally uncommon ecosystem (Threat Status)	Policy 24A(d) (b) (a)(i) No appropriate site, knowledge, methods, expertise, mechanism¹¹⁰	NZCPS Policy 11(a)
<u>Coastal turfs</u>	<u>Yes Critically Endangered</u>	<u>Yes</u>	<u>Yes</u>
<u>Dune slacks</u>	<u>Yes Endangered</u>	<u>Yes</u>	<u>Yes</u>
<u>Domed bogs</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Seepages and flushes</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Sinkholes</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Ephemeral wetlands</u>	<u>Yes Critically Endangered</u>		<u>Yes</u>
<u>Lagoons</u>	<u>Yes Endangered</u>		<u>Yes</u>
<u>Lake margins</u>	<u>Yes Vulnerable</u>		
<u>Tarns</u>	<u>Yes Naturally Uncommon</u>		


Table 17 is not included here in its entirety. We recommend the Council adopt the Table set out in the Reporting Officers' Reply evidence.

.....

¹¹⁰ This column shows situations where it is not feasible to offset for residual adverse effects because there is currently (at 2024) no appropriate site, knowledge, proven methods, expertise, or mechanism available to design and implement an adequate biodiversity offset. This may change over time with further advances in knowledge, methods, expertise, and mechanisms and these will be assessed on a case-by-case basis.

3.8 Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration

188. The proposed amendments to Policy 47 read:

Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:</p> <ul style="list-style-type: none"> (a) <i>maintaining</i> connections within, or corridors between, habitats of indigenous flora and fauna and/or enhancing the connectivity between fragmented indigenous habitats; (b) providing adequate buffering around areas of significant indigenous ecosystems and habitats from other land uses; (c) managing wetlands for the purpose of aquatic <i>ecosystem health</i>, <u>recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape</u>; (d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats; (e) providing seasonal or core habitat for indigenous species; (f) <i>protecting</i> the life supporting capacity of indigenous ecosystems and habitats; <ul style="list-style-type: none"> (g) remediating or mitigating <u>minimising or remediating</u> adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; and (h) the need for a precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats; (i) <u>the limits to, and expected outcomes from <i>biodiversity offsetting and biodiversity compensation</i> set out in Policy 24.</u> <p>Explanation</p> <p>Policy 47 provides an interim assessment framework for councils, resource consent applicants and other interested parties, prior to the identification of ecosystems and habitats with significant indigenous biodiversity values in accordance with policy 23, and the adoption of plan provisions for protection in accordance with policy 24. Remediating and mitigating effects can include offsetting, where appropriate.</p> <p>In determining whether an activity may affect significant indigenous biodiversity values, the criteria in policy 23 should be used.</p> <p>This policy shall cease to have effect once policies 23 and 24 are in place in an operative district or regional plan.</p>	

3.8.1 Submissions, Evidence and Analysis

189. This is a consideration policy in the Operative RPS. Some submitters supported the Policy, Meridian [S100.021] considered that it should focus on natural wetlands and sought amendments accordingly, and submitters associated with Mangaroa peatland opposed the Policy in part and raised concerns about the concept of buffering, seeking a clear definition of the term and community consultation. Forest and Bird [FS.003] opposed this relief on the basis this clause in the Policy was not within the scope of Change 1. PCC [S30.0127] requested a sunset clause to Policy 47 so that the Policy would not apply more broadly when Policies 23, 24 and 24A are given effect to.
190. At caucusing, the planners agreed that the listed provisions in Policies 24A, 24B, 24C, 24CC and 24D should be matters that need to be given particular regard in the application of Policy 47.
191. The Officer did not support PCC's relief saying that Policy 47 is unlikely to cease to have effect in the foreseeable future given that implementation of Policies 23 and 24 and the identification of habitats and ecosystems with significant indigenous biodiversity values is likely to be an ongoing process. The Officer said that even where councils have added significant sites for indigenous biodiversity to their plans, not all significant sites have necessarily been included due to budget constraints for surveys, time and various other reasons.
192. We recommend various amendments to Policy 47 to carry through the *REG activities and ET activities* amendments we have recommended in Policies 24A – 24D. In addition, we recommend that the exclusion for *REG* and *ET activities* is deleted from clause (l) because otherwise the clause suggests that these activities cannot remain where they are established and that is not the policy intent. Also, the clause as we recommend it is amended gives effect to clause 3.15 of the NPS-IB regarding established activities.

3.8.2 Finding and s 32AA Evaluation

193. We largely agree with the Reporting Officer's recommendations on Policy 47 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend amendments to carry through the exclusions we have recommended in Policies 24A – 24D for *REG activities* and *ET activities* to give effect and reconcile higher order direction. We also recommend an amendment to

clause (l) to provide for established activities in accordance with clause 3.15 of the NPS-IB as this ensures alignment with national direction.

3.8.3 Recommendation

Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna– consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a *district* or *regional plan*, a determination shall be made as to whether an activity may affect *indigenous ecosystems and habitats* with significant *indigenous biodiversity values*, other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats, and in determining whether the proposed activity is inappropriate particular regard shall be given to:

- (a) *maintaining* connections within, or corridors between, *habitats* of *indigenous* flora and fauna, and/or enhancing the connectivity between fragmented *indigenous habitats*;
- (b) providing adequate *buffering* around areas of significant *indigenous ecosystems and habitats* from other land uses;
- (c) managing natural wetlands for the purpose of aquatic ecosystem health, recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape;
- (d) avoiding the cumulative adverse effects of the incremental loss of *indigenous ecosystems and habitats*;
- (e) providing seasonal or core habitat for *indigenous* species;
- (f) protecting the life supporting capacity of *indigenous ecosystems and habitats*;
- (g) ~~remediating or mitigating~~ minimising or remediating adverse effects on the *indigenous biodiversity* values where avoiding adverse effects is not practicably achievable except where Clause (i) and (j) apply; and
- (h) the need for a precautionary approach to be adopted when assessing and managing the potential for adverse effects on *indigenous ecosystems and habitats*, where;

- (i) the effects on *indigenous biodiversity* are uncertain, unknown, or little understood; and
- (ii) those effects could cause significant or irreversible damage to *indigenous biodiversity*;
- (i) the limits for *biodiversity offsetting* and *biodiversity compensation* set out in Appendix 1A the provisions to protect significant biodiversity values in Policy 24, Policy 24B, and Policy 24C and the principles for *biodiversity offsetting* and *biodiversity compensation* in Policy 24A, except that Policy 24A and Policy 24B do not apply to *REG activities* and *ET activities*;
- (ii) the provisions to manage the adverse effects of *REG activities* and *ET activities* on significant biodiversity values in Policy 24D;
- (jk) protecting *indigenous biodiversity* values of significance to *mana whenua/tangata whenua*, particularly including those associated with a significant site for *mana whenua/tangata whenua* identified in a regional or *district plan*;
- (kl) except for *REG activities* and *ET activities*, enabling *established activities* affecting significant biodiversity values in the terrestrial environment to continue, where provided that the effects of the activities:
 - (i) are no greater in intensity, scale and character; and
 - (ii) do not result in loss of extent, or degradation of *ecological integrity*, of any significant biodiversity values; and
- (tm) ensuring that the adverse effects of *plantation forestry* activities on significant *indigenous biodiversity* values in the terrestrial environment are managed in a way that:
 - (i) maintains significant *indigenous biodiversity* values as far as practicable, while enabling *plantation forestry* activities to continue; and
 - (ii) where significant biodiversity values are within an existing *plantation forest*, maintains the long-term populations of any *Threatened* or *At Risk (declining) species* present in the area over the course of consecutive rotations of production.

Explanation

~~Policy 47 provides an interim assessment framework for councils, resource consent applicants and other interested parties, prior to the identification of ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in accordance with pPolicy 23, and the adoption of plan provisions for protection in accordance with pPolicy 24.~~


~~Remedying and mitigating effects can include offsetting, where appropriate. Policy 47 makes it clear that the provisions in Policy 24 and Policy 24A to protect significant *indigenous biodiversity* values must be considered until those policies are given effect to in regional and *district plans*. Policy 47 also provides for *established activities* and *plantation forestry* activities affecting significant *indigenous biodiversity* values to continue, provided certain tests are met, consistent with the requirements in the National Policy Statement for Indigenous Biodiversity 2023. The clauses above that relate to Policy 24A, Policy 24B and *established activities* do not apply to *REG activities* or *ET activities*.~~

In determining whether an activity may affect significant *indigenous biodiversity* values, the criteria in pPolicy 23 should be used.

~~This policy shall cease to have effect once policies 23 and 24 are in place given effect to in an operative district or regional plan, including all of the matters listed in (a) to (l) above.~~

3.9 Policy 61: Allocation of responsibilities for land use controls for indigenous biodiversity

194. As notified the amendments to Policy 61 read:

Policy 61: Allocation of responsibilities for land use controls for indigenous biodiversity	
<p>Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to <i>maintain</i> indigenous biodiversity:</p>	
<p>(a) Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of land to <i>maintain</i> indigenous biological <u>biodiversity</u>;</p> <p>(b) Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in regional plans for the control of the use of land to <i>maintain</i> and enhance ecosystems in water bodies and coastal water. This includes land within the <i>coastal marine area</i>, wetlands and the <i>beds</i> of lakes and rivers; <u>and</u></p> <p>(c) city and district councils shall be responsible for developing objectives, policies, rules and/or methods in district plans for the control of the use of land for the <i>maintenance</i> of indigenous biological <u>biodiversity</u>. This excludes land within the <i>coastal marine area</i> and the <i>beds</i> of lakes and rivers-</p>	
<p>Explanation</p> <p>In accordance with section 62 of the Resource Management Act, policy 61 sets out the local authorities in the Wellington region responsible for specifying the objectives, policies and methods for the control of the use of land to <i>maintain</i> indigenous <i>biological diversity</i>.</p> <p>District and city councils in the Wellington region have primary responsibility for controlling the use of land to <i>maintain</i> indigenous <i>biological diversity</i> (other than in the <i>coastal marine area</i> and the <i>beds</i> of lakes and rivers) through the creation of objectives, policies and rules in their district plans.</p> <p>Wellington Regional Council has the primary responsibility for the control of the use of land to <i>maintain</i> and enhance indigenous ecosystems in water bodies (including wetlands) and coastal water.</p>	

3.9.1 Submissions, Evidence and Analysis

195. The Policy gives effect to s 62(1)(i)(iii) of the RMA which requires a RPS to state the local authority responsible for specifying the objectives, policies, and methods for the control of the use of land to maintain indigenous biological diversity. The Regional Council [SS137.021] sought an amendment to align clause (c) with the direction in Policy FW.6 (in the FPI) regarding the allocation of responsibilities between local authorities. PCC [S30.078] sought that wetlands are excluded from city and district council responsibilities.

196. The Officer stated that the Regional Council has clear responsibilities under the NPS-FM for wetland management and therefore supported PCC's relief but noted that all local authorities have integrated management functions under the NPS-IB and NPS-FM. The Officer recommended amendments to the Explanation to clarify the expectation that all local authorities work together to management subdivision, use and development in an integrated way to maintain indigenous biodiversity in receiving water bodies. The Officer also recommended some minor drafting amendments to refer consistently in the Policy to freshwater and coastal water. We agree with these amendments.

3.9.2 Finding

197. We agree with the Reporting Officer's recommendations on Policy 61 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.9.3 Recommendation

Policy 61: Allocation of responsibilities for land use controls for *indigenous biodiversity*

Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to *maintain indigenous biodiversity*:

- (a) Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of *land* to *maintain indigenous biological biodiversity*;
- (b) Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in *regional plans* for the control of the use of land to *maintain and enhance* ecosystems in *freshwater bodies* and *coastal water*. This includes *land* within the *coastal marine area, wetlands* and the *beds of lakes and rivers*; and
- (c) city and district councils shall be responsible for developing objectives, policies, rules and/or methods in *district plans* for the control of the use of *land* for the *maintenance of indigenous biological biodiversity, including to manage associated adverse effects on indigenous biodiversity in freshwater and coastal water in liaison with the Wellington Regional Council*. This excludes *controlling the use of*

land within the *coastal marine area*, ~~and~~ the *beds* of lakes and rivers, ~~and wetlands~~.

Explanation

In accordance with section 62 of the Resource Management Act 1991, Policy 61 sets out the local authorities in the Wellington region responsible for specifying the objectives, policies and methods for the control of the use of land to *maintain indigenous biological diversity*.


District and city councils in the Wellington region have primary responsibility for controlling the use of land ~~to maintain indigenous biological diversity~~ (other than ~~within the coastal marine area, and the beds of lakes and rivers, and wetlands~~) ~~to maintain indigenous biodiversity, including to manage associated adverse effects on indigenous biodiversity in freshwater and coastal water in liaison with the Wellington Regional Council~~, through the creation of objectives, policies and rules in their *district plans*.

Wellington Regional Council has the primary responsibility for the control of the use of land to maintain and enhance *indigenous ecosystems* in *freshwater* bodies (including *wetlands*) and *coastal water*.

~~Wellington Regional Council and city and district councils shall work together to develop plan provisions and operational arrangements to provide for the coordinated management and control of subdivision, use and development to maintain indigenous biodiversity in receiving freshwater bodies and coastal water. This includes working collaboratively, such as during structure planning, rezoning, subdivision, and site development, so that the location, layout and design of development is environmentally-responsive.~~

3.10 Policy IE.1: Giving effect to mana whenua roles and values when managing indigenous biodiversity – district and regional plans

198. The proposed new Policy stated:

<u>Policy IE.1: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – district and regional plans</u>	
<u>District and regional plans shall include objectives, policies, methods and/or rules to partner with mana whenua / tangata whenua to:</u>	
(a) <u>apply mātauranga Māori frameworks, and support mana whenua / tangata whenua to exercise their kaitiakitanga, in managing and monitoring indigenous biodiversity;</u>	
(b) <u>identify and protect taonga species;</u>	
(c) <u>support mana whenua / tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.</u>	
<u>Explanation</u>	
<u>Policy IE.1 directs regional and district plans to recognise and provide for Māori values for indigenous biodiversity, and for the role of mana whenua as kaitiaki in the region.</u>	

3.10.1 Submissions, Evidence and Analysis

199. The Policy was broadly supported but some submitters requested that it be strengthened to refer to partnership and stronger protection for taonga, and to include support for Māori landowners to exercise kaitiakitanga. Fish and Game [S147.034] sought that “maintain” replace the word “manage” but the Officer did not agree on the basis that manage is the verb used in clause 3.3(2)(b) of the NPS-IB regarding recognising and valuing the mana of tangata whenua as kaitiaki of indigenous biodiversity.

200. At the Hearing, Ms McCormick for Ngā Hapū o Ōtaki spoke of how:¹¹¹

the loss of taonga species and mahinga kai has impacted our traditional ways of being, our customary practices and the transmission of intergenerational knowledge of our mātauranga and other significant adverse impacts on mana whenua.

201. The Reporting Officer recommended various amendments to align the Policy with terminology in the NPS-IB, including with clause 3.18 and clause 3.19 regarding acknowledged and identified taonga. The Officer also recommended a new clause (d) be included that directs a balanced

¹¹¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 51, lines 2562 – 2564.

approach be taken to protect and manage indigenous biodiversity on Māori land, while enabling appropriate use and development as directed by clause 3.18. The Officer recommended using the words “maintain and restore” in clause (d) to reflect the language in clause 3.18.

3.9.1 Finding

202. We agree with the Reporting Officer’s recommendations on Policy IE.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.9.2 Recommendation

Policy IE.1: Giving effect to mana whenua roles and values when managing indigenous biodiversity – district and regional plans

District and *regional plans* shall include objectives, policies, methods and/or rules to partner with mana whenua/*tangata whenua* when managing indigenous biodiversity, including to:


- (a) apply mātauranga Māori frameworks, and support mana whenua/*tangata whenua* to exercise their kaitiakitanga, in managing and monitoring *indigenous biodiversity*;
- (b) identify and protect **acknowledged and identified** *taonga* species, **populations, and ecosystems**;
- (c) support mana whenua/*tangata whenua* to access and exercise sustainable customary use of *indigenous biodiversity*, including for *mahinga kai* and *taonga*, in accordance with *tikanga*;
- (d) **maintain and restore indigenous biodiversity on Māori land to the extent practicable, while enabling new occupation, use and development of that land to support the social, cultural and economic wellbeing of mana whenua/*tangata whenua*.**

Explanation

Policy IE.1 directs regional and *district plans* to include provisions to partner with mana whenua/*tangata whenua* to recognise and provide for Māori values for *indigenous biodiversity*, and for the role of mana whenua as kaitiaki in the region. ~~It also directs regional and district plans to include provisions to maintain and restore indigenous biodiversity on Māori land, while enabling appropriate use and development of that land to support the wellbeing of tangata whenua.~~

3.11 Policy IE.2: Giving effect to mana whenua/tangata whenua roles and values when managing indigenous biodiversity – consideration

203. The proposed new Policy stated:

<u>Policy IE.2: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – consideration</u>	
<u>When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan for subdivision, use or development, particular regard shall be given to enabling mana whenua / tangata whenua to exercise their role as kaitiaki, including, but not restricted to:</u>	
(a) <u>providing for mana whenua / tangata whenua values associated with indigenous biodiversity, including giving local effect to <i>Te Rito o te Harakeke</i>.</u>	
(b) <u>incorporating the use of mātauranga Māori in the management and monitoring of indigenous biodiversity; and</u>	
(c) <u>supporting mana whenua / tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.</u>	
<u>Explanation</u>	
<u>Policy IE.2 requires consideration of enabling mana whenua / tangata whenua to exercise their kaitiakitanga in the region.</u>	

3.11.1 Submissions, Evidence and Analysis

204. In general iwi submitters supported the Policy, although some requested additional direction for partnership in decision-making. PCC [S30.069] sought that the Policy applies only to resource consents and be expressed as a transitional policy that falls away when Policy IE.1 is given effect to. WFF [S163.074] sought that the Policy is deleted as it is inefficient to require that particular regard be given to the exercise of mana whenua / tangata whenua roles as kaitiaki for consent applications.

205. The Officer considered that partnerships were already provided for in the Policy, but recommended other amendments to the chapeau to focus the Policy on activities that may impact on indigenous biodiversity. The Officer also considered it appropriate that the Policy apply to NoRs and district plan changes/reviews. The Officer considered that WFF's concerns related to implementation, which was a matter for each local authority to determine in collaboration with their mana whenua / tangata whenua partners.

206. Ms Burns on behalf of Rangitāne sought amendments to provide more explicit linkages between Policy IE.2 and Method IE.1 to give more prominence to mana whenua values and relationships and ensure the decision-making principles in the NPS-IB are given effect to. Mr MrDonnell for HCC sought that the policy apply to significant biodiversity and that the application of mātauranga Māori would require expert cultural advice and this would be unreasonable given the number of proposals captured by the policy direction. At the Hearing, Ms McCormick for Ngā Hapū o Ōtaki expressed her support for Ms Burns' evidence supporting the decision-making principles of the NPS-IB and that local expressions are given effect to once developed, which will require a close partnership approach.¹¹²
207. The Officer did not agree that the Policy should be restricted to significant sites as iwi values associated with indigenous biodiversity are much broader than those that relate to sites that meet defined significance criteria. The Officer reiterated that determining the parameters for implementing the Policy would need to be discussed with mana whenua / tangata whenua giving effect to the decision-making principles. The Officer agreed with many of the amendments proposed by Ms Burns.
208. The Officer recommended replacing the reference to *Te Rito o te Harakeke* with 'Decision-making principles for indigenous biodiversity' and this was confirmed in the statement provided in response to Minute 23.

3.11.2 Finding

209. We agree with the Reporting Officer's recommendations on Policy IE.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.11.3 Recommendation

Policy IE.2: Giving effect to mana whenua/tangata whenua roles and values when managing indigenous biodiversity – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a *district plan* for subdivision, use or development that may impact on indigenous biodiversity, recognise and provide for mana whenua/tangata whenua values and relationships associated with indigenous biodiversity particular regard shall be given to enabling mana whenua/tangata whenua to exercise their roles as kaitiaki, including by, but not restricted to:

¹¹² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 52, lines 2612 – 2623.

- (a) providing for mana whenua/tangata whenua values associated with indigenous biodiversity, including giving local effect to *Te Rito o te Harakeke* the decision-making principles for indigenous biodiversity and, once they are established, the local expressions of the decision-making principles for indigenous biodiversity developed through Method IE.1; and
- (b) enabling mana whenua/tangata whenua to exercise their roles as kaitiaki; and
- (c) incorporating the use of mātauranga Māori in the management and monitoring of indigenous biodiversity; and
- (d) supporting mana whenua/tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.

Explanation

Policy IE.2 requires consideration of enabling mana whenua / tangata whenua to exercise their kaitiakitanga in the region. recognition and provision for mana whenua/tangata whenua values and relationships when managing activities that may impact on associated with indigenous biodiversity.

3.12 Policy IE.2A Maintaining indigenous biodiversity in the terrestrial environment – consideration

210. This Policy was proposed in the s 42A Report to give effect to clause 3.16 of the NPS-IB which relates to indigenous biodiversity outside SNAs.

3.12.1 Submissions, Evidence and Analysis

211. Mr Brass on behalf of the DGC supported the Policy noting the importance of protecting and maintaining indigenous biodiversity outside of SNAs to achieve no overall loss in indigenous biodiversity, consistent with the NPS-IB objective. Mr McDonnell for HCC said it should be a regulatory policy and be timebound. Mr McDonnell was concerned that the Policy could result in significant costs for applicants to obtain ecological assessments and that it was not realistic to expect that the effects management hierarchy is applied to the loss of indigenous vegetation outside of SNAs, as virtually every form of development has some impact on indigenous biodiversity. He recommended amendments to remove the requirement to apply the effects management hierarchy, and to ensure clause (c) applied at a district/regional scale rather than at an activity level. Alternatively, he requested the Policy have a sunset clause so it did not have effect once Policies 23 and 24 are given effect to in a plan.¹¹³
212. Ms Foster for Meridian considered that an exemption is required for *REG activities* consistent with Policies 24 and 24A and because otherwise the Policies takes a more stringent approach than clause 3.6 of the NPSREG for areas without significant indigenous biodiversity values. Ms Whitney for Transpower requested an exemption for *ET activities*.
213. The Officer said that it is important the Policy is still given effect to through plans and that it apply to consenting processes until it is implemented in plans. The Officer supported the Policy remaining as a consideration policy. The Officer did not agree that the Policy was too onerous and its direction was supported by clause 3.16(1) of the NPS-IB (with a specific direction for RPS' in clause 3.16(3) to make changes to be consistent with the clause).
214. Ms Anton for the DGC said at the Hearing that indigenous vegetation clearance rules outside SNAs are a very important aspect of maintaining

¹¹³ Statement of evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), HS6 – 30 Januar6 2024, paras 35 - 40.

indigenous biodiversity and the Policy should not be limited to significant biodiversity. As Ms Anton said:¹¹⁴

In our view that's an important aspect of the Council's functions under s.31(g)(a) ... [and] needed to protect areas where species move up and down the threat classification list, where regeneration occurs to a point where indigenous biodiversity becomes significant.

215. The Officer did not agree to a blanket exemption for *ET activities* and *REG activities* and said this would be inconsistent with the functions of local authorities to maintain indigenous biodiversity under ss 30 and 31 of the RMA. The Officer instead recommended a new clause with direction to “avoid, remedy or mitigate adverse effects to the extent practicable”.
216. The Policy was discussed at planners’ caucusing but no consensus was reached. Ms Foster, Ms Hunter and Ms Whitney said the scope of the Policy raises significant potential difficulties for new and existing RSI that were not apparent in the publicly notified version of Change 1 and were best dealt with via a separate schedule 1 process in relation to Policy IE.2A.¹¹⁵
217. The Reporting Officers did not agree and considered that there was scope from submissions seeking a regulatory policy to implement new direction in Change 1 relating to the maintenance of biodiversity outside of non-significant biodiversity areas. The Officers further stated that clauses (b) and (c) directly implement clause 3.16 in the NPS-IB.
218. The Officers said that they would support amendments to clause (a) to align with Policy 3 or 5 in the NPS-ET and to better recognise the benefits of these activities consistent with other RPS provisions. No specific wording was provided. Mr Brass for the DGC supported the retention of the words “to the extent practicable” but said he would also support an addition to recognise the functional and operational constraints and benefits of REG and ET especially for existing activities.¹¹⁶
219. Ms Foster noted that the approach being taken in Policy IE.2A meant that RSI needed to apply the same level of management regardless of whether the activity was affecting significant areas of biodiversity or areas with little or no significance. Ms Foster said the Policy should account for the

¹¹⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 57, lines 2899 – 2902.

¹¹⁵ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 56.

¹¹⁶ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 59.

benefits of REG and RSI recognised in Policy 39 and that these matters were best explored through a separate process.

3.12.2 Finding

220. We agree with the Reporting Officer's recommendations on Policy IE.2A for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.12.3 Recommendation

Policy IE.2A: Maintaining *indigenous biodiversity* in the terrestrial environment – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan or regional plan, indigenous biodiversity in the terrestrial environment that does not have significant indigenous biodiversity values as identified under Policy 23 and is not on Māori land, shall be maintained by:


- ~~(a) recognising and providing for the importance of maintaining indigenous biodiversity that does not have significant biodiversity values under Policy 23;~~
- (a) *avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent practicable; and*
- (b) *managing any significant adverse effects on indigenous biodiversity from any other proposed activity by applying the effects management hierarchy in the National Policy Statement for Indigenous Biodiversity 2023; and*
- (c) *managing all other adverse effects on indigenous biodiversity from any proposed activity to achieve at least no overall loss in indigenous biodiversity within the region or district as applicable; and or*
- (d) *avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent practicable.*

Explanation

Policy IE.2A recognises that it is important to *maintain indigenous biodiversity* that does not have significant *indigenous biodiversity* values to meet the requirements in section 30(1)(ga) and section 31(b)(iii) of the RMA. This policy applies to *indigenous biodiversity* that does not have significant values in the terrestrial environment as identified under Policy 23 and requires a more robust approach to managing any significant adverse effects on *indigenous biodiversity* ~~from a proposed activity~~ and to *maintain indigenous biodiversity* more generally.

3.13 Policy IE.3: Maintaining, enhancing, and restoring indigenous ecosystem health – non-regulatory

221. Proposed new Policy IE.3 stated:

<u>Policy IE.3: Maintaining, enhancing, and restoring indigenous ecosystem health – non-regulatory</u>	
<u>To maintain, enhance and restore the ecosystem health, ecological integrity and ecological connectivity of the region's indigenous ecosystems, and the ecological processes that support them, giving effect to Te Rito o te Harakeke, the Regional Policy Statement shall, as soon as practicable:</u>	
<p>(a) <u>identify the characteristics required for the region's indigenous ecosystems to be in a healthy functioning state, including the processes that enable them to persist over the long-term, and</u></p> <p>(b) <u>identify strategic targets and priorities to ensure that management and restoration of indigenous ecosystems and habitats (including pest management) are directed at areas where the greatest gains can be made for indigenous biodiversity. Where possible, priorities should also deliver benefits for climate change mitigation and/or adaptation, and freshwater; and</u></p> <p>(c) <u>focus restoration efforts on achieving the strategic targets and priorities identified in (b).</u></p>	
<p><u>Explanation</u></p> <p><u>Policy IE.3 gives effect to Objective 16A, identifying the characteristics required for the region's indigenous ecosystems to be in a healthy functioning state, providing resilience to the impacts of increasing environmental pressures, and identifying strategic priorities and targets for restoration to ensure that regional conservation actions are applied efficiently, prioritising protection of the ecosystems and habitats of most pressing concern.</u></p>	

3.13.1 Submissions, Evidence and Analysis

222. The Officer's Rebuttal and Reply Evidence says the Policy directs the RPS to provide strategic direction to guide ecological restoration across the Region ensuring that effort (money, time, and other resources) is directed at projects that will achieve the best outcomes for biodiversity.¹¹⁷

223. Taranaki Whānui [S167.0132] supported the Policy but sought clearer reference to partnership with and resourcing of mana whenua, and Ātiawa [S131.0114] had similar relief. Rangitāne [S168.080] also requested amendments to provide for partnering with iwi in the prioritisation of

¹¹⁷ Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2024, para 111; and Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 39.

ecosystems and to include a timeframe for the process. Forest and Bird [S165.089] considered the Policy should be regulatory with methods giving effect to it.

224. PCC [S30.086] opposed the Policy as they considered it to be non-regulatory but requiring a regulatory response. The Officer said in response that the Policy does not direct regulatory measures as it does not require plans or consent applications to achieve an outcome as a mandatory requirement¹¹⁸ and the implementing methods are non-regulatory.¹¹⁹ The Officer reiterated the Council's approach that the restoration of ecosystems, habitats and indigenous biodiversity is a non-regulatory approach, working collaboratively to support landowners, restoration or enhancement activities.
225. The Officer recommended cross-referencing Method IE.3 in the Explanation which is one of the implementing methods and specifies that the Regional biodiversity strategy will be delivered through partnership with mana whenua / tangata whenua and in collaboration with TAs, communities and other key stakeholders. The Officer also recommended including two new clauses to give effect to directive clauses in the NPS-IB regarding restoration of terrestrial biodiversity including on Māori land (clauses 3.21 and 3.18), and promoting the resilience of indigenous biodiversity to climate change (Policy 4 and clause 3.6).

3.13.2 Finding

226. We agree with the Reporting Officer's recommendations on Policy IE.3 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.13.3 Recommendation

Policy IE.3: Maintaining, enhancing, and restoring *indigenous ecosystem health* – non-regulatory

*To maintain, enhance and restore the ecosystem health, ecological integrity and ecological connectivity of the region's indigenous ecosystems, and the **ecological ecosystem processes** that support them, giving effect to **the decision-making principles for indigenous biodiversity Te Rito o te Harakeke**, the Regional Policy Statement shall, as soon as practicable:*

¹¹⁸ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 39.

¹¹⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 420.

- (a) identify the characteristics required for the region’s *indigenous* ecosystems to be in a healthy functioning state, including the processes that enable them to persist over the long-term; and
- (b) identify strategic targets and priorities to ensure that management and restoration of *indigenous* ecosystems and *habitats* (including pest management) are directed at areas where the greatest gains can be made for *indigenous biodiversity*. Where possible, priorities should also deliver benefits for *climate change mitigation* and/or *climate change adaptation*, and freshwater; and
- (ba) in relation to the terrestrial environment, and other environments as appropriate, the priorities identified in clause (b) above must include:
- (i) areas with significant *indigenous biodiversity* values with degraded ecological integrity;
 - (ii) *threatened* and rare ecosystems representative of naturally occurring and formerly present ecosystems;
 - (iii) areas that provide important connectivity or *buffering* functions;
 - (iv) natural inland *wetlands* whose *ecological integrity* is degraded or that no longer retain their *indigenous vegetation* or *habitat* for *indigenous fauna*;
 - (v) areas of indigenous biodiversity on specified Māori land where *restoration* is advanced by the Māori landowners; and
 - (vi) any other priorities specified in regional biodiversity strategies or any national priorities for *indigenous biodiversity restoration*; and
- (c) focus *restoration* efforts on achieving the strategic targets and priorities identified in (b); and
- (d) identify opportunities to promote the *resilience of indigenous biodiversity* to climate change, including by:
- (i) allowing and supporting natural adjustments of *habitats* and ecosystems to climate change;
 - (ii) *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 in response to climate change.


Explanation

Policy IE.3 will be implemented by the Wellington Regional Council in partnership with *mana whenua/tangata whenua* and in collaboration with landowners, territorial authorities, communities, and other stakeholders as appropriate.

Policy IE.3 gives effect to Objective 16A, identifying the characteristics required for the region's *indigenous* ecosystems to be in a healthy functioning state, providing *resilience* to the impacts of increasing environmental pressures, and identifying strategic priorities and targets for *restoration* to ensure that regional conservation actions are applied efficiently, prioritising protection of the ecosystems and *habitats* of most pressing concern. Policy IE.3 also identifies national priorities for restoration consistent with those identified in the National Policy Statement for Indigenous Biodiversity 2023 and provides direction on how to promote the resilience of indigenous biodiversity to climate change.

3.14 Policy IE.4: Recognising the roles and values of landowners and communities in the management of indigenous biodiversity – non-regulatory

227. The new Policy as notified read:

<u>Policy IE.4: Recognising the roles and values of landowners and communities in the management of indigenous biodiversity – non-regulatory</u>	
<u>Recognise and provide for the values of landowners and communities as stewards of the indigenous biodiversity of the Wellington Region, by:</u>	
(a) <u>involving communities in the identification of targets and priorities for protecting, enhancing and restoring indigenous biodiversity; and</u>	
(b) <u>supporting landowner and community restoration of indigenous ecosystems.</u>	
<u>Explanation</u>	
<u>Policy IE.4 recognises and provides for the important role that landowners and the community have as environmental stewards.</u>	

3.14.1 Submissions, Evidence and Analysis

228. The Officer explained that the purpose of this non-regulatory Policy is to direct the involvement of communities in the identification of targets and priorities for managing indigenous biodiversity, and to support communities and landowners to carry out restoration of indigenous biodiversity.¹²⁰

229. PCC [S30.087] said the Policy is a non-regulatory Policy that requires a regulatory response. In evidence they asked for it to be reframed as a method. Rangitāne supported the Policy in part but sought amendments to better recognise the relationship that tangata whenua have with indigenous biodiversity and to include them in the identification and prioritisation process.

230. The Officer considered that the relief sought by Rangitāne was provided for in other provisions, particularly Policies IE.1, IE.2 and IE.3 and methods. The Officer did not consider there to be any regulatory compulsion required by the Policy, saying that it supported collaboration with

¹²⁰ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 114.

landowners and communities to carry out restoration of indigenous biodiversity.¹²¹

3.14.2 Finding

231. We agree with the Reporting Officer's recommendations on Policy IE.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.14.3 Recommendation

Policy IE.4: Recognising the roles and values of landowners and communities in the management of *indigenous biodiversity* – non-regulatory

Recognise and provide for the values of landowners and communities as stewards of the *indigenous biodiversity* of the Wellington Region, by:

- (a) involving communities in the identification of targets and priorities for protecting, *enhancing* and *restoring indigenous biodiversity*; and
- (b) supporting landowner and community *restoration* of *indigenous* ecosystems.


Explanation

Policy IE.4 recognises and provides for the important role that landowners and the community have as environmental stewards.

¹²¹ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 114.

3.15 Method IE.1: Partnering with mana whenua / tangata whenua to give local effect to Te Rito o te Harakeke

232. As notified Method IE.1 read:

<u>Method IE.1 Partnering with mana whenua / tangata whenua to give local effect to Te Rito o te Harakeke</u>	
<u>Partner with mana whenua / tangata whenua to identify the local approach to give effect to Te Rito o te Harakeke and develop guidance on how to implement this.</u>	
<u>Implementation: Wellington Regional Council</u>	

3.15.1 Submissions, Evidence and Analysis

233. There was support for the Method and also requests from some iwi submitters for references to resourcing and capability building of mana whenua partners. Te Tumu Paeroa [S102.062] asked that the Method be amended to be a regulatory method to guarantee partnership, and Fish and Game [S147.089] said iwi values should be considered alongside other recognised values.

234. The Officer noted that partnership is a way of working and cannot be regulated, however recommended amending the Method to include protocols to enable and support mana whenua / tangata whenua engagement in resource management decision-making. This would support implementation of Policies IE.1 and IE.2 and the establishment of criteria and/or thresholds to trigger mana whenua / tangata whenua engagement in resource consent processes. The Officer noted again the recognition in the NPS-IB of mana whenua / tangata whenua as kaitiaki of indigenous biodiversity and did not agree with Fish and Game's requested relief. Landowner and community values associated with indigenous biodiversity are provided for through Policy IE.4.

3.15.2 Finding

235. We agree with the Reporting Officer's recommendations on Method IE.1 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.15.3 Recommendation


Method IE.1: Partnering with mana whenua/*tangata whenua* to give local effect to [the decision-making principles for indigenous biodiversity Te Rito o te Harakeke](#)

Partner with mana whenua/*tangata whenua* to identify the local approach to give effect to [the decision-making principles for indigenous biodiversity Te Rito o te Harakeke](#) and develop guidance on how to implement this, [including protocols to enable and support mana whenua/*tangata whenua* engagement in resource management decision-making to provide for the matters set out in policies IE.1 and IE.2, and establishment of criteria and/or thresholds to trigger their engagement in resource consent processes.](#)

*Implementation: Wellington Regional Council, [city and district councils, mana whenua/*tangata whenua*](#)*

3.16 Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities - Non-regulatory

236. The proposed new Method stated:

<u>Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities</u>	
<u>Partner with mana whenua / tangata whenua, and engage with interested parties to develop a regional inventory of opportunities for offsetting or compensating for any residual adverse effects on ecosystems and habitats with significant indigenous biodiversity values.</u>	
<u>Implementation: Wellington Regional Council* and iwi authorities</u>	

3.16.1 Submissions, Evidence and Analysis

237. The Method responds to issues raised by developers as to a lack of awareness of appropriate offset or compensation opportunities within the Wellington Region.
238. Fish and Game and various iwi submitters sought similar relief on this Method as with other provisions regarding recognition of other stakeholders and valued introduced biodiversity (Fish and Game [S147.099]) and reference to adequate funding and resourcing (for instance Ātiawa [S131.0139] and Taranaki Whānui [S167.0172]). The Officer said that the comments previously provided in response to this relief also applied here (for instance in relation to Policy IE.1). We consider that “interested parties” is broad enough to cover a range of stakeholders including Fish and Game and its members.
239. Forest and Bird opposed the Method on the basis that policy documents and current institutional arrangements do not support a regional inventory of ecosystems and habitats. The Officer shared their concern about the need for offsetting and compensation to be supported and underpinned by clear policy provisions and arrangements, but noted that s 104(1)(ab) of the RMA allows for the consideration of offsetting and compensation proposed or agreed by an applicant and the NPS-FM, NPS-IB, NRP and some district plans enable use of the effects management hierarchy to manage indigenous biodiversity and the use of offsetting and compensation in certain circumstances. The Officer said that Method IE.2 aims to develop a resource base to support more appropriate offset and compensation proposals, directing these to areas where they are likely to

be most successful.¹²² The proposals would still be limited by current policy settings including the limits to offsetting and compensation included through Change 1.

3.16.2 Finding

240. We agree with the Reporting Officer's recommendations on Method IE.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.16.3 Recommendation

Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities - Non-regulatory


Partner with mana whenua/*tangata whenua*, and interested parties to develop a regional inventory of opportunities for offsetting or compensating for any residual adverse effects on ecosystems and habitats with significant *indigenous biodiversity* values and other significant *habitats of indigenous fauna*.

Implementation: Wellington Regional Council*, *city and district councils*, and *iwi authorities*

¹²² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 444.

3.17 Method IE.3: Regional biodiversity strategy

241. As notified Method IE.3 read:

Method IE.3: Regional biodiversity strategy	
<u>Develop and implement, in partnership with mana whenua / tangata whenua and in collaboration with territorial authorities, communities and other key stakeholders, a regional biodiversity strategy to <i>maintain and restore</i> indigenous biodiversity at a</u>	
<u>landscape scale, incorporating both Mātauranga Māori and systematic conservation planning.</u>	
<i>Implementation: Wellington Regional Council</i>	

3.17.1 Submissions, Evidence and Analysis

242. Ātiawa [S131.0140] supported the Method but requested that it also provide for protection and further supports for partnership through funding/resourcing. Forest and Bird [S165.0115] also supported reference to “protect”.

243. The Officer said that Appendix 5 of the NPS-IF states that the purpose of a regional biodiversity strategy is to “promote the landscape-scale restoration of the region’s indigenous biodiversity” and therefore recommended amending the wording to be consistent with this language and including a new Appendix 1E about Regional Biodiversity Strategies. This was consistent with Mr Wyeth’s recommended approach to give effect to directive provisions in the NPS-IB and the deletion of cross-references.

3.17.2 Finding

244. We agree with the Reporting Officer’s recommendations on Method IE.3 and the inclusion of Appendix 1E for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.17.3 Recommendation

Method IE.3: Regional biodiversity strategy


Develop and implement, in partnership with mana whenua / tangata whenua and in collaboration with territorial authorities, communities and other key stakeholders, a regional biodiversity strategy to ~~maintain and restore~~ promote the landscape-scale ~~maintenance, enhancement, and restoration~~ of the region’s indigenous biodiversity ~~at a landscape scale~~, incorporating both Mātauranga Māori and systematic conservation planning ~~and meeting the requirements in Appendix~~

[51E \(regional biodiversity strategies\) in the National Policy Statement for Indigenous Biodiversity 2023.](#)

Implementation: Wellington Regional Council

3.18 Method IE.4: Kaitiaki indigenous biodiversity monitoring programme

245. Proposed new Method IE.4 read:

Method IE.4: Kaitiaki indigenous biodiversity monitoring programme	
<u>Work in partnership with mana whenua / tangata whenua to establish and resource kaitiaki programmes to:</u>	
(a) <u>monitor and evaluate the ecosystem health and trends of the region's indigenous biodiversity and the extent to which <i>Te Mana o te Wai</i> and <i>Te Rito o te Harakeke</i> is being given effect to, and</u>	
(b) <u>develop action plans to respond to the monitoring results, including informing the regional biodiversity strategy in Method IE.3.</u>	
<u>Implementation: Wellington Regional Council</u>	

3.18.1 Submissions, Evidence and Analysis

246. The Method was supported by Fish and Game [S147.083], Forest and Bird [S165.0121] and others, and also opposed by some submitters. Ngāti Toa requested an amendment to resource a mana whenua kaitiaki monitoring programme. The Officer did not agree with this amendment, noting that the chapeau already refers to resourcing kaitiaki programmes.

3.18.2 Finding

247. We agree with the Reporting Officer's recommendations on Method IE.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.18.3 Recommendation

Method IE.4: Kaitiaki indigenous biodiversity monitoring programme


Work in partnership with mana whenua/tangata whenua to establish and resource kaitiaki programmes to:

- (a) monitor and evaluate the ecosystem health and trends of the region's indigenous biodiversity and the extent to which *the decision-making principles for indigenous biodiversity are Te Rito o te Harakeke* is being given effect to, and
- (b) develop action plans to respond to the monitoring results, including informing the identification of targets and priorities through Method IE.3.

Implementation: Wellington Regional Council

3.19 Method 21: ~~Information to assist with the identification~~
Identification and protection of indigenous ecosystems and
habitats with significant indigenous biodiversity values and
other significant habitats of indigenous fauna

248. The notified proposed amendments to Method 21 read:

<p>Method 21: Information to assist with the identification <u>Identification and protection of indigenous ecosystems and</u> habitats with significant indigenous biodiversity values</p>	
<p>The regional council will liaise with the region’s territorial authorities to ensure that all district plans include, by 30 June 2025 at the latest, a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values and plan provisions to protect them from inappropriate subdivision, use and development.</p> <p><u>The regional council will liaise with the region’s territorial authorities to ensure that all district plans include, by 30 June 2025 at the latest, a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values and plan provisions to protect them from inappropriate subdivision, use and development.</u></p> <p>Where a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on a programme of works and an understanding as to whether:</p> <p><u>Where a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on a programme of works and an understanding as to whether:</u></p> <p>(a) <u>the territorial authority shall continue to have sole responsibility; or</u> (b) <u>the regional council shall take full responsibility; or</u> (c) <u>the territorial authority and the regional council shall share responsibilities.</u></p> <p>Prepare and disseminate information to assist with the interpretation of the criteria set out in policies 23 and 24, which require the identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values.</p> <p><u>Prepare and disseminate information to assist with the interpretation of the criteria set out in policies 23 and 24, which require the identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values.</u></p> <p><i>Implementation: Wellington Regional Council* and city and district councils</i></p>	

3.19.1 Submissions, Evidence and Analysis

249. SWDC [S79.05100], Ātiawa [S131.0142] and others supported the Method. Forest and Bird requested an amendment to read “as soon as possible, and in any event no later than” and also sought that the Method be a regulatory method. PCC [S30.094] opposed the Method and requested removal or amendment of the timeframe to align with the NPS-IB and to recognise the councils that had already implemented the Method. The Method was also opposed by UHCC [S34.074] and HCC [S115.0112] who also requested that the operative Method is retained or that the deadline be amended to 5 years after Change 1 is operative.

250. The Officer agreed that it was appropriate to align the implementation timeframe with the requirement in the NPS-IB that TAs map SNAs in the terrestrial environment no later than 5 years after gazettal of the NPS-IB (i.e. by 4 August 2028). The Officer also recommending deleting clause (b) on the basis that the NPS-IB does not allow a regional council to take full responsibility for mapping SNAs, and in any event, the Officer considered that this should be undertaken using a partnership approach.

251. In his written evidence, Mr McDonnell supported the amendment to the timeframe but also recommended that clause (b) be retained as he said ecological assessments by the Regional Council to inform district plan changes were another avenue for implementing the NPS-IB. The Officer did not support reinstating clause (b) as the NPS-IB does not provide for the option of a regional council taking full responsibility to carry out a district-wide indigenous biodiversity assessment, although regional council assessment could be carried out to support district plans in accordance with clause 3.8(4) of the NPS-IB where requested by a TA.

3.19.2 Finding

252. We agree with the Reporting Officer's recommendations on Method 21 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.19.3 Recommendation

Method 21: Information to assist with the identification Identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna

The regional council will liaise with the region's territorial authorities to ensure that all district plans include, ~~by 30 June 2025 at the latest, as soon as reasonably practicable and by no later than 4 August 2028,~~ a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the terrestrial environment and plan provisions to protect them from inappropriate subdivision, use and development.

Where a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on a programme of works and an understanding as to whether:


- (a) the territorial authority shall continue to have sole responsibility; or
- ~~(b) —the regional council shall take full responsibility; or~~
- (be) the territorial authority and the regional council shall share responsibilities.

Prepare and disseminate information to assist with the interpretation of the criteria set out in policies 23 and 24, which require the identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values:

Implementation: Wellington Regional Council and city and district councils*

3.20 Method 32: Partnering with mana whenua/tangata whenua, and partnering where appropriate and engaging with stakeholders, landowners and the community in the identification and protection of significant values

253. As notified, the amendments to Method 32 read:

<p>Method 32: <u>Partnering Engagement with mana whenua / tangata whenua, and engaging with stakeholders, landowners and the community in the identification and protection of significant values</u></p>	
<p>Involve Partner with iwi, hapū, marae and/or whānau, and engage with stakeholders, landowners and the community in the to:</p>	
<p>(a) identification and protection of significant places, sites and areas with significant cultural heritage values and significant historic heritage values;</p>	
<p>(b) identification and protection of outstanding natural features and landscapes, and manage the values of special amenity landscapes, including those with significant cultural values;</p>	
<p>(c) identification and protection of indigenous ecosystems and habitats with significant biodiversity values, including those of significance to mana whenua / tangata whenua;</p>	
<p>(ca) develop and implement a regional biodiversity strategy described in Method IE.3; and</p>	
<p>(d) protection of the values, including mana whenua / tangata whenua values, associated with the rivers and lakes identified in Appendix 1; and</p>	
<p>(e) identify nature-based solutions to climate change as described in Method CC.6.</p>	
<p><i>Implementation: Wellington Regional Council and city and district councils</i></p>	

3.20.1 Submissions, Evidence and Analysis

254. Ātiawa [S11.0129] supported the intent of Method 32 but requested amendments to reflect that partnering with mana whenua for the purposes of identifying and protecting significant values should be provided for separately to the stakeholders, landowners and the general public and community as only mana whenua can identify places, sites and areas with significant cultural heritage values, or outstanding natural features and landscapes with significant cultural values, or identify mana whenua values and indigenous ecosystems and habitats with significance to mana whenua.

255. Fish and Game [S147.024] considered that the Method should recognise the Council has a responsibility to partner with stakeholders. PCC [S30.095] sought identification of Special Amenity Landscapes. HortNZ

[S128.056] requested a reference to areas of highly productive land. HCC opposed the Method and Te Tumu Paeroa [S102.050] considered that the Method should ensure the protection of significant values.

256. The Officer agreed with the relief sought by Ātiawa and recommended amendments to provide for the identification by mana whenua, in partnership with Council, of areas and sites of significance. The Officer also agreed with the submission points of Fish and Game, PCC and HortNZ. The Officer recommended some amendments in the Implementation direction in response to HCC's submission.
257. In written evidence, Mr McDonnell for HCC considered that the Method required review as it contained regulatory direction. The Officer agreed that the Method is a regulatory method and recommended its relocation.
258. In Minute 22 we queried with the Officer whether the Method should also apply to enhancement and restoration to a healthy functioning state. The Officer confirmed this was appropriate and recommended this amendment in Reply Evidence.¹²³ We also queried the inclusion of 'highly productive land' and the Officer recommended an amendment to refer more specifically to the Objective of the NPS-HPL.¹²⁴

3.20.2 Finding

259. We agree with the Reporting Officer's recommendations on Method 32 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.20.3 Recommendation

[Note Method to be relocated to section 4.5.1 Regulatory Methods]

Method 32: Partnering Engagement with mana whenua/tangata whenua; and partnering where appropriate and engaging with stakeholders, landowners and the community in the identification and protection of significant values

1. Partner with iwi, hapū, marae and/or whānau to identify and protect areas and sites of significance to mana whenua/tangata whenua; and

¹²³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 55.


¹²⁴ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, paras 70 – 71.

2. ~~Involvement~~ Partner with *iwi*, *hapū*, *marae* and/or *whānau*, and partner where appropriate and engage with stakeholders, landowners, and the community in the to:
- (a) ~~identification and protection of~~ significant places, sites and areas with significant cultural heritage values and significant *historic heritage* values;
 - (b) ~~identification and protection of~~ outstanding *natural features* and *landscapes*, and identify and manage the values of special amenity *landscapes*, including those with significant cultural values;
 - (c) ~~identification and protection of~~ *indigenous* ecosystems and *habitats* with significant biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats and, where appropriate, to enhance and restore these to a healthy functioning state, including those of significance to mana whenua/tangata whenua;
 - (ca) ~~develop and implement a regional biodiversity strategy described in Method IE.3; and~~
 - (d) ~~protection of the values;~~ including mana whenua/tangata whenua values; associated with the *rivers* and *lakes* identified in Appendix 1; and
 - (e) identify nature-based solutions to climate change as described in Method CC.6; and
 - (f) identify and protect highly productive land for use in land-based primary production, both now and for future generations.

Implementation: Wellington Regional Council (all clauses) and city and district councils (clauses 2(a), (b), (c) and (f))

3.21 Method 53: Support mana whenua / tangata whenua and community restoration initiatives for indigenous ecosystems

260. As notified Method 53 read:

<p>Method 53: Support <u>mana whenua / tangata whenua</u> and community restoration initiatives for the coastal environment, rivers, lakes and wetlands <u>indigenous ecosystems</u></p>	
<p>Provide practical support for <u>mana whenua / tangata whenua</u> and community restoration initiatives for the coastal environment, rivers, lakes and wetlands <u>indigenous ecosystems, with a focus on achieving the targets and priorities identified by Methods IE.2, CC.4 and CC.7.</u></p>	
<p><i>Implementation: Wellington Regional Council and city and district councils</i></p>	

3.21.1 Submissions, Evidence and Analysis

261. Fish and Game [S157.014] said that deleting “coastal environment, rivers, lakes and wetlands” and replacing it with “indigenous ecosystems” was unclear and requested the operative wording be retained or an amendment to refer to “indigenous coastal and freshwater ecosystems”. The Officer said that it was more efficient to refer to “indigenous ecosystems” rather than referring to all the domains, i.e. coastal environment, rivers, lakes, wetlands and terrestrial ecosystems.
262. Forest and Bird [S165.0122] sought that the Method be broader and provide for restoration support until identification processes are complete. They also noted incorrect cross-references in the Method. The Officer said it was appropriate for the Method to focus on strategic targets and priorities, noting that it was not exclusive to the Methods identified. HCC [S115.0133] opposed the Method and requested that it not apply to TAs. The Officer did not agree and said that most if not all TAs provide practical support for some level of restoration work in their districts and clauses 3.8. 3.18 and 3.21 of the NPS-IB require local authorities to support restoration.
263. Ms Campbell for Fish and Game was concerned in evidence that the Officer’s recommended amendments to the Method inappropriately restricted it to indigenous ecosystems, thereby excluding support for restoration of the habitats of valued introduced species, such as trout, salmon, and gamebirds. The Officer did not agree that the RPS should support restoration of non-indigenous habitats and disagreed that Method 53 does not give effect to NPS-FM Policy 10 (which was predicated on

Policy 9, stating that the habitat of trout and salmon is protected so far as this is consistent with protecting the habitats of indigenous freshwater species).

264. At the Hearing, the Reporting Officer recommended reverting to the operative text for the title and first clause of Method 53 to remove any unintended ambiguity that had arisen. In light of evidence presented by Fish and Game, we agree with this recommendation. The Officer also recommended that the cross-references to the methods be corrected, as noted by Forest and Bird.

3.21.2 Finding

265. We agree with the Reporting Officer's recommendations on Method 53 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.21.3 Recommendation


Method 53: Support mana whenua and community restoration initiatives for the coastal environment, rivers, lakes and wetlands indigenous ecosystems

Provide practical support for mana whenua and community restoration initiatives for the coastal environment, rivers, lakes and wetlands indigenous ecosystems, with a focus on achieving the targets and priorities identified by Methods IE.23, CC.4 and CC.76.

Implementation: Wellington Regional Council and city and district councils

3.22 Method 54: Assist landowners to maintain, enhance and restore indigenous ecosystems

266. The notified amendments to Method 54 stated:

Method 54: Assist landowners to maintain, enhance and restore indigenous ecosystems		
Assist landowners to <i>maintain, enhance and/or restore indigenous ecosystems identified by Methods IE.2 and CC.7, including by, but not limited to:</i>		
(a)	assisting with the costs of legally protecting indigenous ecosystems by way of open space covenants with Queen Elizabeth the Second National Trust (QEII);	
(b)	<u>considering opportunities for rates rebates;</u>	
(c)	assisting with the costs of controlling pest plants and animals; and	
(d)	supporting landowners to restore significant indigenous ecosystems by fencing and planting.	
<i>Implementation: Wellington Regional Council and city and district councils</i>		

3.22.1 Submissions, Evidence and Analysis

267. Some TAs supported the Method in part but considered that rates rebates are just one tool under a wider umbrella of non-regulatory methods and requested that the reference to rates rebates in clause (b) be replaced by “advice, education, support and incentives” or similar.

268. The Officer agreed that the Method should be broadened beyond rates relief as this was just one example of opportunities to provide incentives. Mr McDonnell requested deletion of the reference to rates rebates as they are a matter that needs to be weighed up as part of long-term planning processes, and the Method could result in an expectation from landowners that they are entitled to rates rebates. The Officer said this was just an example of an opportunity and could be deleted. We are comfortable with how the clause reads as proposed to be amended through the s 42A Report. Rates rebates are just one example provided in the clause.

269. Forest and Bird [S165.0123] sought the correction of incorrect cross references and also stronger emphasis in the chapeau on strategic targets and priorities. The Officer agreed with these amendments. The Officer considered it appropriate that TAs support the implementation of the Method given their responsibilities under the NPS-IB and that clauses 3.18(5) and 3.21(3) include requirements to provide incentives for the protection and maintenance of indigenous biodiversity in priority areas.

3.22.2 Finding

270. We agree with the Reporting Officer's recommendations on Method 54 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.22.3 Recommendation

Method 54: Assist landowners to *maintain, enhance and restore indigenous ecosystems*





Assist landowners to *maintain, enhance and/or restore indigenous ecosystems, with a focus on achieving the targets and priorities* identified by Methods IE.23, CC.4 and CC.76, including by, but not limited to:

- (a) assisting with the costs of legally protecting *indigenous* ecosystems by way of open space covenants with Queen Elizabeth the Second National Trust (QEII);
- (b) considering opportunities for *partnerships (e.g., through Ngā Whenua Rāhui), advice, education, support and incentives, such as rates rebates;*
- (c) assisting with the costs of controlling pest plants and animals; and
- (d) supporting landowners to *restore* significant *indigenous* ecosystems by fencing and planting.

Implementation: Wellington Regional Council and city and district councils

3.23 Anticipated Environmental Results (AER)

271. As notified the AER read:

Topic	Objectives	Anticipated environmental results (AER)
Historic heritage		
Indigenous ecosystems	<p>Objective 16 Indigenous ecosystems and habitats with significant <u>ecosystem and/or biodiversity values are maintained protected, enhanced, and restored to a healthy functioning state.</u></p>	 1. District and regional plans have identified indigenous ecosystems and habitats with significant biodiversity values.
	<p>Objective 16A <u>The region's indigenous ecosystems are maintained, enhanced, and restored to a healthy functioning state, increasing their resilience to increasing environmental pressures, and giving effect to <u>Te Rito o te Harakeke.</u></u></p>	 2. District and regional plans contain policies, rules and/or methods to protect indigenous ecosystems and habitats with significant biodiversity values from inappropriate subdivision, use and development.
	<p>Objective 16B <u>Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.</u></p>	 3. There is no loss of indigenous ecosystems and habitats with significant biodiversity values <u>and biodiversity indicators are improving across the region, identified in a district or regional plan.</u>
	<p>Objective 16C <u>Landowner and community values in relation to indigenous biodiversity are recognised and provided for and their roles as stewards are supported.</u></p>	 4. There is at least a 20 percent increase in the area of indigenous ecosystems and habitats that are legally protected.

3.23.1 Submissions, Evidence and Analysis

272. Ātiawa [S131.008] sought that the AER be more specific and measurable, based on evidence where relevant, and appropriately time-bound. Ātiawa requested the addition of a new AER relating to mana whenua and the Council working in partnership in the management of indigenous biodiversity in the Region. Taranaki Whānui [S167.0183] sought that the

AER are developed and monitored in partnerships with mana whenua and include mātauranga Māori.

273. The Officer said that Method IE.4 provides for a partnership approach and that the AER were pitched at an appropriate level for an RPS.
274. The Officer recommended various amendments to better align the wording of the AER with the amendments recommended to Objectives 16 and 16A, and to respond to the methods including Method IE.3. The Officer also recommended that AER 3 be extended to incorporate the monitoring requirements referred to in Policy 17 of the NPS-IB and clause 3.25. The Officer recommended AERs for Objectives 16B and 16C.
275. Ms Heppelthwaite on behalf of Waka Kotahi recommended that the reference to “extent or condition” be deleted from AER 3 on the basis this was not attainable given that clause 3.11 of the NPS-IB provides consenting pathways that allow for the extent or condition of significant indigenous ecosystem / habitat or supporting functions to be potentially altered, reduced or removed.
276. The Reporting Officer responded commenting that AER identify the outcomes expected as a result of implementing the package of RPS provisions. They provide the basis for monitoring the efficiency and effectiveness of the provisions and are indicators to be used when assessing progress towards achieving the RPS objectives at a regional level. They are also used to inform further changes to RPS provisions.¹²⁵ Because the AER operate at a regional level rather than at the scale of an individual consent, and also because AER 3 links to Objective 16 which seeks that ecosystems and habitats with significant indigenous biodiversity and other significant habits are protected, enhanced, and restored to a healthy functioning state, the Officer considered that AER 3 was appropriate but that amendments to refer to “an overall increase in the extent and condition” would clarify that the AER applies on a region wide, rather than an application specific basis. Ms Heppelthwaite confirmed that these changes addressed her concern regarding “no loss” being unattainable.¹²⁶

¹²⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 9.




¹²⁶ Summary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1, Hearing Stream 6 on the Wellington Regional Policy Statement, 22 February 2024, para 3.3.


277. The Officer also recommended that AER 3 refer to “ecosystem processes” for consistency with the recommended amendments in Objective 16, and that the word ‘maintain’ in AER is italicised to indicate it is a defined term.

3.23.2 Finding

278. We agree with the Reporting Officer’s recommendations on the AERs for Objectives 16, 16A, 16B and 16C for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.23.3 Recommendation

Indigenous ecosystems	<p>Objective 16 <i>Indigenous ecosystems and habitats with significant ecosystem functions and services and/or indigenous biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes functions of these ecosystems and habitats, are maintained protected, enhanced, and restored to a healthy functioning state.</i></p>	<p> 1. District and regional plans have identified <i>indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna.</i></p>
	<p>Objective 16A <i>The region’s indigenous biodiversity is ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving its their</i></p>	<p> 2. District and regional plans contain policies, rules and/or methods to protect indigenous ecosystems and habitats with significant <i>indigenous biodiversity values</i> from inappropriate subdivision, use and development.</p>
	<p>Objective 16A <i>The region’s indigenous biodiversity is ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving its their</i></p>	<p> 3. <i>In the Wellington Region there is no loss an overall increase in the of extent and or condition of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna, and in the health of their ecosystem processes functions.</i></p>

	<p><i>resilience</i> to increasing environmental pressures, particularly climate change., and giving effect to the <i>Te Rito o te Harakeke</i>.</p>	<p>4. <i>Indigenous biodiversity across the Wellington Region is maintained</i> and biodiversity indicators are improving across the region. identified in a district or regional plan.</p>
	<p>Objective 16B <u>Mana whenua / tangata whenua values relating to <i>indigenous biodiversity</i>, particularly <i>taonga</i> species, and the important relationship between <i>indigenous ecosystem health</i> and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their <i>kaitiakitanga</i> for <i>indigenous biodiversity</i>.</u></p> <p>Objective 16C <u>Landowner and community values in relation to <i>indigenous biodiversity</i> are recognised and provided for and their roles as stewards are supported.</u></p>	 <p>4.5. <i>There is at least a 20 percent increase in the area of indigenous ecosystems and habitats that are legally protected.</i></p> <p>5. <i>A regional biodiversity strategy has been prepared, and progress to meet defined 10-year targets is demonstrated.</i></p> <p>6. <i>Mana whenua/tangata whenua are satisfied that their values associated with <i>indigenous biodiversity</i>, particularly <i>taonga</i> species, are appropriately provided for in resource management decision-making, including through the application of Mātauranga Māori.</i></p> <p>7. <i>Mana whenua/tangata whenua are satisfied with the level of support to exercise their <i>kaitiakitanga</i> for <i>indigenous biodiversity</i>.</i></p> <p>8. <i>Landowners and communities are satisfied with the level of support provided to enable their roles as stewards of indigenous biodiversity.</i></p>

3.24 Definitions

279. Below we set out the key issues arising from the definitions in HS6. The Officer recommended amendments to the HS6 definitions to align with the gazetted version of the NPS-IB. We agree with these recommendations and make some additional brief comments below in relation to evidence presented on these definitions throughout the Hearing. We do not comment on every definition coded to this topic or proposed to be included in the Officer's s 42A Report or Rebuttal Evidence. Where we have not commented on a particular definition, we agree with the Officer's recommendations for that definition as set out in the s 42A Report or Rebuttal or Reply Evidence.
280. The DGC [S32.040] supported the HS6 definitions but requested amendments necessary to give effect to the gazetted version of the NPS-IB. Rangitāne [168.085 – S168.088] also supported the definitions, and they were opposed by Winstone Aggregates [S162.020 – 162.025].

3.24.1 Biodiversity compensation

281. Forest and Bird [S165.0125] said that the words “otherwise managed” were unclear, and should be replaced with a link to a set of mandatory compensation principles. Rangitāne [S168.084] requested amendments to clarify that compensation only occurs after all measures to avoid, minimise, remedy or offset have been explored.
282. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer noted in Rebuttal Evidence that Dr Maseyk had said in her Rebuttal Evidence that the definition should refer to “more than minor” residual adverse effects to align with the NPS-IB and NPS-FM definitions.

3.24.2 Biodiversity offsetting

283. Forest and Bird [S165.0126] requested that the reference to ‘minimisation’ be removed and amended to include mitigation. Rangitāne [S168.083] sought an amendment to be consistent with the 10% net gain goal specified in Policy 24 and Appendix 1A.
284. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer noted in Rebuttal Evidence that Dr Maseyk had said in her Rebuttal Evidence that the definition should refer to “more than minor” residual adverse effects to align with the NPS-IB and NPS-FM definitions.

3.24.3 Decision-making principles for indigenous biodiversity

285. The Officer recommended this definition be included to align with clause 1.5(3) of the NPS-IB which sets out the principles.
286. Ms Burns on behalf of Rangitāne sought that the definition be amended to ensure that the local expressions developed through Method IE.1 are given effect to once developed. The Officer agreed that this amendment would provide better clarity and support effective implementation of Policy IE.2 and Method IE.1.¹²⁷
287. The Officer recommended deleting the definition of Te Rito o te Harakeke as this had been replaced by the set of decision-making principles for indigenous biodiversity.

3.24.4 Ecological connectivity

288. WCC and Forest and Bird requested amendments to the definition. The Officer recommended amendments to align with the definition in the NPS-IB.

3.24.5 Ecological integrity

289. Forest and Bird [S165.0131] requested the definition be replaced with an alternative that referred to various elements including ecological representation and resilience.
290. The Officer recommended amendments to align with the definition in the NPS-IB which did not include all of the elements Forest and Bird requested, but did include composition, structure and functions.

3.24.6 Ecosystem function

291. The Officer recommended amendments to align with the definition in the NPS-IB.

3.24.7 Ecosystem health

292. Forest and Bird [S165.0132] supported the definition in part but requested clarification on how it would interact with the NPS-FM compulsory value of 'ecosystem health'. The Officer said that while there was no definition in the NPS-FM for 'ecosystem health', Appendix 1A stated the biophysical components for a health freshwater ecosystem suitable to sustain

¹²⁷ Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 108.

indigenous aquatic life. The Officer did not think the Change 1 definition conflicted with the NPS-FM compulsory value of ‘ecosystem health’.

3.24.8 Ecosystem processes

293. In Minute 22 we queried whether a definition for ‘ecosystem processes’ was appropriate. The Officer stated in response that a definition for ecosystem could be usefully added to support the use of this term in Objective 16. The Officer sought advice from a Senior Terrestrial Ecologist at Council and recommended a definition in Reply Evidence.

3.24.9 Effects management hierarchy

294. This definition was recommended in the Officer’s Rebuttal Evidence. In Reply Evidence, the Officer said he recommended removing the reference to “significant” indigenous biodiversity to better align with the NPS-IB definition and ensure that the provisions would apply the effects management hierarchy to both significant indigenous biodiversity values and non-significant indigenous biodiversity values.

295. The Reporting Officers for HS5 and HS6 identified that the definition in the NPS-FM focuses on natural inland wetlands, and the definition in the NPS-IB refers specifically to indigenous biodiversity. As this could create potential inconsistencies, the Officers recommended a definition that addresses the definition in both NPS’.¹²⁸

3.24.10 Enhancement (in relation to indigenous biodiversity)

296. Submitters supported the definition and sought it be retained (Forest and Bird [S165.0133] or retained subject to changes in the gazetted NPS-IB (DGC [S30.040])). The definition is not included in the NPS-IB and the Officer does not recommend any amendments.

3.24.11 Established activities

297. A definition is recommended to be included in relation to Policy 47 which provides that established activities can continue provided certain requirements are met.

¹²⁸ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 85 and Appendix 2 – HS5 and HS6 Definitions.

3.24.12 Indigenous biodiversity

298. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer also recommended deleting the definition of “indigenous ecosystem” that was notified as there is no definition in the RMA or NPS-IB or NRP. Ms Heppelthwaite had raised concerns about the use of the term “natural character” in the definition of “indigenous ecosystem” and the Officer agreed this was problematic due to its use in s 6(a) of the RMA.

3.24.13 Land-based primary production

299. HortNZ [S128.056] had sought an amendment to Method 32 to refer to partnership in the ‘identification and protection of highly productive land’. The Officer agreed with this recommendation, and also agreed in Reply Evidence to include the definition of ‘land-based primary production’ which is in clause 1.3 the NPS-HPL. This seems appropriate to us in that it will provide clarity to the interpretation of the Method.

3.24.14 Maintain/maintained/ maintenance (in relation to indigenous biodiversity)

300. Clause 1.7 of the NPS-IB sets out what ‘maintaining’ requires. The Officer recommends in the s 42A Report that the definition of ‘maintenance’ align with the NPS-IB definition.

3.24.15 Resilience

301. The Officer recommended amendments to align with the NPS-IB definition.

3.24.16 Restoration (in relation to indigenous biodiversity)

Restoration (in relation to a natural inland wetland)

302. Forest and Bird [S165.0149] supported the definition in part, requesting an amendment to add “or improve” after “reinstate”. Submitters associated with the Mangaroa Peatland Focus Group opposed the definition due to its wide scope and lack of clarity of “desired former state”. They requested that a clause is inserted that requires the Regional Council to engage with the community to define what restoration means for each habitat, ecosystem, landform or landscape and only proceed once they have community approval in each case.

303. The Officer recommended some amendments including a definition for restoration in relation to natural inland wetlands for alignment with the NPS-FM definition of restoration. The Officer agreed that what restoration means on the ground depends on the context, including the ecosystem health of the resource and an assessment of the costs and benefits of acting or not acting, and various other matters including engagement with stakeholders including any impacted landowners. The Officer said that these were matters of process or policy and not appropriate detail to include in a definition. The Officer (who was also the Officer for the Nature Based Solutions subtopic in HS3), said that the policies and method in Change 1 that give effect to restoration outcomes are non-regulatory and there is no direction requiring restoration, especially on private property. The Officer did not recommend amendments to the definition of restoration in response to the submitters' relief.
304. Ms Campbell for Fish and Game gave planning evidence on the definition of restoration stating that it should apply to all habitats and ecosystems, not exclusively those that are indigenous. Ms Campbell said that excluding non-indigenous taxa from the definition limits the potential for restoration of these ecosystems and habitats, and subsequent enhancement of the quality of the environment and freshwater. The Officer said that the definition aligns with the NPS-IB and the intent was not to widen it to non-indigenous taxa and the definition specifically states that it is in relation to indigenous biodiversity.

3.24.17 Specified infrastructure

305. The Reporting Officers for HS5 and HS6 identified an overlap with some aspects of the definition of "specified infrastructure" in the NPS-FM and NPS-IB. They recommended a definition that addresses both NPS definitions¹²⁹ (i.e. essentially merges them but with specific reference to elements specifically relevant to freshwater and indigenous biodiversity).

¹²⁹ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 85 and Appendix 2 – HS5 and HS6 Definitions.

3.24.18 Finding

3.24.19 Recommendation

Definitions (**terms as defined in the NPS-IB, ** term that aligns with a definition in the NPS-IB definition*)

Defined term	RPS Definition
Biodiversity compensation	A measurable positive environmental conservation outcome resulting from actions that are designed to compensate for more than minor residual adverse biodiversity effects on indigenous biodiversity that cannot be otherwise managed after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied . This includes biodiversity compensation in the terrestrial environment and aquatic compensation for the extent and values of rivers and natural inland wetlands .
Biodiversity offsetting	A measurable positive environmental conservation outcome resulting from actions designed to redress for the more than minor residual adverse effects on indigenous biodiversity arising from activities after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied . The goal of biodiversity offsetting is to achieve no net loss, and preferably a net gain, in type, amount, and condition of indigenous biodiversity values compared to that lost . This includes biodiversity offsetting in the terrestrial environment and aquatic offsetting for the extent and values of rivers and natural inland wetlands .
Buffer/buffering*	A defined space between core areas of ecological value and the wider landscape that helps to reduce external pressures.
Decision-making principles for indigenous biodiversity*	<p>The following decision-making principles must inform the management of indigenous biodiversity:</p> <ul style="list-style-type: none"> (a) prioritise the mauri, intrinsic value and well-being of indigenous biodiversity. (b) take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). (c) recognise the bond between mana whenua/tangata whenua and indigenous biodiversity based on whakapapa relationships. (d) recognise the obligation and responsibility of care that mana whenua/tangata whenua have as kaitiaki of indigenous biodiversity. (e) recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity.

	<p>(f) <u>enable the application of te ao Māori and mātauranga Māori, and</u></p> <p>(g) <u>form strong and effective partnerships with mana whenua /tangata whenua.</u></p> <p>The decision-making principles for <i>indigenous biodiversity</i> include any local expressions developed through Method IE.1.</p>
Ecological connectivity*	<p><u>Refers to the degree of connection that provides for the movement of genetic alleles and species and the maintenance of ecosystem processes within and between populations and ecosystems</u></p> <p><u>The structural or functional links or connections between <i>habitats</i> and ecosystems that provide for the movement of species and processes among and between the <i>habitats</i> or ecosystems.</u></p>
Ecological integrity*	<p><u>The full potential of indigenous biotic and abiotic features and natural processes, functioning in sustainable communities, habitats, and landscapes:</u></p> <p><u>The extent to which an ecosystem is able to support and maintain its:</u></p> <p><u>(a) composition (being its natural diversity of <i>indigenous</i> species, <i>habitats</i>, and communities); and</u></p> <p><u>(b) structure (being its biotic and abiotic physical features); and</u></p> <p><u>(c) functions (being its ecological and physical processes).</u></p>
Ecosystem function*	<p><u>The abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.</u></p>
Ecosystem health	<p>The degree to which an <i>ecosystem</i> is able to sustain its ecological structure, processes, functions, and <i>resilience</i> within its range of natural variability.</p>
Ecosystem processes	<p><u>The physical, chemical, and biological processes that link organisms and their environment.</u></p>
Ecological integrity*	<p><u>The full potential of indigenous biotic and abiotic features and natural processes, functioning in sustainable communities, habitats, and landscapes:</u></p> <p><u>The extent to which an ecosystem is able to support and maintain its:</u></p> <p><u>(a) composition (being its natural diversity of <i>indigenous</i> species, <i>habitats</i>, and communities); and</u></p> <p><u>(b) structure (being its biotic and abiotic physical features); and</u></p>

	(c) functions (being its ecological and physical processes):
Effects management hierarchy	<p>Effects management hierarchy:</p> <p>(a) In relation to <i>indigenous biodiversity</i> means An approach to manage the adverse effects of an activity on significant <i>indigenous biodiversity</i> values that requires that:</p> <ul style="list-style-type: none"> (i) adverse effects are avoided where practicable; then (ii) where adverse effects cannot be avoided, they are minimised where practicable; then (iii) where adverse effects cannot be minimised, they are remedied where practicable; then (iv) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, <i>biodiversity offsetting</i> is provided where possible; then (v) where <i>biodiversity offsetting</i> of more than minor residual adverse effects is not possible, <i>biodiversity compensation</i> is provided; then (vi) if <i>biodiversity compensation</i> is not appropriate, the activity itself is avoided. <p>(b) In relation to natural inland <i>wetlands</i> and <i>rivers</i>, means an approach to managing the adverse effects of an activity on the extent or values of a <i>wetland</i> or <i>river</i> (including cumulative effects and loss of potential value) that requires that:</p> <ul style="list-style-type: none"> (i) adverse effects are avoided where practicable; then (ii) where adverse effects cannot be avoided, they are minimised where practicable; then (iii) where adverse effects cannot be minimised, they are remedied where practicable; then (iv) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, <i>aquatic offsetting</i> is provided where possible; then (v) if aquatic offsetting of more than minor residual adverse effects is not possible, <i>aquatic compensation</i> is provided; then (vi) if <i>aquatic compensation</i> is not appropriate, the activity itself is avoided.
Electricity transmission network	<p>The electricity transmission network that:</p> <ul style="list-style-type: none"> (a) comprises the network of transmission lines, cables, stations, substations and works used to connect grid injection points and grid exit points used to convey electricity in New Zealand; and (b) is owned by Transpower New Zealand Limited; and (c) is commonly known as the <i>National Grid</i>.
Enhancement (in relation to indigenous biodiversity)	<p>The active intervention and management of modified or degraded <i>habitats</i>, ecosystems, landforms and <i>landscapes</i> in order to reinstate <i>indigenous</i> natural character, ecological and physical processes, and cultural and visual qualities. The aim of enhancement actions is to improve the condition of the environment, but not to return it to a former state.</p>

Established activities	In relation to Policy 47, means an activity (including maintenance, operation and upgrade) that is in, or affects, an <i>indigenous ecosystem</i> or <i>habitat</i> with significant <i>indigenous biodiversity</i> values or other significant <i>habitats</i> of <i>indigenous fauna</i> and is not a new activity.
ET activities	Any activity required for the operation, maintenance, upgrade, or development of the electricity transmission network, along with all access roads and tracks required to operate and maintain that network.
Indigenous biodiversity	The living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of <i>indigenous flora</i>, <i>fauna</i>, and <i>fungi</i>, and their <i>habitats</i>.
Indigenous ecosystem	An ecosystem with a dominant or significant indigenous natural character.
Land-based primary production	Production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the <i>land</i>.
Maintain/maintained/maintenance (in relation to <i>indigenous biodiversity</i>)*	<p>At least no reduction in the following:</p> <p>(a) — the size of populations of indigenous species</p> <p>(b) — indigenous species occupancy across their natural range</p> <p>(c) — the properties and function of ecosystems and habitats</p> <p>(d) — the full range and extent of ecosystems and habitats</p> <p>(e) — connectivity between and buffering around, ecosystems</p> <p>(f) — the resilience and adaptability of ecosystems.</p> <p>The maintenance of indigenous biodiversity may also require the restoration or enhancement of ecosystems and habitats.</p> <p>Maintaining <i>indigenous biodiversity</i> requires:</p> <p>(a) the maintenance and at least no overall reduction of all the following:</p> <p>(i) the size of populations of <i>indigenous species</i>:</p> <p>(ii) <i>indigenous species</i> occupancy across their natural range:</p> <p>(iii) the properties and function of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>:</p> <p>(iv) the full range and extent of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>:</p> <p>(v) connectivity between, and <i>buffering</i> around, ecosystems used or occupied by <i>indigenous biodiversity</i>:</p> <p>(vi) the <i>resilience</i> and adaptability of ecosystems; and</p> <p>(b) where necessary, the <i>restoration</i> and <i>enhancement</i> of ecosystems and <i>habitats</i>.</p>
Naturally rare	Rare before the arrival of humans in New Zealand

<p><u>Naturally uncommon ecosystems</u></p>	<p>Ecosystems with an estimated maximum total area of <0.5% (i.e., <134,000ha) of New Zealand’s <i>land</i> area (268,680 km²) before human colonization.</p> <p>The 72 naturally uncommon ecosystems in New Zealand are described in <u>Wiser, Susan K et al “New Zealand's Naturally Uncommon Ecosystems” 2013</u> available at https://www.landcareresearch.co.nz/uploads/public/researchpubs/uncommon-ecosystems-book-section.pdf</p>
<p><u>Protect (in relation to indigenous biodiversity):</u></p>	<p>Looking after biodiversity and the ecosystem processes that create and maintain it in the long term. This involves managing all threats to secure species from extinction and ensuring that their populations are buffered from the impacts of the loss of genetic diversity and longer-term environmental events such as climate change. This includes, but is not restricted to, legal protection.</p>
<p><u>REG activities</u></p>	<p><u>An activity required for the development, operation, maintenance, or upgrade of renewable electricity generation assets.</u></p>
<p><u>Renewable electricity generation assets</u></p>	<p><u>The physical components required for renewable electricity generation, along with the assets and infrastructure (such as cabling, access roads, and tracks) required to generate and store the generated electricity and connect it to transmission or distribution networks or direct to end users.</u></p>
<p><u>Resilience (in relation to an ecosystem)*</u></p>	<p><u>The ability of an ecosystem to absorb and recover from disturbances and its capacity to reorganise into similar ecosystems.</u></p>
<p><u>Restoration (in relation to indigenous biodiversity)**</u></p>	<p>In relation to indigenous biodiversity, means tThe active intervention and management of modified or degraded <i>habitats, ecosystems, landforms and landscapes</i> in order to <i>maintain or</i> reinstate <i>indigenous</i> natural character, ecological and physical processes, and cultural and visual qualities, <i>and may include enhancement activities.</i></p>
<p><u>Restoration (in relation to a natural inland wetland)**</u></p>	<p><u>Active intervention and management, appropriate to the type and location of the wetland, aimed at restoring its ecosystem health, indigenous biodiversity, or hydrological functioning.</u></p>
<p><u>Specified infrastructure</u></p>	<p>Specified infrastructure means:</p> <ul style="list-style-type: none"> (a) <u>infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);</u> (b) <u>regionally significant infrastructure;</u> (c) <u>any public flood control, flood protection, or drainage works carried out:</u> <ul style="list-style-type: none"> (i) <u>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</u> (ii) <u>for the purpose of drainage, by drainage districts under the Land Drainage Act 1908;</u>

	<p>(d) <u>defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990; and</u></p> <p>(e) <u>in relation to indigenous ecosystems also means:</u></p> <ul style="list-style-type: none"> i. <u>any nationally significant <i>infrastructure</i> identified as such in a <i>National Policy Statement</i></u> ii. <u><i>infrastructure</i> 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 <i>future development strategy</i> or <i>spatial strategy</i>) adopted by a local authority, in an <i>urban environment</i> (as defined in the <i>National Policy Statement on Urban Development 2020</i>); and</u> <p>(f) <u>in relation to <i>freshwater</i> also means:</u></p> <ul style="list-style-type: none"> i. <u>any <i>water storage infrastructure</i></u> ii. <u><i>ski area infrastructure</i>.</u> <p>(a) infrastructure that delivers a service operated by a lifeline utility (as defined in the <i>Civil Defence Emergency Management Act 2002</i>);</p> <p>(b) regionally significant infrastructure defined in this <i>Regional Policy Statement</i> and any nationally significant infrastructure identified as such in a <i>National Policy Statement</i>;</p> <p>(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 <i>future development strategy</i> or <i>spatial strategy</i>) adopted by a local authority, in an <i>urban environment</i> (as defined in the <i>National Policy Statement on Urban Development 2020</i>);</p> <p>(d) any public flood control, flood protection, or drainage works carried out:</p> <ul style="list-style-type: none"> (i) — by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the <i>Soil Conservation and Rivers Control Act 1941</i>; or (ii) — for the purpose of drainage, by drainage districts under the <i>Land Drainage Act 1908</i>; <p>defence facilities operated by the New Zealand Defence Force to meet its obligations under the <i>Defence Act 1990</i>;</p>
<p>Systematic Conservation Planning</p>	<p>A spatially explicit, objective-based and quantitative approach for identifying priority areas for biodiversity conservation.</p>
<p><u>Te Rito o te Harakeke</u></p>	<p><u>Te Rito o te Harakeke is a concept that refers to the need to maintain the integrity of indigenous biodiversity. It recognises the intrinsic value and mauri of indigenous biodiversity as well as people’s connections and relationships with it.</u></p> <p><u>It recognises that our health and wellbeing are dependent on the health and wellbeing of indigenous biodiversity and that in return we have a</u></p>

	<p><u>responsibility to care for it. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community:</u></p> <p><u>Te Rito o te Harakeke comprises six essential elements to guide tangata whenua and local authorities in managing indigenous biodiversity and developing objectives, policies, and methods for giving effect to Te Rito o te Harakeke:</u></p> <p><u>(a) the intrinsic value and mauri of indigenous biodiversity:</u></p> <p><u>(b) the bond between people and indigenous biodiversity through whakapapa (familial) relationships and mutual interdependence:</u></p> <p><u>(c) the responsibility of care that tangata whenua have as kaitiaki, and that other New Zealanders have as stewards, of indigenous biodiversity:</u></p> <p><u>(d) the connectivity between indigenous biodiversity and the wider environment:</u></p> <p><u>(e) the incorporation of te ao Māori and mātauranga Māori:</u></p> <p><u>(f) the requirement to partner with tangata whenua.</u></p>
<p><u>Threatened ecosystems or Threatened or At Risk species</u></p>	<p><u>These Threatened ecosystems are described by the IUCN Red List categories, Critically Endangered, Endangered and Vulnerable.</u></p>
<p><u>Threatened or At Risk species *</u></p>	<p><u>Threatened or At Risk and Threatened or At Risk (declining) species 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</u></p>