High Country Accord Submission on:

Exposure Draft National Policy Statement

for Indigenous Biodiversity

Contact information

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Background to the Accord

The High Country Accord is a Trust established in 2003 for the purposes of promoting and protecting the rights of holders of pastoral leases under the Crown Pastoral Land Act 1998 ('CPLA') and the Land Act 1948 ('LA'), *'with a view to ensuring the future economic, environmental and social sustainability of the South Island High Country.'*

The Accord represents the interests of more than 150 pastoral lessees who are collectively responsible for the stewardship of 1.2 million hectares of land in the South Island High Country.

Summary of Accord's Position

If implemented in its draft form the National Policy Statement for Indigenous Biodiversity (NPSIB) will severely impact the continuation of viable pastoral farming in the High Country.

Destruction of viable pastoral farming in the High Country will not promote indigenous biodiversity but lead to a proliferation of exotic plant and animal pest species currently controlled by pastoral lessees under their lease terms with the Crown.

There is little evidence that plant pest species in the High Country environment are succeeded over time by indigenous species, rather the evidence of hieracium, briar, wilding pines and other exotic weeds points to the contrary outcome. In the case of animal pests, the

experience of the past 180 years tells us that removal of control mechanisms is disastrous for indigenous biodiversity.

The inherent values of pastoral leases are already actively managed by the Commissioner for Crown Lands under the (recently revised) Crown Pastoral Land Act.

The NPSIB requires local authorities to impose a further regulatory framework, which when taken to regional and district plans, will result in a duplicated and likely inconsistent regime for the management of indigenous biodiversity.

The NPSIB is accordingly inherently flawed, and in the case of its application to pastoral leases, unnecessary.

The NPSIB should instead seek to create a framework which:

- acknowledges the complexity of the problem
- recognises that there are landscapes within which farming is contributing to the enhancement of indigenous biodiversity (in our case the pastoral lease community)
- fosters a collaborative approach with landowners instead of polarised antagonistic positions
- in the case of pastoral leases:
    - recognises the direct management controls of the Commissioner of Crown Lands; and
    - provides that in the hierarchy of decision-making, decisions of local authorities must be consistent with those of the Commissioner

Before the NPSIB is finalised officials must visit our properties and better understand the document's implications.

We record our (so far ignored) standing invitation to officials to contact us and arrange visits to member properties from Marlborough to Southland.

Recommended outcomes

The NPSIB needs amendment to enable local authorities to recognise the Crown's existing management of pastoral leases through the Commissioner for Crown Lands acting under the Crown Pastoral Land Act 1998.

While general policies of encouragement of the maintenance and enhancement of indigenous biodiversity can co-exist, territorial authorities should not duplicate the functions of the Commissioner.

Crown Pastoral leases have unique features which distinguish them from other farms:

High Country Stations are unlike most other farming systems. They are located in some of the most challenging and beautiful regions of New Zealand. Generally, they have vast swaths of land still in native indigenous vegetation; stock sparsely populate the stations; and seasonal rhythms still drive the farming calendar as they have done for over 160 years.

The following table is indicative of the extent of indigenous cover on pastoral leases.

Table 1: MfE data on land coverage

Total land cover	Crown (not CPLA)/DoC land	Crown Pastoral Lease land	General ownership	Maori Land Court/Treaty
Indigenous forest	4,976,228 ha (72%)	54,601 ha (0.8%)	1,198,857ha (17%)	710,669ha (10.2%)
Indigenous scrub/shrubland	712,217ha (40%)	119,931ha (6.7%)	740,065ha (41.3%)	214,094ha (12%)
Tussock Grassland	1,334,927ha (57%)	599,860ha (25.7%)	342,899ha (14.7%)	57,842ha (2.4%)
Total indigenous cover	7,023,373ha	774,392ha	2,281,821ha	982,606ha
Total Area	8,849,389ha	1,372,772ha	14,264,021ha	2,325,415ha
% of indigenous	**79%**	**56%**	**16%**	**42%**

Farming in the high country today is done with a light touch, it is about working with nature, not trying to overcome it. Farmers are often challenged by weeds and pests such as wilding pine, gorse, broom, briar, deer, rabbits, hares, possums, and pigs. These pests require significant cost and persistent effort to control, which in turn requires profitable farms.

These stations have often been farmed by the same families for generations. Their owners are fiercely protective of these unique properties. Often the history of these properties includes severe physical and financial hardship, pests, diseases, fires, floods, snowfalls that killed most of the stock, accidents, deaths, and natural disasters.

High country farmers are a resilient bunch. They thrive on the challenges that their unique environment provide. They have nurtured these beautiful landscapes and farmed in a way that considers their delicate nature. It is vital that they do so if we want to have a sustainable business into the future. As new technology or information becomes available, behaviours and farming practices are modified. The rich biodiversity found in the New Zealand High Country is there because of high country farmers, not in spite of them.

Their stewardship of the land underpins the environmental integrity of many of the world's leading commercial brands – with Icebreaker, Untouched World, Smart Wool and Allbirds being the most high-profile local names.

Legal and historical context of pastoral leases

- Pastoral leases were created by the Land Act 1948 as an instrument by which the Crown could continue to influence environmental outcomes in the South Island High Country
- The pastoral lease mechanism responded to concerns that over-stocking due to insecurity of tenure were leading to adverse environmental outcomes
- It is generally acknowledged that the indigenous biodiversity of pastoral leases in 2022 is vastly superior to that of 1948 due to the security of tenure and the overall framework of land management
- Pastoral lessees are on a continuum of progressive enhancement of their environment
- Recent changes to the Crown Pastoral Land Act 1998 (via the Crown Pastoral Land Reform Act 2022) materially increase the level of control exerted by the Commissioner of Crown Lands over farm activities on pastoral leases
- There is a new statutory requirement that the Crown must seek to maintain or enhance the inherent values of pastoral leases
- Inherent values necessarily include those arising from indigenous biodiversity
- Intensification is therefore already limited by this statutory framework
- Pastoral leases invariably include stock limitation clauses which define the overall classes and number of stock which can be carried on the property, with many leases having particular limitations applying to defined areas of the property either within the lease or within the terms of exemptions granted by the Commissioner
- Tenure review has reduced the number of pastoral leases from >300 to < 160
- Those leases that currently remain after 20 years of tenure review are invariably 'extensive pastoral farming systems' as that term would be commonly understood, with limited capacity for intensification
- Total stock units across all pastoral leases (1.2 million hectares) is estimated to be approximately 1.4 million
- Stock limitations under the leases and the physical constraints of the High Country have combined to ensure that the number stock carried on pastoral leases has been relatively stable in recent years.

General Comment on SNA's

The NPSIB is strong on identifying significance and rules controlling how significant areas can be used but includes nothing on how the people on whose land these SNAs are located will be encouraged and helped to manage them.

Simply calling an area significant is useless unless the area is managed properly. Management requires financial and human resources.

If Government is genuine about meeting the objectives of Te Mana o te Taiao, the Aotearoa New Zealand Biodiversity Strategy through the NPSIB, then financial incentives and other support structures for farmers to help them manage SNAs need to accompany the inherent undermining of commercial viability of our farms.

Specific drafting issues within the NPSIB

1.5 Fundamental concepts

The absolute statements of section 1.5(3) have the effect of freezing New Zealand into a state of inactivity and inevitably progressive decline.

If applications for consent are to be measured against the framework of the fundamental concepts it will be next to impossible to do anything, given the precautionary approach required by Policy 3 set out in section 2.2.

The absence of a more nuanced approach to stating the essential elements will in time undermine the health and well-being of people.

1.6 Interpretation

The criteria proposed for identifying SNAs in the NPSIB are so broad (and challenging to understand) they could include the footprint of all the pastoral leases of the High Country.

In particular, the explanatory provisions of 'representativeness' are so general as to be meaningless.

This seriously dilutes the value of the NPSIB. By including virtually everything within the definition of significant, the NPSIB downplays the significance of those areas that are genuinely significant.

This then acts as a massive disincentive to high country farmers who will end up with large areas of SNAs and will have no confidence around the integrity of the system or any idea of what areas are most important.

In identifying SNAs, we should be focusing on the areas that are truly significant, e.g., remnants of original ecosystems (such as old growth forests).

Inevitably the economic consequences of SNA designation are so dire that there will be legal proceedings to review the decisions of territorial authorities.

A core problem with the NPSIB is that it fails to recognise that simply declaring an area as significant and imposing rules on how the area can be managed does nothing to sustain or enhance indigenous biodiversity.

The NPSIB also fails to do anything to support farmers in managing indigenous biodiversity. This places a particularly high burden on High Country farmers who generally have very significant variety and volume of indigenous biodiversity on their farms and are already undertaking significant initiatives to enhance biodiversity.

3.16 Managing Indigenous Biodiversity outside of SNA'a

Pastoral leases should be excluded from Section 3.16 in the same way that Māori lands are excluded.

This is because pastoral leases cannot be subdivided, and the Commissioner of Crown Lands through the Crown Pastoral Land Act already controls the use and development of the leased land. To the extent that pastoral leases do not comprise SNA's there is therefore an existing framework for the regulation of activities and the promotion of indigenous biodiversity values.

This exclusion would relieve both local authorities and pastoral lessees of the inherent uncertainty of Section 3.16 but without prejudicing the opportunity for the maintenance of indigenous biodiversity.

In this respect it is unclear how Section 3.16 will work as it simply requires local authorities to take steps to maintain indigenous biodiversity through their plans and policy statements. However, the implication in subclauses (a) and (b) is that local authorities will need to have controls (rules) to manage adverse effects of new activities on indigenous biodiversity outside of SNAs using the effects management hierarchy (Section 1.5.4).

3.17 Maintenance of improved pasture

Section 3.17(1) purports to allow the maintenance of improved pasture (deliberately sown and being actively grazed).

Such maintenance is also identified as a permitted pastoral activity under the Crown Pastoral Land Act.

The cumulative preconditions of Subclause 2, however, largely negate that general facilitative purpose and are internally contradictory.

Subclause (c) precludes maintenance of *"the improved pasture [which] has [ ] itself become an SNA"*

This suggests that improved pasture could be classified as an SNA. But if the criteria set out in Appendix 1 are to be followed, it should not be possible to classify improved pasture as an SNA.

However, it is clear from the Ministry's Exposure Draft Summary for the Farming Sector, that it is contemplated that this will be possible, and may occur where the regeneration has 'become an SNA.'

If applied by local authorities in this manner, the effect will be to incrementally diminish the farming proposition and thereby appropriate the property rights of farmers.

This incentivises farmers to minimise regeneration such that the periodicity of clearance shortens. This is contrary to the objectives of the NPSIB. It will increase costs and reduce the funds available for on-farm biodiversity enhancement.

Subclause (d) is likely to be problematic for most High Country properties as it restricts improved pasture maintenance to *"land [that] is not a depositional landform that has not been cultivated"*. Depositional landforms are defined as including alluvial, colluvial and moraine landforms.

This definition includes much of the best improved oversown and topdressed pastures on high country farms, many of which also contain reasonable amounts of matagouri and require regular woody vegetation control to maintain the right pasture-shrubland balance.

By excluding such land from permitted maintenance activities, the NPSIB effectively ensures that a consent is required for the continuation of historic farming practices. The NPSIB imposes a framework which ensures that consent will not be obtainable.

The inevitable adverse economic and environmental outcomes are those already described.

Subclause (e) precludes maintenance where there may be an adverse effect on a threatened or at risk (declining) species. The problem with this is that the lists are excessively rigid and lack the nuance of local environments. By way of example the listing of matagouri ignores the fact that it is far from at risk in many high-country environments. In fact, matagouri, regenerates strongly in a High Country environment with light stock pressure, and responds vigorously to pastures which have been top-dressed. It is one of the dominant regenerating species which is required to be periodically cleared.

Control of weeds within a SNA or an area of indigenous biodiversity outside an SNA

Weed management is not discussed by the NPSIB. Frequently within areas of indigenous biodiversity there may be woody weeds such as willow, gorse, broom, wilding pine, briar amongst others. These weeds are very difficult to selectively target, especially in large scale SNA's. The NPSIB doesn't provide provision for control of weeds within SNA's and may also provide restrictions on control of weeds in other areas of indigenous biodiversity outside of SNA's depending on regional rule setting. Left unchecked, woody weeds can quickly outcompete indigenous biodiversity and decimate SNA's.

3.20 Specified highly mobile fauna

High Country Pastoral Leases are rich with indigenous flora and fauna, including many of the specified highly mobile fauna. While unusual in urban and low country environments, this highly mobile fauna has been present in high country farming systems for generations within our existing farming systems day to day farming activities and pasture renewal programs.

This clause requires new rules to be made "in order to maintain viable populations of specified highly mobile fauna across their natural range."

There is no guidance on the extent of these rules or policies and no clear allowance for continued existing use (including maintenance of existing pasture) in areas where highly mobile fauna may be found.

3.22 Increasing Indigenous vegetation cover

The requirement:

(3) Regional councils must:

> *(a) set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation; and*
>
> *(b) consider setting targets of higher than 10% for other areas, to increase their percentage of indigenous vegetation cover; and*
>
> *(c) include any indigenous vegetation cover targets in their regional policy statements.*

(4) Local authorities must promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans

Will clearly create conflict between regional councils' requirement to meet the above objectives and regional and local authorities' consideration of requests under clause 3.17 to "maintain improved pasture".

As has been previously highlighted pastures on high country pastoral leases often contain a myriad of indigenous species within them. With the broad definition of "SNA's" it's quite conceivable that many high country pastures will be a) identified as SNA's or b) identified under 3.16 managing biodiversity outside SNA's thus creating a expectation that these areas are identified for increasing biodiversity percentage cover in the future, it is likely that pasture renewal would be seen as counterproductive to this goal. The easier option will be for authorities to simply decline applications for pasture renewal given their other obligations to NPSIB.

Again, we note that as the viability of High Country farming is undermined, so too is the management of high value indigenous biodiversity within our farms

3.24 Information Requirements

Due to the extensive nature of High Country pastoral leases and the large amount of biodiversity present it is conceivable that almost all pasture renewal processes will trigger the need for approval under the NPSIB.

Cost estimates from ecologists to provide necessary assessments on the impacts of the pasture renewal on biodiversity and further associated information (as required by clause 3.24) would range from $5,000 to $8,000 per application for a relatively straight forward application. This cost would be prohibitive to pasture renewal on many of these properties.

Appendices

Typical high country pasture with some weed species, indigenous biodiversity and wetlands present, some clearance of indigenous biodiversity and weed species would be required to maintain existing grazing footprint on a periodic basis.

Indigenous Biodiversity on a High Country Pastoral Lease property, some of this Indigenous Biodiversity is clearly more “significant” and should be treated with greater protection than other parts however there is no recognition for this in NPSIB.

These wilding pines on Crown land provide a graphic example of the ultimate outcomes of the NPSIB