APPENDIX B – RESPONSE TO REQUEST 15

1. The Panel asked:

Advise on the influence of the National Policy Statement for Indigenous Biodiversity (NPS-IB) on this IPI process, including in respect of the following matters:

Q1. What is the influence of the NPS-IB on this IPI process, and in particular is there an opportunity to proactively implement the NPS-IB by bolstering SES protection through this process?

2. The NPS-IB requires specified effects to be avoided on a Significant Natural Area (or Site of Ecological Significance as described in the District Plan)[16] beyond which adverse effects on an SNA[17] are to be managed in accordance with an Effects Management hierarchy. Significant adverse effects of subdivision, use and development on indigenous biodiversity outside SNAs is also to be managed in accordance with the hierarchy[18].

3. Clause 4.1 sets out requirements in relation to when at local authority must give effect to the NPS-IB. In general, this must be done "*as soon as reasonably practicable*", but specifically within five years after commencement for planning provisions for SNAs and for information requirements for resource consent applications, and within eight years for other provisions.

4. Further, clause 3.6(6) requires that, if a territorial authority becomes aware that an area "*may be an area of significant indigenous vegetation or significant habitat of indigenous fauna that qualifies as an SNA*", the territorial authority must conduct an assessment of the area "*as soon as practicable*" and if a new SNA is identified as a result, include it in "*the next appropriate plan or plan change notified by the territorial authority*." The Council has not become aware of a potential SNA that would trigger the assessment requirement under this clause.

5. In summary, while the Council is obliged to give effect to the NPS-IB and will undertake the necessary preparations in due course, it is not considered reasonably practicable in the time available to give effect to the NPS-IB through PC14.

6. Further, in implementing requirements for the identification and protection of SNAs/ SESs, the provisions of the NPS-IB (s3.2(1)(c) and 3.8(2)) require that the Council "*must engage with tangata whenua, people and communities (including landowners)*". Such engagement with tangata whenua and others has not occurred in respect of PC14.

Q2. If a submitter presents evidence that an additional site should be protected as an SES (and therefore be part of the QM), does the Panel have jurisdiction to assess /

[16] Section 3.10(2) of the NPS-IB
[17] Section 3.10(3) of the NPS-IB
[18] Section 3.16(1) of the NPS-IB

implement that relief? For a site not currently listed as a SES, would this be a new QM or an existing QM?

7. While there is some ambiguity, the Council prefers the interpretation that a proposal to extend an existing SES by adding an adjacent site or proposing a new site that is not related to/not an extension of an existing SES, would be considered as a new QM.

8. The Council considers submitters are entitled to request in the context of an Intensification Planning Instrument that a QM applies to a site. However, any such request would still need to satisfy the usual case law requirements relating to scope. That consideration will be fact specific, particularly in considering whether there is potential prejudice to persons who may be denied an effective opportunity to participate.

9. In the case of SESs, the Council has not proposed making changes to the sites subject to SESs through PC14. If it did so, the Council would undertake specific consultation, including to meet the requirements of the NPS-IB to engage with "*tangata whenua, people and communities*", as discussed above.

10. In this context, the Council does not consider that persons could reasonably have anticipated that additional SES might be added through submissions on PC14, and therefore considers that any such requests would be out-of-scope.

Q3. Would a 'buffer' added to an existing SES or other existing overlay QM be a new QM as opposed to an existing QM? Alternatively, could it be implemented by the Panel via a matter of discretion that could be considered as part of any relevant non-permitted activity resource consent?

11. Consistent with the above answer to Q2, the Council prefers the interpretation that adding a 'buffer' overlay around an existing SES QM site would be considered a new QM.

12. Adding to matters of discretion for relevant non-permitted activities in the "buffer zone" would not solve the issue of permitted activities being able to carry on and potentially adversely affect the SES. It would also require either an overlay on the planning maps to show the extent of a buffer or for the matter of discretion to state the width/extent of a buffer within which the matters would need to be considered. Either way, it would not solve the problem of potential adverse effects from permitted activities within the "buffer zone".