



**TO:** Ministry for the Environment

**DATE:** 21 July 2022

**SUBMISSION ON:** Draft National Policy Statement for Indigenous Biodiversity – Exposure Draft

**FROM:** New Zealand Kiwifruit Growers Incorporated (NZKGI)  
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## 1 Introduction

- 1.1 New Zealand Kiwifruit Growers Inc (NZKGI) is a grower advocacy body for New Zealand Kiwifruit Growers. The kiwifruit industry is New Zealand's largest horticultural earner. Kiwifruit exports were worth \$3.6 billion in the financial year 2020/2021 and sales are expected to grow to \$4.5 billion by 2025. By 2030 Māori grower revenue is estimated to grow from \$271m to \$638m per year.
- 1.2 Kiwifruit provides the highest per-hectare return in New Zealand's primary sector – \$76,722 per hectare for Green and \$177,846 per hectare for SunGold in 2020/21. Just 5% of all producing orchards are greater than 10 ha, with the median orchard being approximately 3 ha in size.
- 1.3 The kiwifruit industry is a major contributor to regional New Zealand returning \$2.25 billion directly to rural communities in 2020/21. There are approximately 2800 growers, 14,000 ha of orchards, 9,250 permanent employees and up to 24,000 jobs during the peak season.
- 1.4 Kiwifruit is grown in eight regions however much of New Zealand's kiwifruit (80%) is grown in the Bay of Plenty region where the soils are generally deep and free draining. The regional contribution and producing areas for New Zealand kiwifruit are summarised in Figure 1.



Figure 1: Regional Contribution and Producing Area<sup>1</sup>

1.5 NZKGI generally supports the submission of HortNZ. This submission has been prepared specifically to consider the potential effects of the DNPSIB on kiwifruit growers.

## 2 Background

2.1 For many kiwifruit growers, an appreciation of the indigenous biodiversity that exists on and near their properties is one of the reasons they choose to live there.

2.2 The industry recognises that the protection of indigenous biodiversity is a key consideration in regard to meeting customer's expectations and therefore a fundamental part of doing business, and indigenous biodiversity is now an integral component of Good Agricultural Practice (GAP) programmes.

2.3 Zespri International Ltd ("Zespri") runs a GAP programme which is certified to the GLOBAL G.A.P. standard. This programme includes assessing orchard management systems and the activities that are undertaken on orchards.

2.4 Attachment 1 is an extract from the Zespri Grower Manual. The Manual contains a checklist of criteria for growers certified to Zespri GAP under Zespri Production Requirements that must be met in order to comply. Growers are currently required to have a documented Environmental Policy and Conservation Action Plan for the orchard.

2.5 Attachment 2 is the interim GLOBALG.A.P version 6 standard which will be rolled out for growers to implement and be audited on next year. This will strengthen the requirements for growers in terms of biological diversity. The requirements include a documented biodiversity plan to protect biodiversity.

<sup>1</sup> NZKGI (2021) The Voice of New Zealand's Kiwifruit Growers. New Zealand Kiwifruit Growers Incorporated.

2.6 Pockets of indigenous vegetation often exist in close proximity to kiwifruit orchards. To illustrate this, Figure 2 shows one example of a kiwifruit orchard at Oropi, near Tauranga. The various parcels of land that define the boundaries of the property are shown by the blue lines. There are two biodiversity areas (one of which is also classified as an SNA) in the immediate vicinity of the kiwifruit blocks. The biodiversity area that is also an SNA is shown by the pink cross hatching. Its site number is RAP39 and it is noted as forest habitat. The other biodiversity site is shown by yellow cross hatching and is 275.3814 ha in size.



Figure 2: Kiwifruit Orchard at Jacks Lane. (Image supplied by BOPRC)

2.7 The purpose of Figure 2 is to illustrate that SNAs, biodiversity sites and other areas of indigenous vegetation are often located near and/or within kiwifruit orchards. They occur on both private and public land.

2.8 In some areas, pockets of native vegetation exist today solely as a result of the conversion of land from pastoral use to kiwifruit. While kiwifruit is generally grown on flatter areas with suitable soil type, the regeneration of native vegetation has occurred in areas that are less suitable for kiwifruit, e.g. gullies, steep areas and wet areas.

2.9 NZKGI notes that indigenous biodiversity means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of flora, fauna, and fungi, and their habitats. Like most private land in New Zealand, to date there has been very little, if any, ecological monitoring undertaken by appropriately qualified and experienced ecologists for the full range of

indigenous species that may be present on kiwifruit orchards, and the pockets of indigenous vegetation that may be located nearby. This is not surprising, given that extensive ecological monitoring is generally only undertaken to support resource consent applications for changing land use.

- 2.10 It is also noted that some indigenous species (e.g., skinks, frogs and bats) are cryptic and difficult to find without the assistance of appropriately trained and experienced ecologists and for this reason, some species of indigenous fauna may be present in some areas without the knowledge of the landowner let alone the local authorities.
- 2.11 In addition, for some species, monitoring can only be carried out at certain times of the year and/or when environmental conditions are suitable (e.g., skinks), so monitoring for the possible range of indigenous biodiversity that may be present at a site can involve repeat visits over different times of the year. It can therefore be expensive and time consuming to complete, especially if a monitoring season is missed and there is a need to wait until the following year to complete the surveys.
- 2.12 For local authorities, aerial imagery is an effective means of monitoring the possible extent of indigenous vegetation that exists within a district and at property level. Ground truthing is required to confirm the species of indigenous vegetation that exists in an area. In some, but not all cases, local authorities have ground-truthed existing SNAs in response to feedback from landowners, but they may not have undertaken other extensive ecological surveys. This is not surprising given the large number of SNAs that would require surveying, the finite number of ecologists to do the work and council resourcing.
- 2.13 While local authorities may understand to a reasonable degree the extent of the indigenous vegetation that exists on individual properties, it is likely that the full range of indigenous fauna that may be present within a large number of SNAs, is currently unknown. To identify SNAs, local authorities will draw on scientific reports and local knowledge where it exists to assist them, but this information is often limited.
- 2.14 Similarly, there is often a lack of detailed information available for indigenous biodiversity that may be located outside of SNAs. For this reason, there is a paucity of information for all parties (in this case growers and local authorities) to draw upon. This means that a considerable amount of ecological surveying is still required to properly understand the species of indigenous biodiversity and the ecological integrity of SNAs and indigenous biodiversity outside SNAs in Aotearoa.
- 2.15 In NZKGI's view, considering that SNAs are identified for the public good, there needs to be some consideration of who pays in terms of the ground truthing of existing and proposed SNAs, where this has not been carried out to date.
- 2.16 This is not a new concept. NZKGI notes that Section 6.2.1 of the Hauraki District Plan states that in relation to existing SNAs, where an application for resource consent is proposed for the removal, clearance or destruction of Significant Natural Area vegetation that has not been ground-truthed, financial assistance for ground-truthing from Council is available.
- 2.17 Overall, it appears from the DNPSIB that where required, the onus and the cost of undertaking indigenous biodiversity monitoring data in relation to existing and

proposed activities associated with kiwifruit orchards will fall on the growers. From a practical perspective, the most affected growers will be:

- those with existing orchards that are operating in close proximity to, and have the potential to adversely affect existing and proposed SNAs and indigenous biodiversity outside of SNAs, and,
- growers who wish to undertake new kiwifruit development that is unable to avoid adverse effects on indigenous biodiversity outside SNAs.

2.18 We set out below our thoughts on what the wording of the DNPS-IB means for kiwifruit growers. Our relief sought and requested wording changes are detailed in the table appended to this submission.

### **3 General Comments on the DNPSIB**

3.1 NZKGI is generally supportive of the objectives of the DNPSIB and the concept of Te Rito o te Harakeke, i.e., to maintain the integrity of indigenous biodiversity.

3.2 NZKGI's view is that in order to maintain the concept of Te Rito o te Harakeki, it is important to consider both the **quality** and the **quantity** of the nation's indigenous biodiversity.

3.3 In relation to **quality**, in NZKGI's view, pests and diseases remain the major threat to Aotearoa's existing indigenous flora and fauna, and they need to be addressed as a priority within existing SNAs in order to see some real biodiversity gains. A nationwide, non-regulatory drive to engage landowners in pest and disease control on private land would see some real gains in our view.

3.4 In addition, there may be other cost-effective actions that can be undertaken by landowners to support indigenous biodiversity, e.g., lizard lounges. Kiwifruit growers have a role to play in this regard, particularly where SNAs and areas of indigenous biodiversity outside of SNAs border their orchards.

3.5 From a practical perspective, it is difficult for growers to know how to protect indigenous biodiversity and ecological integrity on pockets of native bush that may be located on their land when they don't know what exists there. Obtaining this information for individual sites would be expensive, time consuming and difficult, and is currently impractical, but that does not mean that improvements cannot be made.

3.6 Non-regulatory guidance to growers on a local level on how they can help maintain and improve indigenous biodiversity on their land is likely to receive good uptake by the industry and can be incorporated within individual grower's biodiversity plans.

3.7 In relation to **quantity**, Regulation 3.22 is focussed on increasing vegetation cover. It will require every regional council to 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. NZKGI is of the view that:

- priority should be given to protecting and enhancing what we already have through improved management including pest and disease control and other practical interventions, and

- councils in conjunction with communities should decide where it is appropriate to increase the percentage of indigenous vegetation cover in their regions, and to what extent, rather than imposing the proposed target across the whole country.

3.8 We set out below our assessment of how the DNPSIB could affect the kiwifruit industry, including our relief sought in the form of proposed amendments to the wording.

#### **4 How Would the DNPSIB Provisions Affect Existing Kiwifruit Growers?**

4.1 Regulation 3.15 states that local authorities must make or change their plans to ensure that existing activities identified in relevant regional policy statements may continue as long as the effects on any SNA (including cumulative effects):

- (a) are no greater in intensity, scale, or character over time than at the commencement date, and
- (b) do not result in the loss of extent or degradation of ecological integrity of the SNA.

4.2 In this regard, NZKGI is considering how Regulation 3.15 could impact activities associated with kiwifruit orchards that are located adjacent to, or within close proximity to existing SNAs.

4.3 In relation to (a), NZKGI has concerns that there will be insufficient information at the commencement date for local authorities or landowners to be able assess the effects that existing activities are having on the ecological integrity of the SNA, and for that reason it will be difficult from a practical perspective for all parties to determine whether the effects are greater in intensity, scale or character over time. The reality is that to date, the monitoring of indigenous biodiversity has been insufficient to set a baseline at the commencement date.

4.4 In addition, in relation to (b), NZKGI has concerns that where an orchard is located immediately adjacent to, or in close proximity to an SNA, the onus will be on kiwifruit growers to demonstrate to the local authorities that existing activities are not having adverse effects (including cumulative effects) that will result in the loss of extent or degradation of the ecological integrity of the SNA. This suggests that rigorous ecological monitoring of all likely indigenous species may be necessary for kiwifruit growers to demonstrate that the ecological integrity of the SNA is not degraded, so that existing activities can continue.

4.5 There is also very little scientific information and monitoring data to demonstrate how some activities associated with kiwifruit orchards could affect indigenous species, and significant research and therefore cost will be needed to prove a negative. Regulation 3.7 states that local authorities must adopt a precautionary approach towards proposed activities where:

- (a) the effects on indigenous biodiversity are uncertain, unknown, or little understood; but
- (b) those effects are potentially significantly adverse.

- 4.6 NZKGI is concerned that where there is a lack of scientific data to demonstrate that activities are not degrading the ecological integrity of an SNA, councils will adopt the precautionary approach to the detriment of existing activities.
- 4.7 NZKGI would prefer instead that Regulation 3.15 includes a very clear statement that existing lawful activities at the commencement date are not regulated at all by the NPSIB.
- 4.8 Alternatively, NZKGI would prefer that Regulation 3.15 is amended to ensure that existing activities can continue unless they are demonstrated to be greater than “less than minor”. This provides the opportunity to address adverse effects if and when they exist for individual operations as opposed to catching all existing activities.

## **5 How Would the DNPSIB Provisions Affect New Kiwifruit Development?**

- 5.1 Regulation 3.10 requires local authorities to make or change their policy statements and plans to include objectives, policies, and methods that require that the following adverse effects on SNAs of any new subdivision, use, or development are avoided:
- The loss of ecosystem representation and extent,
  - Disruption to sequences, mosaics, or ecosystem function,
  - Fragmentation of SNAs or the loss of buffers or connection to other important habitats or ecosystems
  - A reduction in the population size or occupancy of Threatened, At Risk (declining) species that use an SNA for any part of their life cycle.
- 5.2 It is therefore highly likely that it will not be possible to obtain a resource consent to develop new orchards (or parts thereof) within many SNAs. For the most part, this is accepted by NZKGI, provided that the SNAs have been appropriately ground-truthed and there are significant indigenous biodiversity values that ought to be protected. From a practical perspective, SNAs are often covered in bush and located in areas where it is impractical to grow kiwifruit due to the steepness of the terrain etc.
- 5.3 It is unclear whether 3.10 is intended to apply only to activities that are being undertaken within an SNA or whether it is intended to apply to activities that may be undertaken adjacent to, or close to an SNA. NZKGI assumes that new kiwifruit orchards that are to be developed adjacent to, or close to existing SNAs will also be captured by 3.10, and it will be necessary to assess the effects of the development in relation to those matters listed in 3.10(2). Further clarity as to whether this assumption is correct is required.
- 5.4 Regulation 3.16 is for the purposes of maintaining indigenous biodiversity on all areas outside SNAs other than Māori lands (because clause 3.18 applies instead). Regulation 3.16 states that local authorities must take steps to maintain indigenous biodiversity in areas to which this clause applies, including by making or changing their policy statements and plans to:
- apply the effects management hierarchy to any adverse effects on indigenous biodiversity of a new subdivision, use, or development that may be irreversible; and:

- providing appropriate controls to manage other adverse effects on indigenous biodiversity of new subdivision, use and development.

5.5 It appears therefore that if a new kiwifruit development is proposed in an area where indigenous biodiversity occurs outside of an SNA, a resource consent will likely be required. To support the resource consent application, an assessment of indigenous biodiversity by appropriately trained and experienced ecologists will be required. This will need to include a description of the adverse effects of the proposal on indigenous biodiversity and how these effects will be managed using the effects management hierarchy, the identification of taonga species and the ecosystem services associated with indigenous biodiversity, an assessment of the ecological integrity and connectivity within and beyond the site, including matauranga Māori and tikanga Māori assessment methodology where relevant. If granted the resource consent is likely to include conditions that may include a requirement for replanting, compensation etc depending on the individual circumstances and the potential for adverse effects.

5.6 NZKGI generally accepts this requirement where indigenous biodiversity outside of SNAs has special characteristics that warrant its protection. What is unclear however is the type and extent of indigenous biodiversity that is captured by this regulation. For example, is it intended to include recently planted native vegetation by a grower, and could the presence of one native tree trigger this regulation? NZKGI recommends that guidance be provided to assist in this regard.

5.7 In summary, there needs to be clearer definition around the type and magnitude of the indigenous biodiversity that triggers Regulation 3.16, so that kiwifruit growers can fully understand how it may affect their plans for future development.

## 6 Other Matters

### Biosecurity

6.1 Kiwifruit Vine Health (KVH) is a leading biosecurity organisation dedicated to supporting the New Zealand kiwifruit industry. KVH was developed in December 2010 to lead the industry response to the Psa incursion. Since November 2012 KVH has been the lead organisation responsible for managing all biosecurity readiness, response, and operations on behalf of the kiwifruit industry.

6.2 Part of KVH's role is to partner with industry and the regulatory authorities to control wild kiwifruit on a national scale. The three main reasons for controlling wild kiwifruit are to:

- reduce the chance of Psa emerging in the wild and infecting commercial vines,
- reduce pests and other diseases that may be harboured on wild kiwifruit and potentially spread to commercial vines, and
- protect indigenous biodiversity from invasive wild kiwifruit vines.

6.3 It is important that KVH can identify and remove wild kiwifruit without delay for biosecurity reasons and to protect indigenous biodiversity. To date, regional councils have made appropriate provision for the timely control of wild kiwifruit through their regional pest management strategies. The existing process works well, and it is



important that the NPSIB does not introduce additional regulations that could affect the ability to control wild kiwifruit in a timely and cost-effective manner.

- 6.4 In our view there needs to be express provision within the NPSIB for appropriate biosecurity control, including the prompt removal of wild kiwifruit within SNAs and other indigenous biodiversity areas by KVH in conjunction with the relevant regulatory authorities through the Regional Pest Management Plans. Without this express provision, we see the potential for unintended consequences that may result in resource consents being required for wild kiwifruit removal.

It is also noted that in some cases, bush boundaries are managed by orchardists to avoid the impacts of insects such as passion-vine hopper which causes fruit spoilage. This is a challenging pest with limited control options and can cause significant losses for some of our already marginal green orchards. It is important that the NPSIB does not disallow this control. Some consideration for current recommended cultural practices on a case-by-case basis needs to be available and ongoing.

#### Specified Highly Mobile Fauna

- 6.5 Regulation 3.20 states that every regional council must record areas outside SNAs that are specified highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), territorial authorities in its region, and the Department of Conservation. The assumption is that highly mobile fauna areas could include areas with indigenous and/or exotic species of vegetation.
- 6.6 Local authorities must include objectives, policies or methods in their policy statements and plans for managing the adverse effects of subdivision, use and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range. They must also provide information to their communities about specified highly mobile fauna and their habitats, and best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.
- 6.7 A list of specified highly mobile fauna species is presented in Appendix 2. The list includes birds and bats. NZKGI is not aware of any bat monitoring that has been undertaken in kiwifruit orchards, so whether they exist or not is unknown.
- 6.8 As a general rule, the specified highly mobile fauna species are not common in kiwifruit orchards, but it is possible that some of them may visit from time to time, especially if an orchard is located close to the habitat of these fauna.
- 6.9 Coleman (2010)<sup>2</sup>, in a PhD investigation of the effects of sustainable management practices on birds in Aotearoa New Zealand orchards, found 16 indigenous and 21 introduced bird species that utilise green, gold, or organic kiwifruit orchards. Of the species identified, all are considered to be Not Threatened other than pihoihoi/New Zealand pipit which is classified as At Risk Declining (Robertson et al. 2017<sup>3</sup>). The pihoihoi/New Zealand pipit is included within the list of specified highly mobile fauna

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<sup>2</sup> Coleman G.J 2010: Birds as indicators of sustainable management practices on New Zealand kiwifruit orchards (Doctoral dissertation, University of Otago).

<sup>3</sup> Robertson H.A., Baird KI, Dowding J.E., Elliott G.P., Hltchmough R.A., Miskelly C.M., McArthur N., O'Donnell C.F.J., Sagar P.M., Scofield R.P., and Taylor G.A. 2017: Conservation status of New Zealand birds, 2016. *Nw Zealand Threat Classification Series 19*. Department of Conservation, Wellington. 23 pp.

species presented in Appendix 2 of the DNPSIB. It is possible that some bird species listed in Appendix 2 may be seen on kiwifruit orchards from time to time, especially if there is habitat or a food source nearby.

- 6.10 What is unclear is whether a specified mobile fauna area is intended to be an area where the fauna lives and/or nests, as opposed to where it occasionally visits, and whether kiwifruit orchards could be defined as specified mobile fauna areas. Further clarification is required.
- 6.11 NZKGI is also of the view that the time of year that the specified highly mobile fauna is present is relevant and should be recorded. It is entirely possible that highly mobile fauna may not be present either in orchards or within SNAs that are located in close proximity to orchards at the same time that activities such as spraying are being undertaken. The possible effects of bird scarers on highly mobile fauna that may be present either on or adjacent to kiwifruit orchards, and the implications for their use given the current wording of the DNPSIB is of concern to NZKGI.
- 6.12 We also note that the New Zealand Dotterel is included in the list of specified highly mobile fauna species. The New Zealand Dotterel has been known to nest outside of its natural habitat in areas of active earthworks including mine sites, roads and ports. It could potentially nest in areas that are being recontoured for kiwifruit development. Further thought needs to be given to the rules that should apply if the New Zealand Dotterel nests outside its natural habitat in active construction areas. It is acknowledged that this could be considered by councils during the development of their plans as opposed to being addressed through the NPSIB.

#### Wetlands

- 6.13 In Section 1.3 the provisions relating to restoration include wetlands and reference is made to Regulations 3.21 and 3.22. Regulation 3.21 requires local authorities to prioritise a number of areas for restoration, including wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna. Regulation 3.22 is about increasing vegetation cover and the assumption is that councils will need to consider increasing wetland areas, although this is not clear from the wording of the regulation.
- 6.14 Sediment and water storage ponds on kiwifruit orchards are man-made structures that can at times have wetland characteristics and could therefore be captured by the term “wetland” and therefore the NPSIB regulations. NZKGI notes that the National Policy Statement for Freshwater Management 2020 includes policy direction around promoting restoration of ‘natural inland wetlands’, and the National Environmental Standards for Freshwater 2020 includes a permitted activity rule for restoration of natural wetlands in Regulation 38.
- 6.15 The reference to ‘wetlands’ in the DNPSIB means that artificial wetlands will likely be captured, and NZKGI is concerned that this could include sediment and water storage ponds. It is recommended that 3.21 (2)(d) be amended to refer to ‘natural wetlands’ and this should have the same definition as the NPSFM. Clarification of the intent regarding wetlands in Regulation 3.22 is also requested.

## **7 Relief Sought**

7.1 We set out our relief sought in the table below.

Thank you for considering this submission.



| Provision | Support/Oppose  | Reason  | Decision Sought  |
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| 1.6       | Support in part | Add an interpretation for biosecurity.  | Amend 1.6 by adding the following:<br><b>“Biosecurity</b> means eliminating or managing pests and unwanted organisms.”<br>Amend 3.11 by adding the following:<br>“(5) Clause 3.10 does not apply to adverse effects on an SNA:<br><br>....<br>(f) for actions required for the purposes of biosecurity.” |
| 3.5 (e)   | Support         | NZKGI supports 3.5(e) on the basis that it will require local authorities to consider the importance of respecting and fostering the contribution of tangata whenua as kaitiaki and of people and communities, particularly landowners, as stewards of indigenous biodiversity, and ...                                 | Retain 3.5(e)  |
| 3.9       | Support in part | A new clause is recommended that requires territorial authorities to consider those circumstances where it is appropriate to provide financial assistance to carry out ground truthing and ecological monitoring on SNAs that are located on private land to determine the values and ecological integrity of the SNAs. | Amend 3.9 as follows:<br>“(4) The territorial authority shall consider those circumstances where it is appropriate to provide financial assistance to carry out ground truthing and ecological monitoring on private land to appropriately determine the values and ecological integrity of SNAs.”       |
| 3.10      | Support in part | It is unclear whether 3.10 is intended to apply only to activities within an SNA, or whether it is also intended to apply for activities located adjacent to, or near SNA.  | Amend the wording of 3.10 (1) to clarify, i.e. either:<br>“This clause applies to activities within all SNAs, except provided in clause 3.11”,<br>OR<br>“This clause applies to activities within and adjacent to  |

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|         |                 |  | <i>all SNAs, except provided in clause 3.11.”</i>  |
| 3.11(4) | Support in part | A new exception is required for the management of biosecurity within an SNA.   | Amend 3.11(4) as follows:<br><i>Clause 3.10(2) does not apply to an SNA, and all adverse effects on the SNA must be managed instead in accordance with clause 3.10(3) and (4), or any other appropriate management approach, if:</i><br><i>(a) The use or development is for the purposes of maintaining or restoring an SNA (provided it does not involve the permanent destruction of significant habitat of indigenous biodiversity); or</i><br><i>(b) The use or development:</i><br><i>(i) Is 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 indigenous biodiversity; and</i><br><i>(ii) The losses are necessary to meet that purpose. <u>and,</u></i><br><u>(5) The use is for the purpose of biosecurity.</u> |
| 3.15    | Support in part | NZKGI supports the provision for existing activities to continue and for regional councils to identify in their policy statements the existing activities, or types of existing activities, that this clause relates to. However, the provisions in (2) will be difficult to implement from a practical perspective. | Amend 3.15 as follows (with two options presented):<br>EITHER:<br>(1) Regional councils must identify in their policy statements the existing activities, or types of existing activities, that this clause applies to.<br>(2) Local authorities must make or change their plans to ensure that the existing activities identified in relevant regional policy statements may continue, <u>as long as the effects on any SNA (including cumulative effects):</u>   |

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|  |  |  | <p>(a) <del>are no greater in intensity, scale, or character over time than at the commencement date; and</del></p> <p>(b) <del>do not result in the loss of extent or degradation of ecological integrity of the SNA.</del></p> <p>(3) <del>If an existing activity does not meet the conditions described in subclause (2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10.</del></p> <p>OR, ALTERNATIVELY AMEND 3.15 as follows:</p> <p>(1) Regional councils must identify in their policy statements the existing activities, or types of existing activities, that this clause applies to.</p> <p>(2) Local authorities must make or change their plans to ensure that the existing activities identified in relevant regional policy statements may continue <del>as long as</del> unless the effects on the <u>SNA</u> are <u>demonstrated to be greater than "less than minor"</u>. of indigenous any SNA (including cumulative effects):</p> <p>(a) <del>are no greater in intensity, scale, or character over time than at the commencement date; and</del></p> <p>(b) <del>do not result in the loss of extent or degradation of ecological integrity of the SNA.</del></p> <p>(3) If an existing activity does not meet the conditions described in subclause (2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10.</p> |
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| 3.16     | Conditional support | NZKGI supports the maintenance of indigenous biodiversity outside SNAs where this is justified in terms of ecological value but from a practical perspective, the type and extent of vegetation that will be captured by this regulation is unclear. E.g., does it apply to one indigenous tree only and or recently/planted indigenous vegetation?  | Guidance is necessary to clarify the type and extent of indigenous vegetation that will be captured by this regulation.  |
| 3.16 (1) | Conditional support | Amend the wording to provide for the removal of wild kiwifruit to be undertaken in all areas of indigenous biodiversity outside SNAs as a permitted activity.  | Amend 3.16 (1) by adding the following wording:<br><i>"This clause applies to all areas outside SNAs, other than <u>actions required for the purposes of biodiversity and Māori lands (because clause 3.18 applies instead).</u>"</i>  |
| 3.20     | Conditional support | NZKGI supports the recording of specified highly mobile fauna areas outside SNA, however further clarification is needed. It is unclear whether a "highly mobile fauna area" will include areas where birds are found on exotic and/or indigenous vegetation, and whether the intent is to record areas that are important to the lifecycle of the species (feeding and nesting) on an annual basis as opposed to infrequent visits. For this reason, it is difficult to understand how some activities associated with kiwifruit growing (e.g. bird scaring devices) may be impacted by 3.20. | Clarify the meaning of "highly mobile fauna areas".<br>Amend 3.20 (4) as follows:<br>"Local authorities must provide information to their communities about:<br>(a) specified highly mobile fauna and their habitats; <del>and</del><br>(b) <u>an indication of the time of year that highly mobile fauna are likely to be present in highly mobile fauna areas.</u><br><u>and,</u><br>(c) best practice techniques for management adverse effects on any specified highly mobile fauna and their habitats in their regions and districts. |
| 3.21     | Oppose in part      | The reference to 'wetlands' in the DNPSIB means that artificial wetlands including sediment and water storage ponds will likely be captured.   | Amend 3.21 (2)(d) to refer to 'natural wetlands' and include the same definition as the NPSFM.   |
| 3.22     | Oppose in part      | It is noted in Section 1.3 that the provisions relating to restoration extend to include wetlands and  | Either delete the reference to 3.22 in Section 1.3 or clarify its intent regarding wetlands in 3.22.   |

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|  |  | reference is made to Regulations 3.21 and 3.22. Regulation 3.22 is about increasing vegetation cover and the assumption is that councils will need to consider increasing wetland areas but this is unclear. |  |
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Attachment 1: Excerpt from Zespri Gap Checklist: MSO

| 12.3 Biodiversity |                       |   |   |     |   |
|-------------------|-----------------------|---|---|-----|---|
| 12.3.1            | M<br>a<br>j<br>o<br>r | Is there a documented Environmental Policy and Conservation Action Plan for the orchard that outlines the objectives for improvement of the environment?  | Develop an Environmental Policy and Procedures and an Orchard Conservation Action Plan that provides evidence of commitment given to the environment. Ensure this is kept up to date and specific to the conservation goals of the orchard. | N/A | Orchard Environmental Procedure<br><br>Orchard Environmental Policy<br><br>Orchard Conservation Action Plan |
| 12.3.2            | R<br>e<br>c           | Does the plan include actions to enhance the environment for the benefit of the community or floral/fauna and does it avoid and/or rectify damage and deterioration of habitats on the orchard? | The Orchard Conservation Action Plan shall detail activities undertaken on the orchard that help protect the environment.   | N/A |   |
| 12.3.3            | R<br>e<br>c           | Does the plan consider the conversion of unproductive land to ecological focus areas for the encouragement of flora / fauna?  | Where there are any plans to convert unproductive land detail this in the Orchard Conservation Action Plan.   | N/A |   |

Growers must comply with 100% of the Major Control Points (red questions). Zespri encourages growers to comply with as many of the Recommended Control Points (green questions) as possible. This shows best practice and commitment to improving orchard management.



Attachment 2: Excerpt from Global Gap<sup>4</sup>

| Section                | Principle  | Criteria  | Level      |
|------------------------|--|---|------------|
| <b>FV-GFS 21.06</b>    | Where the operation handles or stores allergens, the operation has a documented allergen management program. | The allergen management program shall list the allergens in use, stored, or handled by workers at the site specific to prevailing regulations. Where applicable, procedures shall address identification and segregation of allergens during storage, handling, loading, and shipping as based on a risk assessment conducted by the operation. All products intentionally or potentially containing allergenic materials shall be labeled according to the allergen labeling regulations in the country of production and the country of destination.  | Major Must |
| <b>FV-GFS 22</b>       | <b>BIODIVERSITY AND HABITATS</b>   |   |            |
| <b>FV-GFS 22.01</b>    | <b>Management of biodiversity and habitats</b>   |   |            |
| <b>FV-GFS 22.01.01</b> | Biodiversity is managed to enable its protection and enhancement.  | <p>A documented biodiversity plan for the farm shall be available. This can be a generic plan that has been made farm-specific.</p> <p>This biodiversity plan shall:</p> <ul style="list-style-type: none"> <li>- Take into account local legislation and tailor the plan contents to the on-farm reality (e.g., open field, greenhouse, vertical farming, etc.)</li> <li>- Contain at least the following sections:<br/>           Baseline: Initial situation of biodiversity<br/>           Measures: How to enable protection and enhance biodiversity based on the baseline<br/>           Monitoring: Summary of results of the implementation of the measures<br/>           Adjustment: Refining the measures based on monitoring results</li> <li>- While recognizing that the legal scope of the producer is on the farm, take into account the landscape beyond the farm and encourage implementation of actions with other stakeholders, for</li> </ul> | Minor Must |

<sup>4</sup> **Integrated Farm Assurance GFS** Principles and Criteria for Fruit and Vegetables, English Interim Final Version 6.0\_APR22.

| Section                | Principle                  | Criteria   | Level         |
|------------------------|----------------------------|--|---------------|
|                        |                            | <p>example via informal collaboration, formal projects, sector and network initiatives, etc.</p> <p>With regard to protection of biodiversity, the guideline provides reference.</p> <p>In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.</p>  |               |
| <b>FV-GFS 22.01.02</b> | Biodiversity is protected. | <p>The biodiversity plan shall be implemented in order to protect biodiversity, for example via one or more of the following practices or other similar practices:</p> <ul style="list-style-type: none"> <li>- Integrated pest management (IPM)</li> <li>- Implementing measures to mitigate potential negative impact of artificial illumination on biodiversity, especially during the night (e.g., screens or painted glass that helps mitigate potential impacts on migratory birds or other nocturnal biodiversity)</li> <li>- Allowing for seasonal fallow</li> <li>- Creating shelters for beneficial predators</li> <li>- Leaving areas for habitat near fields or greenhouses</li> <li>- Creating buffer zones along aquatic ecosystems and between production areas or implementing other water management practices</li> <li>- Enabling soil health and soil biodiversity via crop rotation, reduced or no-tillage farming, erosion control, and/or other soil management practices</li> <li>- Optimizing and, if possible, reducing the use of agrochemicals and fertilizers</li> <li>- Implementing measures to protect species</li> </ul> | Minor<br>Must |

| Section                | Principle                 | Criteria  | Level  |
|------------------------|---------------------------|---|--------|
|                        |                           | <p>With regard to protection of biodiversity, the guideline provides reference.</p> <p>In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.</p>  |        |
| <b>FV-GFS 22.01.03</b> | Biodiversity is enhanced. | <p>Available evidence, such as maps, aerial photos, on-farm visual evidence, documents issued by local or national authorities or authorized service providers, should indicate that the biodiversity plan is implemented to enhance biodiversity, for example via one or more of the following practices:</p> <ol style="list-style-type: none"> <li>1) Restoring, improving, or enlarging fragments of any size of:               <ol style="list-style-type: none"> <li>a) Forests, wetlands, mangroves, grasslands, peatlands, etc.</li> <li>b) Areas with legal protection or areas effectively protected by other means (e.g., protected areas with relevant categories of the International Union for Conservation of Nature (IUCN))</li> <li>c) Areas recognized as “High Conservation Value” (HCV) areas</li> </ol> </li> <li>2) Avoiding or controlling invasive alien species</li> <li>3) Other actions by the producer and partners</li> </ol> <p>With regard to protection of biodiversity, the guideline provides reference.</p> <p>In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable.</p> | Recom. |

| Section                | Principle   | Criteria   | Level      |
|------------------------|---|--|------------|
| <b>FV-GFS 22.02</b>    | <b>Ecological upgrading of unproductive sites</b>   |  |            |
| <b>FV-GFS 22.02.01</b> | Unproductive sites are used as ecological focus area to protect and enhance biodiversity.   | <p>Available evidence should indicate that unproductive sites (e.g., low-lying wet areas, woodlands, headland strips, or areas of impoverished soil, etc.) are addressed in the biodiversity plan and used to protect or enhance biodiversity.</p> <p>The evidence used in the previous three principles and criteria on biodiversity, if applied in on-farm unproductive sites, can be accepted here too.</p>   | Recom.     |
| <b>FV-GFS 22.03</b>    | <b>Natural ecosystems and habitats are not converted into agricultural area</b>   |  |            |
| <b>FV-GFS 22.03.01</b> | On the farm (within the farm boundaries), no natural or seminatural ecosystems and habitats, and no areas with legally recognized conservation value (or effectively protected by other means), have been converted into agricultural area or into other uses since 1 January 2014. | <p>Available evidence, such as maps, aerial photos, or documents issued by local or national authorities or authorized service providers, shall indicate that since 1 January 2014, no conversion into agricultural area or into other uses has occurred in parts of the farm (within the farm boundaries) that fulfil at least one of the following characteristics:</p> <ul style="list-style-type: none"> <li>- Natural ecosystems and habitats (e.g., forests, wetlands, mangroves, grasslands, peatlands, etc.)</li> <li>- Areas where legal protection prevents such conversions (e.g., protected areas recognized by national or local legislation, areas with relevant categories of the International Union for Conservation of Nature (IUCN), or areas that are protected via other effective means)</li> <li>- Areas recognized as “High Conservation Value” (HCV) areas</li> </ul> | Major Must |

| Section                | Principle  | Criteria  | Level      |
|------------------------|--|---|------------|
| <b>FV-GFS 22.03.02</b> | On the farm (within the farm boundaries), all natural or seminatural ecosystems and habitats and all areas with legally recognized conservation value (or effectively protected by other means) which had been converted into agricultural area or into other uses between 1 January 2008 and 1 January 2014 are already restored, under restoration, or will enter binding restoration. | Available evidence, such as maps, aerial photos, or documents issued by local or national authorities or authorized service providers, shall indicate that restoration has been completed, or is in implementation or under planning for binding implementation, to recover the entire extent of the parts of the farm (within the farm boundaries) that have at least one of the characteristics listed below, where those parts of the farm had been converted into agricultural area or into other uses between 1 January 2008 and 1 January 2014:<br><ul style="list-style-type: none"> <li>- Natural or seminatural ecosystems and habitats (e.g., forests, wetlands, mangroves, grasslands, peatlands, etc.)</li> <li>- Areas where legal protection prevents such conversions (e.g., protected areas recognized by national or local legislation, areas with relevant categories of the International Union for Conservation of Nature (IUCN), areas that are protected via other effective means)</li> <li>- Areas recognized as “High Conservation Value” (HCV) areas</li> </ul> | Major Must |
| <b>FV-GFS 22.03.03</b> | Management of biodiversity is supported with metrics.  | Acceptable metrics allow calculating, at minimum, the following:<br><ul style="list-style-type: none"> <li>- The total area (in ha or m<sup>2</sup>) of natural or seminatural ecosystems and habitats, legally recognized protected areas, or areas effectively protected by other means (on 1 January of the certification body (CB) audit year)</li> <li>- The total area (in ha or m<sup>2</sup>) converted into agricultural use or into other uses between 1 January 2008 and 1 January 2014 (on 1 January of the CB audit year)</li> <li>- The total area (in ha or m<sup>2</sup>) that has already been restored (on 1 January of the CB audit year)</li> <li>- The total area (in ha or m<sup>2</sup>) that is under restoration (on 1 January of the CB audit year)</li> </ul>  | Recom.     |

| Section             | Principle   | Criteria  | Level      |
|---------------------|---|---|------------|
|                     |   | <p>- The total area (in ha or m<sup>2</sup>) that is planned for binding restoration (on 1 January of the CB audit year)</p> <p>Additional biodiversity aspects/metrics can also be calculated, where applicable.</p> <p>In Option 2 producer groups, evidence at quality management system (QMS) level is acceptable. Results (data) on metrics at producer group and farm level should be available to indicate compliance.</p>                   |            |
| <b>FV-GFS 23</b>    | <b>ENERGY EFFICIENCY</b>  |   |            |
| <b>FV-GFS 23.01</b> | On-farm energy use is monitored.  | <p>There shall be records of on-farm energy use (e.g., invoices detailing energy consumption). The producer (or, where applicable, the quality management system (QMS) manager) shall be aware of where and how energy is consumed on the farm and through farming practices. In the absence of energy meters (e.g., for small producers), estimations are acceptable.</p> <p>In Option 2 producer groups, evidence at QMS level is acceptable.</p> | Major Must |
| <b>FV-GFS 23.02</b> | Based on the results of the monitoring, there is a plan to improve energy efficiency on the farm. | <p>A documented plan identifying opportunities to improve energy efficiency shall be available.</p> <p>The plan can be a multiyear plan if the specific reality of the producer requires it.</p>  | Minor Must |
| <b>FV-GFS 23.03</b> | The plan to improve energy efficiency considers minimizing the use of nonrenewable energy.        | The producer shall consider reducing the use of nonrenewable energy to the lowest possible and using renewable energy instead.  | Minor Must |
| <b>FV-GFS 23.04</b> | Management of energy is supported with metrics.   | <p>Acceptable metrics allow calculating, at minimum, the following:</p> <p>- The total energy use at the farm for each energy source/month</p>  | Recom.     |

Note:

Each 'Principle' within a GLOBALG.A.P. and ZespriGAP checklist is assigned a category which indicates to the grower what needs to be implemented to pass the GAP audit. Those terms refer to the below:

- **Major Must:** a mandatory requirement, all Majors must be met by the grower during an audit,
- **Minor Must:** 95% of Minors must be met by the grower,
- **Recommendation:** these are considered best practice and assessed but not required to be met by the grower. Recommendations can in some cases be an indicator to the growers and industry on future requirements and expectations by market. So they allow industry time to prepare and implement in time once they shift to a more mandatory requirement.