

Proposed National Statement for Indigenous Biodiversity.

Draft National Policy Statement for Indigenous Biodiversity (ME 1472)

TO: Ministry for the Environment
(indigenusbiodiversity@mfe.govt.nz)

Submission on behalf of [REDACTED]

Personal Information:

Company Name: [REDACTED]

Surname and Given Names: [REDACTED]

[REDACTED]

Contact Person: [REDACTED]

Address: [REDACTED]

Region: [REDACTED]

Country: New Zealand

Email: [REDACTED]

Submitter type: Individual (landowner)

Overall position: Oppose in part

Introduction

1. This Submission is made by [REDACTED], [REDACTED], [REDACTED], [REDACTED], as directors and majority shareholders of [REDACTED].

Our Farm

2. We own, operate and live on a [REDACTED] [REDACTED]. The farm has been in our family for 5 generations. It was originally purchased by [REDACTED], and has been in the family ever since. Each subsequent generation has grown up on and operated the Farm. [REDACTED] grew up on the Farm, moved away to attend university and has returned to live on the Farm with his family, and take over the operations from his father. We intend to keep the Farm in the family for generations to come, and we are stewards of this land for our future generations.
3. This is typical of the surrounding area, which have many family farms with the younger generation returning to the land after higher education and off farm experience. Our farm is located in proximity to the Waihou River, and we have one stream which runs through our farm and another on our boundary.
4. As stewards of the land, we have proactively and voluntarily undertaken a number of environmental and land protection initiatives at our own cost on our land. We have received no financial support from either the local councils or the government for these initiatives. These include:

- (a) Decreasing our stocking rate, and implementing measures to increase our per head output. Other on-farm changes, including no on-farm winter grazing.
 - (b) Fencing and planting riparian areas. This involves maintaining both the fences and riparian areas to prevent weeds, undertaking supplementary planting and to prevent erosion of the stream banks.
 - (c) Creating a [REDACTED] constructed wetland on our land, which we actively maintain and manage waterflow (as it does not have its own natural water source). This constructed wetland is significant in our wider area as it is the only pond which does not suffer from botulism which is a result of our continuing efforts to manage water levels, clean and maintain drains and undertake ongoing maintenance to keep out weeds and pests.
5. In addition to these measures we had plans to:
- (a) Extend the natural area around our constructed wetland by creating a buffer zone around the ponds;
 - (b) Increasing Manuka planting, installing hives on the property and exploring honey as a supplementary income;
 - (c) Retiring the more marginal areas of the Farm into planting; and
 - (d) Building a stand-off pad, which is a significant capital cost.
6. However these plans are now on hold due to real concerns about the potential effects of the draft National Policy Statement for Indigenous Biodiversity (**NPS-IBD**) and how it might impact both our farm and other farmers throughout the region.

Our concerns using our farm as a specific example

7. We would like to stress that we fully support the goal of preserving and enhancing indigenous biodiversity as can be evidenced by the significant measures which we have already undertaken and continue to undertake at our own cost and time. However we consider that the NPS-IPB as drafted has a number of unintended consequences and does not strike the right balance in supporting farmers who are actually undertaking proactive measures on their farm. In fact, it has the perverse opposite effect of disadvantaging farmers who have been voluntarily undertaking re-planting on their farms.
8. The NPS-IBD as currently drafted, would create a number of perverse and unintended outcomes, which in our view will make it less likely that farmers will undertake conservation initiatives, for fear that other parts of their property will be sterilised by buffer distances. The NPS-IBD as currently drafted does not take into account farm type, management techniques, rainfall, soil type etc and ignores the reality that farmers need flexibility around land use practices.
9. In our view, the NPS-IBD as currently drafted, will stifle on-farm innovation and management practices. It will discourage farmers from considering alternative land uses for parts of their property, unless they can have absolute certainty that it would not either be captured by the

NPS-IBD (including buffer distances) or undermine their 'existing use' rights. For example, if planting of marginal areas is being considered by farmers like us, we will be forced into a position of considering whether we should instead plant exotic species like pine over Manuka or indigenous species, to avoid losing areas of grazing land through the NPS-IBD. That is clearly not a good environmental outcome.

10. In order for conservation actions to be enduring, we consider they require landowner and community support and leadership. Provisions relating to biodiversity should not penalise the landowners who have done the most to protect indigenous biodiversity. We seek changes to the policy to ensure that indigenous biodiversity can be integrated with farming land use practices and activities, so that they can co-exist for mutual benefit.
11. In our view, changes are required to the NPS-IBD to ensure that existing conservation efforts are rewarded, and any ongoing conservation is supported and incentivised, rather than being considered a liability. As set out above, a 'stick' approach, is likely to undermine existing and future conservation efforts.
12. We set out below specific examples of our concerns with the NPS-IBD as currently drafted, where possible using examples of how it will unintendedly affect our Farm:

No Clear Wetland definition:

13. The draft NPS-IBD contains no definition of 'wetland' or 'former wetlands'. This could potentially apply to large tracts of land, which were formerly wetlands but have been drained for farming purposes. It could also potentially capture constructed wetlands which have been created by farmers and bunded, such as the one on our farm which doesn't have its own water source, and requires ongoing maintenance. In our view, such constructed wetlands, included any for effluent management, should not be included within the concept of 'wetlands'.

No recognition that wetlands, riparian areas, and indigenous forest need to be managed.

14. The only reason we have the only pond in our area without botulism and healthy bird life is because of the ongoing active maintenance which we undertake. Natural areas need management – for example fences need to be maintained (which includes keeping them free from vegetation), pests and weeds (including weed trees) must be removed and waterways must be managed to keep water flow and to avoid stagnation. Currently on our farm as common in New Zealand, it is the farmer that undertakes this work for the public benefit to avoid these areas simply becoming weed choked stagnant areas. However if such areas are defined as Significant Natural Areas (**SNA**) then it is unclear whether farmers will be able to continue to undertake the maintenance of these areas required without a resource consent. The impact of this is we would no longer be able to undertake the maintenance and ongoing management of the wetland to keep it a healthy and functioning wetland area.
15. The s32 analysis is inadequate because it fails to take into account the ongoing costs to individual farmers associated with the proposals. There is no recognition of the costs associated with maintaining natural areas, including fencing and pest and weed management, or the costs of resource consent applications, including technical advice that would be required to meet any assessment of environmental effects.

16. Specific outcome sought: Make it clear that ongoing maintenance activities can be undertaken by a farmer in any SNA on their land, without the need for a resource consent.

No provision for emergency and preventative actions required by farmers

17. Following on from the point above, (particularly in relation to waterways) a farmer must from time to time take immediate action to avoid loss to property or life or to avoid or prevent future damage occurring. The reality is farmers are the stewards for the land they own, and are the only ones available to undertake works which are required to prevent loss of property and damage and loss of life. For example if a stream bed collapses and creates a temporary dam, or there is a severe weather event often a farmer must take immediate action or preventative action. In our experience on our farm, the local authorities do not have the resources to assist and it is up to us to undertake these actions. However again under the current drafting of the NPS-IBD such activities may be prohibited within and around an SNA without a resource consent.
18. Specific outcome sought: Make express that farmers / landowners can continue to undertake emergency and preventative actions in SNAs to avoid damage to property and life.

Vague and subjective definition of Significant Natural Areas

19. Currently there is large uncertainty around what will be classified as a Significant Natural Areas (**SNA**) in particular:

- (a) Current definition and criteria for identification of an SNA is too broad and potentially captures all indigenous areas, not just those that are truly significant. Criteria for definition of SNAs are not robust enough, currently relying on District level assessment (clause 3.8) which refers to assessment criteria (Appendix 2 and later Appendix 1). However these “criteria” provide only very broad, categories and principles which confer large qualitative judgement to the assessor and arguably could capture any intact or degraded indigenous bush or wetland within a district. There are no guides (minimum sizes, species index or any indicators) for how SNAs are objectively identified and leave a blank slate for whichever ecologist undertakes the assessment to make the determination based on their subjective judgement. Given the large implications to landowners, there needs to be a far more robust and objective set of criteria developed for defining an SNA.

- (b) Many Districts (including ours) do not have expertise to undertake SNA identification: Many districts will not have the technical expertise nor is there enough technical expertise in New Zealand to assist Regional and District Councils to identify all SNAs and mobile species across their territories within the next five years. In order to undertake this work there needs to be ground truthing and consultation with farmers, landowners and local conservation groups within the area. Only then can a truly robust classification be made. Currently as drafted, SNA classification is likely to be mostly a desktop exercise undertaken by external consultants who have never set foot within the district. This is particularly the case in our area, where the Council has taken no steps to date to identify any of these areas. When we contacted the Matamata-Piako District Council they could not provide any assistance as to how the process would work or be mapped. Given that these measures could have significant financial and on-farm management impacts on landowners, it is unacceptable to have such a high level of uncertainty.

- (c) Definition of SNA confusing: The current definition of an SNA is as follows:

SNA or significant natural area, means –

a) an area identified as an SNA in a district plan or proposed district plan in accordance with clause 3.8;

b) an area identified, before the commencement date, in a policy statement or plan or proposed policy statement or plan, as an area of significant indigenous vegetation or significant habitat of indigenous fauna, regardless of whether the area is referred to as a SNA or in any other way; or

c) an area identified as an area of significant indigenous vegetation or significant habitat of indigenous fauna as part of an assessment of environmental effects

The definition of an SNA whilst, relying on District level assessment through clause 3.8 (a)) also in b) and c) confusingly provide for historical identification of an SNA in a past plan or an AEE. This however gives no thought as to how complete or robust such assessments were or who undertook them. Under the current definition any historical AEE, or plan however produced adopting its own criteria and methodology could determine areas as SNA's bypassing the already vague process provided in clause 3.8.

- (d) Classification of areas as SNAs should only be done through informed public process: Given the significant implications for landowners whose lands are classified as an SNA this should only be done through an informed forward-looking public process (such as a plan change as provided for by clause 3.8) by appropriately qualified experts, following clear robust criteria and guidelines. This will ensure there is not disparity among districts in their classification as to what is an SNA and the community and affected landowners are able to have input into the process.

Buffer zones vague

20. Clause 3.9 requires local authorities to ensure any new uses that potentially affect an SNA are 'avoided'. As there is no defined buffer distance as to when an activity could be deemed to 'affect' an SNA, this is likely to lead to an outcome where if any farmer wants to do something new on his farm anywhere in the vicinity of an SNA, he will need a resource consent (although the ability to even obtain such a consent is also far from clear, given the 'avoid' direction).
21. Given the extremely vague definition of an SNA, this means farmers are likely to have large parts of their land locked into the exact farming pattern it currently is. This is unworkable for any farmer. For example, on our farm we rotationally crop in land adjacent to our wetland, which as pointed out above could be caught as an SNA. If this was the case, should we wish to change to another crop, or an agricultural use that is different from what was done previously then we could not do it, or would require a resource consent, which is the same thing effectively as the average farmer cannot afford a resource consent (see below). Any farmer knows that activities need to change on the land in order to maintain the health of the soil and also as market tastes and needs change. What this NPS-IBD does is essentially lock

up this “buffer land” in addition to an SNA. This will stifle on-farm innovation and discourage development of any new SNAs on existing farms.

Evidentiary burden to establish existing activities difficult

22. The evidentiary burden for existing uses are also difficult to establish: For many past activities on a farm which have been undertaken either rotationally, or historically or which may have been discontinued for a period due to market conditions, it will often be difficult to “prove” these prior uses, in order to allow them to continue as existing uses.
23. The NPS-IBD as currently drafted refers to ‘existing activities’ in the context of s10 and s20A RMA but fails to recognise that the burden of proof on establishing the existence of these activities will fall on landowners and historical record-keeping (which may not exist).
24. In addition, an existing use might have been reduced in scale because of economic conditions, but may be increased again following reduction after a number of years. Currently under 3.12 (3) this could be very difficult for a farmer who may not be able to easily “prove” their past existing envelope of effects. The current NPS-IB favours the worst environmentally performing farmers with large envelope of current effects and penalises those proactive farmers such as us who have proactively undertaken restoration and steps to reduce their envelope of effects.
25. It is imperative that section 3.12 be amended to provide for existing activities as a permitted activity, and in a way that recognises the temporal and spatial nature of existing activities, particularly farming. Specifically, vegetation clearance, cultivation and pastoral renewal may occur on a rotational basis and that should be specifically recognised in the provisions. Amendments should also be made to that section to delete any restrictions on the ability to undertake existing activities in areas which have become SNAs. As noted above, we currently have to undertake pest and weed management control, replacement planting, replacement sowing, fencing and drain management within these areas.
26. Again, the s32 analysis is completely inadequate in that it fails to assess, either quantitatively or qualitatively, the costs of the proposals on individual landowners. Any reduction in our effective milking platform will have adverse economic effects. In some cases, those effects could be significant and for farmers this could significantly impact on the viability of their farming operation. In addition, we have no certainty as to how we would fund increased compliance costs as a result of the NPS-IBD as the banks will currently not give any indication as to whether they would provide further funding for such costs.

Requirement for Resource Consent is not practical and will have significant financial impacts on family farms like ours

27. We are concerned about the need for resource consents in order to undertaken normal farming activities within an (unstated) proximity to an SNA.
28. The NPS-IBD as currently drafted does not seem to recognise the costs and uncertainties associated with consenting processes. In most cases it will be impractical and cost prohibitive for any family farmer, and we are concerned that the NPS-IBD will effectively stifle on-farm innovation.

29. Farmers are constantly changing their farming techniques and their crops / animals as the practice evolves and as the market changes. Often the difference between success and failure can come down to timing, and farmers if they are to realise a new potential market opportunity must move fast as they already need the lead time to re tool, replant in order to get something to market. Often such new experiments are uncertain, and already ride close to the line of failure, the difference being the leading farmer seizing the opportunity and taking a punt.
30. If a farmer was to have to stop, apply for resource consent, which involves an AEE and technical evidence and certainly an ecologists report, which then goes into the Council's resource consent process, to be overseen by consenting officers who have no idea of the on farm issues then it will simply be impossible for a farmer to do so. Then there is the cost of the resource consent processing fees, the expert fees and associated costs which certainly go into the tens of thousands of dollars, without any certainty of obtaining a consent.
31. The outcome is that family farmers will simply be locked in to what they currently do, which could eventually be the death knell for them and for New Zealand agricultural business. New Zealand is an agricultural country which relies on our ability to move fast and innovate, with innovation generally happening most at the family farm level.
32. For example, as set out we were looking at reforesting marginal areas and around our constructed wetland in Manuka and diversifying our income with honey. However the real fear that we face that this becomes defined as a SNA, and locks this area forever into Manuka, and potentially the area around it being a buffer we simply cannot afford the risk to do so. We are now with a very heavy heart shelving this plan to wait and see what lands with the NPS-IPB. In addition we have been forced to place our plan for a standoff pad on hold, as we cannot commit large capital costs in the face of uncertain outcomes around whether parts of our property will be 'locked up' from the NPS-IPB.

Affected landowners should be incentivised for the public biodiversity and ecosystem services they provide by protecting SNAs and forgoing development rights

33. The NPS-IB should include a mechanism to reward and fund those farmers who proactively protect biodiversity. The current NPS-IB goes about preserving biodiversity in a way that from a landowner's perspective penalises those whose farms are located in SNAs or that have proactively preserved significant areas of bush or wetlands on their land. The NPS-IB should instead build in mechanisms to reward farmers that are proactive, by providing funding and biodiversity credit offsets or other means which would financially reward the proactive farmer for preserving biodiversity on their land. Right now all it does is penalise farmers whose lands are on SNAs mostly because they have been more environmentally conscious in the past and forgone their development rights and taken proactive measures. Creating an alignment of interests is very important to get farmer buy in and support, and right now the NPS-IBD does not achieve that balance.

Financial impact on farmers not quantified and farmers unable to pass costs on

34. The changes in the NPS-IBD are being considered without first undertaking any quantification of the financial impact on farmers who will bear the cost of preserving biodiversity by forgoing their development rights within and proximate to SNA's.¹
35. There has also been no quantification of the cumulative impact on landowners from the NPS-IB and NPS-Freshwater reforms which cumulatively will place a large financial burden on individual farmers. Given most farmers do not provide their products directly to consumers (but are paid at the "gate") and are subject to cyclical commodity pricing outside of their control, it is often impossible for farmers to pass on their costs to consumers, and instead must absorb the costs themselves. We are a family farm, rather than a large corporation with farming interests, and we want to be able to continue farming on this property which holds great meaning for us and our family.
36. In addition farming by its nature is a capital intensive business and many farmers are highly leveraged. This reality must be built into any economic analysis of the impact on landowners. In addition, there is no recognition of the cumulative impact of combined central government proposals on the health and well-being of farmers and other landowners, or the flow-on impacts to families and communities.
37. In summary, while we support the overall goal of preserving and enhancing indigenous biodiversity, the draft NPS-IBD must be re-drafted to ensure that existing conservation efforts are rewarded, and ongoing conservation is supported and incentivised, rather than strangling businesses and leading to perverse outcomes that will undermine future conservation efforts.
38. Thank you for the opportunity to comment on the proposed changes. We welcome the opportunity to discuss any of the points with the Ministry for the Environment, should you require further information.
39. If there is an opportunity to be heard and speak to this submission, we would like to do so.
40. For any inquiries, please contact [REDACTED] on [REDACTED] or [REDACTED]

Yours faithfully,

[REDACTED]

Date: Thursday 12 March 2020.

¹ NPSIB Draft Section 32 Evaluation and CBA, October 2019, page 1