

**SUBMISSION ON  
PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY**

To: Ministry for the Environment  
PO Box 10-362  
Wellington 6143

Submitter: CNI Iwi Land Management Ltd

Address: c/o Deloitte  
2/1176 Amohau Street  
Rotorua 3045

Contact: Mr Alamoti Te Pou

Telephone: 021 641102  
Fax:  
Email: Alamoti@landmanagement.co.nz

Submission: **Oppose** the Proposed NPS and seek that it be substantially amended in response to the concerns expressed below or otherwise withdrawn entirely.

**Introduction**

- 1 This submission is made on behalf of CNI Iwi Land Management Limited (CNIILML). CNIILML is a wholly owned subsidiary company of CNI Iwi Holdings Limited (CNIHL). CNIILML manages the CNI Forest Lands on behalf of CNIHL and advances the objectives of CNIHL in accordance with the Deed of Settlement.
  - 2 CNIHL is the corporate trustee of the CNI Iwi Holdings Trust (Trust). The Trust is the entity that was established by eight central North Island iwi to receive the forests land settled by the Crown under the Central North Island Forests Land Collective Settlement Act 2008. The CNI Forest Lands were received as part of the settlement by the Trust on 1 July 2009 and are to be held in Trust on behalf of all beneficiaries of the CNI Iwi Collective (in excess of 100,000 people). The eight central North Island Iwi referred to above are:
    - Ngāi Tūhoe; and
    - Ngāti Manawa; and
    - Ngāti Rangitihī; and
    - Ngāti Tūwharetoa; and
    - Ngāti Whakaue; and
    - Ngāti Whare; and
    - Raukawa; and
    - The Affiliate Te Arawa Iwi/Hapū
-



- 3 As a result of the prior actions by the Crown in dedicating the land settled to forestry use, the Trust is now the owner of over 176,000 hectares of forested land in the central North Island, held for the benefit of over 100,000 beneficiaries. The Trust accordingly has as its key asset land in forestry that is the subject of forest ownership and management under Crown Forestry Licences and forestry rights granted primarily to an investor with an overseas majority ownership.
- 4 The key asset of land is an intergenerational asset. Ensuring flexibility of land use for both current and future generations is of great importance to CNI Iwi Holdings Limited. As mentioned above, the Trust is now the owner of over 176,000 hectares of forested land in the central North Island, being the bulk of the land under the Kāingaroa Forest. Of this approximately 163,500 hectares is in plantation forest with the remaining 12,500 hectares being riparian margins and indigenous reserves.
- 5 The CNIILML in its capacity as Land Manager for CNI Iwi Holdings Limited **oppose** the Proposed NPS on Indigenous Biodiversity (the **Proposed NPS**) in its current form.
- 6 Overall, the CNIILML consider that unless the document is substantially modified it will result in significant costs for limited environmental benefit, and creates real risk of exacerbating the loss of biodiversity on private land.

#### **Support for indigenous biodiversity**

- 7 The CNIILML **support** the broad objective of the Proposed NPS to maintain and enhance indigenous biodiversity, and are very conscious of the value of biodiversity. The majority of the Settlement land is under the control of third parties. Nonetheless, CNIILML endeavours to be an environmentally responsible kaitiaki and land manager that is proactive in promoting sustainable management approaches to the management of their whenua.
- 8 Kāingaroa Timberlands Limited is the holder of the Crown Forestry Licences and forestry rights for the bulk of our Settlement Land. Timberlands Limited (TL) manages Kāingaroa Forest on the behalf of Kāingaroa Timberlands. Timberlands Limited holds both FSC® (Forest Stewardship Council) and Responsible Wood certification, both which independently verify that the forests are well managed. In particular for FSC, TL must meet a number of stringent biodiversity requirements to manage rare and threatened species (including within the plantation), reserve set-asides and riparian and stream management.
- 9 The CNIILML supports the many initiatives taken by TL in the management of the indigenous biodiversity within our Settlement lands being the Kāingaroa Forest lands.
- 10 Notwithstanding its support for indigenous biodiversity, the CNIILML do **not** support the Proposed NPS in its current form, because it does not recognise the importance of landowners and occupiers in protecting and enhancing these areas. It does not incentivise them to continue to play such a role, and the nature of the policies and methods actively disempowers landowners. The design of the proposed NPS will also perpetuate the loss of rangatiratanga experienced by tangata whenua landowners, as it is another example of the Crown appropriating the right to regulate resources. Because of lack of “development” of land due to the confiscation of use of Māori Land by the Crown, this will further add to the inequitable burden of regulation that will fall on such land as a result i.e. the design of the Proposed NPS does not appropriately provide for the relationship of Māori and their culture and traditions with their taonga, nor does it support the ability to meaningfully act as kaitiaki.

#### **Recognition of Māori Landowners**

- 11 Section 1.7 of the Proposed NPS sets out the fundamental concepts that underpin the document. Foremost of these is Hutia Te Rito which quotes a whakatauki recognising the impact people have on the natural environment and its survival and enhancement. Of specific reference are the following words:

*“He aha te mea nui o te ao? Māku e kī atu, he tāngata, he tāngata, he tāngata”*

This whakataukī highlights the importance of **people in particular the landowners and occupiers** in protecting the environment. This is not reflected in the Proposed NPS however. There is little reference in the proposed NPS to the important role that these people with an intimate relationship with their land play in protecting and enhancing these areas, expressing tino rangatiratanga and kaitiakitanga. Instead it sets a regulatory framework which will work to alienate these people from such areas and from a desire to act in a positively empowered way to improve them.

- 12 To be effective in achieving all of the objectives set out in Section 2.1 of the Proposed NPS the document needs to be reframed to focus on recognising and empowering landowners and occupiers to create positive outcomes for these areas. The current approach of regulating instead of incentivising and acknowledging that these areas are part of a working landscape means that the document is taking a command and control approach that it is unlikely to result in practical benefits for our biodiversity.
- 13 The Proposed NPS also takes an overly academic approach to defining the role of Māori in protecting and enhancing indigenous biodiversity. The objectives refer to landowners ‘and’ tāngata whenua (2.1.6) and the policy refers to the role of tāngata whenua as kaitiaki. However the proposed NPS is lacking in reference and recognition of tāngata whenua as kaitiaki **and** as landowners. Section 3.3 of the Proposed NPS focusses on matters such as cultural monitoring, taonga and customary use. While recognition of these concepts are supported, for Māori these are not separate from our role as landowners but one in the same and not able to be separated. A more holistic understanding and recognition of the role of Māori and Māori ecological management processes in the Proposed NPS is required.
- 14 The need for better recognition of landowners is important for all, but this is especially important for Māori landowners whose land is generally over represented in implementing the Proposed NPS. This issue is noted in Section C.6 of the Discussion document on the proposed National Policy Statement for Indigenous Biodiversity (the Discussion Document), *“..protections for SNAs could unfairly impact on Māori, and worsen disadvantages created by historic confiscation and loss of land”*<sup>1</sup>.
- 15 This inequity is very evident in the Taupō District where around half (340,000ha) of the district has been identified as a Significant Natural Area (SNA) and around half of those are in private ownership. Of those in private ownership in excess of 80%<sup>2</sup> of SNAs in Taupō District are on Māori land. This is not including Settlement land or land held by Māori in general title. It is likely that under the Proposed NPS the number of sites and the area will grow as activities in lesser value areas will become regulated.
- 16 The reasons for this inequity are accurately identified in the discussion document as being based on the fact that Māori landowners have been historically restricted in the use of their

---

<sup>1</sup> Ministry for the Environment. 2019. *He Kura Koiara i hokia: A discussion document on a proposed National Policy Statement for Indigenous Biodiversity*. Wellington: Ministry for the Environment.

<sup>2</sup> Information provided by Taupō District Council planning Department

land. This inequity, and also in a lot of cases a desire to protect these areas, has resulted in the presence of more indigenous vegetation remaining on their land. It is also noted that our CNI Settlement land is dominated by very substantial areas of forested land containing pockets of indigenous vegetation that is as a direct result of the actions of the Crown in utilisation of the land settled on the Trust prior to settlement. In respect to the Proposed NPS this will result in the burden of regulation falling heavily and unequally on Māori and consequently penalising Māori for retaining these areas in indigenous vegetation and for receiving Settlement plantation forest land containing large areas of indigenous vegetation to settle past grievances. Māori are now required to lock these areas up as mitigation for those other landowners who have cleared their land previously.

- 17 The discussion document (page 54) also notes that the Proposed NPS is likely to impose significant constraints on Māori land. It also notes that for those with large amounts of indigenous vegetation on them, the landowners will have limited options for development. There is no response to this observation in the Proposed NPS except for provision 3.9.2.iv which refers to the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of tāngata whenua. While this is a positive reference it is likely to be applied against a dominant regulatory framework which seeks to avoid effects entirely, or to manage them through the effects management hierarchy. Such an approach has absolutely no recognition of the role of Māori and their desire to use their land in a positive manner.
- 18 The Proposed NPS with its regulatory-dominant approach has little recognition of the effect that it will have on Māori landowners, including the owners of Settlement land. The effect is to seriously undermine Māori control and management over what Māori own, and to constrain economic and thus cultural and social outcomes. This is because the Proposed NPS will give territorial authorities no choice but to identify the vast areas of indigenous vegetation within the CNI estate as SNA's and, based on the direction to avoid effects, make use of these areas non-complying. This is being done due to the national importance of these areas, however there is no recompense provided to landowners. For Māori landowners this is yet another form of alienation of Māori land for public good. The Waitangi Tribunal report on the CNI settlement (at Page 1244) states:

*In our view also, the Crown should not expect Māori to subsidise its duty of active protection. In other words, in cases of clear Treaty breach, Central North Island Māori should not be expected by the Crown or its delegates to contribute to ameliorating the impacts of previous environmental mismanagement or failure to protect natural resources, where those resources are of importance to Māori and where such a contribution would further erode their remaining finite resources, unless Māori expressly agree.*

- 19 Unfortunately at the end of the process there is not likely to be any benefits to the areas which are to be 'protected' as it is a nominal legal protection, without the necessary active protection provided by pest control. The loss of autonomy of action – tino rangatiratanga – is likely to diminish any desire to carry out such active protection.

#### **Other General concern with Proposed NPS**

- 20 CNIILML acknowledges that the Proposed NPS contains some recognition that plantation forest should be treated differently from indigenous forest remnants. However, these provisions are limited in scope, their meaning is unclear and their relationship with other parts of the Proposed NPS is ambiguous.

- 21 For example, Policy 3.10 provides that plantation forest identified as containing SNAs are deemed to be “plantation forest biodiversity areas” (PFBA). However, as currently drafted Policy 3.8 of the Proposed NPS would require all SNA within plantation forest to be identified and mapped in district plans.
- 22 The breadth of the criteria for identifying SNA (Appendix 1 of the Proposed NPS) is not then refined through suitable policy to accurately define what is genuinely significant. This means that large areas of plantation forest would be identified as SNA. The surveys required to complete this task would come at enormous cost, they are likely to then impose significant constraints on plantation forest activity - without recognising that the plantation forest activity is the source of habitat for a range of indigenous species - and are likely to achieve little benefit in terms of maintaining indigenous biodiversity.
- 23 Policy 3.10 applies to PFBA and requires that adverse effects of plantation forestry activities on (a) threatened or at-risk flora must be managed, and (b) significant habitat for threatened or at-risk indigenous fauna must be managed, to maintain long-term populations of such fauna.
- 24 CNIILML is very concerned about what this means in practice. For example, it could be interpreted that the whole of Kāingaroa Forest is PFBA as it provides excellent falcon habitat. Other species that thrive in Kāingaroa, including NZ robin, whiteheads and numerous invertebrates could also create the same result. These all do well because the forest is large with a mosaic of age classes and pest control is routinely undertaken. Kāingaroa Forest is well into its third rotation, and there is no evidence that indigenous biodiversity is declining. Indeed we believe it has improved, for example falcon have now been sighted and are breeding in areas they had not previously been recorded.
- 25 With respect to other indigenous biodiversity within PFBA, policy 3.13 and policy 3.15 require local councils to maintain indigenous biodiversity (including highly mobile fauna) by amending their plans to manage adverse effects of land use on such indigenous biodiversity. These policies could lead to new and stringent regulation of harvesting activities. If these are done as resource consent conditions they are often written by people who have little or no experience of plantation forest activities, and are thus unable to make informed or appropriate management suggestions i.e. it is quite possible that ineffective, unnecessary and inappropriate constraints are put on activities to protect them from hazards that don't affect them. Again, CNIILML is very concerned about what this means in practice with a similar potential outcome as in our point above.
- 26 When a resource consent application is triggered by indigenous biodiversity controls, policy 3.19 contains onerous requirements for assessment of potential adverse effects which would be very expensive to complete in the context of large scale land use such as plantation forest harvesting activities.
- 27 Overall, it is reasonable to anticipate that the Proposed NPS in its current form will be relied upon to impose significant new restrictions on plantation forestry. Such measures would impose considerable additional costs on forestry operations and likely limit forest activities, with potential reductions in harvest volume and consequent job losses. This will result in the reduced profitability of forestry as a land use making forestry less desirable as a land use. There does not appear to be any sufficient justification for adding such a significant layer of additional cost and complexity to the existing forestry land use and for introducing a Proposed NPS that will not have the practical effect of maintaining or increasing New Zealand's investment in forestry assets (which is itself a key government priority).

- 28 The potential implication for the CNI Iwi Holdings Limited is that the increased costs associated with the Proposed NPS will inevitably put downward pressure on land values and land rentals. Accordingly, the Trust's income flow from its major asset could decrease over time.
- 29 CNIILML is also concerned that the Proposed NPS will establish further inequities in the rural environment, where land owners with indigenous biodiversity (many of whom have been actively supporting it) are penalised and regulated, and those currently without will have no incentive to make a positive contribution.
- 30 CNIILML considers that the Proposed NPS should be substantially modified to address the above concerns of restoring agency (tino rangatiratanga) to landowners; ensuring that any constraints on action are well-founded in research; and recognising that an approach that relies on command and control will extinguish goodwill and a desire to "do the right thing", when that already comes at a substantial cost. The design and policies of the Proposed NPS needs to place much more emphasis on non-regulatory measures and incentives to support positive outcomes for indigenous biodiversity within plantation forest.

### **Potential implications for biodiversity**

- 31 Numerous studies in plantation forests confirm that plantation forests are beneficial for the maintenance and restoration of indigenous biodiversity. Production forest is planted to be harvested. During the growing phase the plantation forest provides habitat for a range of indigenous species that would otherwise not exist. Harvesting operations can sometimes disturb indigenous biodiversity values. However, these values typically make a full recovery over time after the forest is replanted i.e. at an individual level there may be effects, but at a population level there is not. Furthermore, studies have confirmed that the disturbance of harvesting creates habitat, in particular for species such as the NZ Falcon that nest and feed in cutover areas, and long-tailed bats that preferentially feed along forest edges with cutover. For larger forests such as Kāingaroa harvesting and replanting creates a constant mosaic of habitat types. Consequently, well managed harvesting activities present little threat to biodiversity values, and already contributes significantly to NZ's biodiversity reservoir.
- 32 In addition, many forest and land owners take active steps to maintain and enhance indigenous biodiversity values in plantation forests through monitoring biodiversity, pest and predator control, and partnerships with other stakeholders.
- 33 CNIILML is concerned that forest and land owners may be deterred from pursuing these voluntary initiatives if they perceive that improving biodiversity outcomes within plantation forest will lead to more onerous regulatory control over plantation forest activities. This is not a good outcome for biodiversity, but one which is at real risk of occurring if the Proposed NPS is introduced in its current form.

### **Compensation and Incentivisation**

- 34 As noted in the paragraphs above, the Proposed NPS does not require any compensation or incentivisation to be provided to affected landowners. 3.16.5 states that " ...local authorities *may* provide incentives for restoration and enhancement and, in particular, on Māori land...". There is no recognition of the need to incentivise protection, the difference it will make, or the role of central government. Use of the term 'may' means that it is a pretty easy option to 'not' use incentives, especially given that incentives require more resources and time than relying on regulation. This also puts the onus on territorial authorities who, in the majority of cases, lack the resources and expertise to do this. The upshot of this is that regulation will be

relied on to 'protect' such areas. The irony of this is that the use of regulation will not result in any actual or active protection, or enhancement of the values. Instead it may work contra to that outcome, as the command and control approach disincentivises landowners to proactively manage these areas, as it devalues their efforts and will now come with significant additional costs.

- 35 The likely application of non-complying status to new and potentially existing activities within SNA's will render the land incapable of reasonable use. The very high bar set for high value areas mean that activities such as beekeeping, tourism uses (such as the development of lodges or managing deer for hunting), development of tracks for vehicles, bikes or walkers will all be required to go through a rigorous consenting process with no guaranteed outcome. Such activities are not able to be considered against the wider values or use of the land.
- 36 Section 3.12 of the Proposed NPS sets out how existing activities in SNAs are to be managed. The wording of the provision is unclear so that sub-clauses are in conflict with each other. This will result in an understandable precautionary approach taken by regional councils, with an outcome that existing activities will be unduly regulated.
- 37 If the Crown is to remove the capacity for reasonable use of rural land then there needs to be compensation for landowners. As noted above, these restrictions are being imposed for the good of the nation and as such it is appropriate that they are funded by the nation. Expecting local authorities to provide such compensation or incentives is not realistic. These costs will simply be passed onto the ratepayer meaning that we will end up paying twice.

#### **Lack of Consultation**

- 38 The CNIILML are also concerned with the lack of meaningful consultation that has been undertaken with Māori landowners in relation to the Proposed NPS. The CNIILML only recently became aware of it through internal communications within the forestry sector and more recently general media put out by the likes of Beef and Lamb. In particular, it is apparent that very little direct consultation has taken place with many of our Māori landowners and Settlement entities, who will be significantly affected in terms of their future opportunities to use their land and make a financial return. Given the far reaching consequence of the Proposed NPS for all land owners, in our view the level of consultation with this group, already identified in the Proposed NPS process as being more significantly affected than most landowners, has been woefully inadequate.

#### **Revised approach**

- 39 The Proposed NPS fetters Councils' ability to create good outcomes. Regulation is unavoidable under the proposed policy (i.e. use of term 'avoid') even in places where there are gains in biodiversity. The Taupō District has experienced a gain in indigenous biodiversity. In the Waikato Region portion of the Taupō district a District Council desktop study has shown SNAs have potentially increased by 17.5% over the past 10 years. This is due to the voluntary methods landowners are undertaking on restoration and enhancement projects, along with naturally regenerating indigenous vegetation<sup>3</sup>. This is not as a result of rules but through landowner and community driven initiatives.
- 40 In its current form, the Proposed NPS has the potential to create perverse outcomes through encouraging the clearance of areas not currently identified as SNAs in order to prevent such areas being classified as SNAs under provisions 3.8.7 or 3.8.8.

---

<sup>3</sup> Pers com Taupō District Council planning staff



- 41 As noted above, there is little chance that the Proposed NPS will bring about any positive change through reliance on regulatory measures, in large part because it rides roughshod over the values of tino rangatiratanga and kaitiakitanga. By not harnessing these potentially powerful drivers, through which landowners can be supported and lauded for doing “the right thing”, the NPS sabotages its potential effectiveness.
- 42 A non-regulatory approach is recommended where the areas of indigenous biodiversity or potential areas for indigenous biodiversity are considered as part of a wider management framework for respective properties. Areas of value should be identified, and measures collectively identified to enhance these areas. Such measures should be resourced accordingly by the central government.
- 43 The identification of areas of importance should be undertaken by suitably qualified professionals who have a practical understanding of forest and farming practices and land management instead of relying solely on ecologists. The proposed identification process in section 3.8 relies on ecologists to identify the areas against established criteria. From our experience to date, ecologists have fundamental conflicts as they have developed the established criteria, have a natural desire to preserve such areas and generally do not consider people have a place within such ecosystems. They generally have little knowledge of the practicalities of protecting such areas within forests and farms yet their management recommendations are given primacy by Councils.
- 44 The CNIILML note that 3.8.2.a states that a partnership approach needs to be used when identifying these areas. We struggle to see how this can be done with any form of sincerity or understanding. Given that the Proposed NPS sets councils on a path of regulating activities in these areas, korero with landowners will never be on the equal footing demanded by a partnership basis, as a regulatory outcome is a fait accompli. This epitomises the flaws in the Proposed NPS design, which relies entirely on command and control and fails to harness the large pool of goodwill and interest in biodiversity management. It is a naïve approach to biodiversity management which is doomed to failure.
- 45 The CNIILML submit that instead of relying on regulation, management plans are developed between the appropriate territorial authority and landowner or occupier (or even group of landowners or occupiers) that apply systems thinking and look at land use of a property as a whole. The management plans should set out a series of actions by the landowner or occupier and the council that lead to a net benefit to the ecological values present. Initiatives undertaken by forest owners, landowners or occupiers, as active kaitiaki, should be recognised including any kawenata or forest certification schemes such as Forest Stewardship Council (FSC) or any environmental management systems that forest owners, landowners or occupiers have in place. This process should be resourced by central government as should any follow up actions which will result in the active protection and enhancement of these areas.

### **Conclusion**

- 46 The CNIILML **oppose** the Proposed NPS in its current form on the basis that it will not be effective or efficient at achieving its objective of maintaining and enhancing biodiversity on private land.
- 47 The Proposed NPS will generate an adverse reaction from forest owners and land owners that threaten the very values that the Proposed NPS seeks to protect. It will create significant and disproportionate costs for Māori landowners including to the Trust and will inevitably put

downward pressure on the Trust's income over time. This is seen as being perverse given that the forest and land management practices have resulted in large areas of biodiversity on the land.

- 48 The Proposed NPS and its reliance on regulation will result in the alienation of these areas from the Māori landowners. The dual role of Māori landowners as kaitiaki and landowners is not recognised in the Proposed NPS in any meaningful way. Māori landowners are instead being required to carry a disproportionate cost, without any compensation, because of the actions of others that have cleared indigenous biodiversity from their lands.
- 49 The CNIILML strongly support the continued and increased use of non-regulatory methods and incentives as the most effective way to achieve the desired biodiversity objectives. Such measures can encourage and support positive actions from forest owners and landowners and ensure that the costs of such measures are equitably distributed amongst all those who benefit from the shared biodiversity values. Such methods should be adequately resourced by central government to ensure that they will be effective and the desired biodiversity gains are achieved.
- 50 The CNIILML seek that the Proposed NPS be substantially modified to address the concerns raised above or otherwise that it be withdrawn.

Thank you for the opportunity to submit on the Proposed NPS.

Dated 10 March 2020

Alamoti Te Pou

**General Manager**  
**CNI Iwi Land Management Limited**