Submission on the Proposed National policy statement for indigenous biodiversity

To: Ministry for the Environment

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Our Submission:

TMF Inc. Opposes the proposed National Policy Statement and seek that it be substantially amended in response to the concerns expressed below, or otherwise withdrawn entirely.

Introduction:

This submission is made on behalf of the Taitokerau Māori Forests Inc (“TMF Inc.”).

TMF Inc. are leading the conversation which puts Maori lands and forestry assets at the forefront in Taitokerau Regional Economic Development. TMF Inc. has a membership of Māori Land Trusts, Incorporations and Individual Landowners who collectively administer over 35,000.00 hectares of whenua in Te Taitokerau.

Our kaupapa is “to develop skills and enhance knowledge, providing a deeper understanding of forestry establishment and forestry management.” Further we reiterate “Māori are aware that decisions made now, impact on future generations to come”.

Our submission reflects our clear concern as Māori Landowners with an intergenerational perspective of kaitiakitanga.

Our tūāpapa is He Whakaputanga me Te Tiriti o Waitangi and reaffirm that these are the standard for any Government legislation or policy. We re-enforce our right to mana motuhake over our lands, taonga and resources.

Our members are:

● Panguru Motutī Trust (842ha)
● Pouto 2F Trust (1,465ha)
● Te Ahuahu Ahuwenua Trust (121ha)
● Te Puna Tōpū o Hokianga Trust (2,000ha)
● Te Hiku Iwi Development Trust (20,000ha)
● Whakatere ki Koraunui LTD (780ha)
● Opāpaki Trust (179ha - Forestry)
● Ngāti Hine Forestry Trust (5,500ha)
● Te Huringa Farms (120ha - Forestry)
● Tapuaetahi Inc (550ha)
● Tapuwae Inc (950ha)
● Te Pene Rata & Paki Hone Kopa Tipene Trust (120ha)
● Wātene raua ko Emma Kawiti Trust (167ha)
● Waimā Tōpū B Trust (688ha)

Support for Indigenous Biodiversity

TMF Inc. SUPPORT the broad objective of the Proposed National Policy Statement to maintain and enhance indigenous biodiversity. We are very conscious of the value of biodiversity.

The Minister outlined the intent that the Biodiversity Strategy would protect: “iwi and hapū interests in indigenous biodiversity and strengthening partnerships between government agencies, iwi and hapū in conserving and sustainably using indigenous biodiversity” yet this was not included in the scope for the working groups which were to be formed for the National Policy Statement.

TMF Inc. members are acutely aware of our role as kaitiaki landowners and strive to maintain our whenua in a sustainable productive way for our uri whakaheke.

However, we DO NOT support the National Policy Statement in its current form as it undermines our rights as guaranteed through He Whakaputanga me Te Tiriti o Waitangi. As Māori landowners we reaffirm our mana motuhake to manage and protect our taonga, lands and resources.

1. We cannot visibly see Māori input into the National Policy Statement design, nor is there any clarity as to how Māori will be a part of its implementation, nor monitoring nationally or locally.

2. The National Policy Statement empowers Local Government to implement and then monitor (including Mātauranga Māori) but fails to demonstrate how Māori are to be a part of it at all levels.

3. There is a risk for whenua Māori owners that Significant Natural Areas could see whenua Māori locked up, prohibiting owners from utilising their whenua according to their own Maori tikanga and strategies.
4. This proves to be hugely problematic in the Far North District, more than 50% of whenua Māori in our rohe will be classed as a Significant Natural Area.

5. As Māori landowners with forestry plantations there are fears that our lands with potential indigenous fauna could be classified as a Significant Natural Area and prohibit our future commercial use.

6. This policy risks disincentivizing landowners to retain their native bush and pest control activities.

TMF Inc. views the National Policy Statement as being heavy handed on Māori landowners; we view tangata whenua as being the most impacted by the NPS, as much of our lands remain in native and/or undeveloped at this time.

To summarise, there has been a level of intent to give effect to Te Tiriti o Waitangi by those developing the National Policy Statement over the last 3 years, yet it has failed to deliver in many dimensions. It is our view that these failures require serious reconsideration before coming into effect.

**Biodiversity Collaborative Group:**

Despite not having a strong brief for giving effect to the articles of Te Tiriti o Waitangi, nor having strong representation of tangata whenua in its group, the Biodiversity Collaborative group formed in 2017 identified the following cautions for decision makers to consider:

“**Large tracts of land were taken from Māori after European colonisation of Aotearoa New Zealand, and what now remains in Māori ownership is often remote and difficult to develop or utilise productively. This gives rise to a risk that any limitations on the use and development of land that has significant biodiversity values could disproportionately impact on Māori and could exacerbate the disadvantages created by the historic confiscation of land.**”

**Disproportionate Regulation on Whānau, Hapū Māori Land Still Stands**

In some of the District Case Studies, we know that as an example, over 50% of Whenua Māori in the Far North District is covered in potential Significant Natural Areas.

Large tracts of land were taken from Māori after European colonisation of Aotearoa New Zealand, and what now remains in Māori ownership is often remote and difficult to develop or utilise productively. This is seen in the Far North District case study:

- Over 50% Whenua Māori have Significant Natural Areas

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1 Pg 19. Report on the Biodiversity Collaborative Group, 2018
Approx. 25% of general title land have Significant Natural Areas

This policy goes only a short way to address the risk that these limitations will disproportionately impact on Māori who have already given so much, and could exacerbate the disadvantages created by the historic confiscation of land.

There is provision in 3.9 2 D that if a land use significantly contributes to enhancing the social, cultural or economic wellbeing of tangata whenua, it will be managed using the effects management hierarchy, where biodiversity offsetting or biodiversity compensation can be considered. This would remain a cost to the applicant and would still require an Environmental Effects Assessment by a ‘qualified person’, which also includes matauranga Māori.

It is the view of TMF Inc. that this mollycoddling of Whānau and Hapū aspirations in their duties toward the indigenous biodiversity seen in this policy, is constrictive and still creates a disproportionate effect on Māori Landowners, Whānau and Hapū without forming any links to them consenting to these policies which will be taking effect on them.

**Appropriating Matauranga Māori Concepts without Consent**

In the Waitangi Tribunal Report on WAI 262, “Hutia Te Rito” was an elaborate example given on the depth of information found within matauranga Māori.

This particular National Policy statement has appropriated this term to give meaning to the policies. It is our view that the National Policy Statement would need to come a long way to be founded in Te Ao Māori.

While this policy seeks Māori to give their matauranga to form a basis of a new monitoring industry to be included in Environmental Effects Assessments, it does not require that these concepts be given effect to by Māori, in ways which are authentic to the mana whenua of the relevant area.

The National Policy Statement also provides for tangata whenua to outline their taonga, but does not outline how Māori will become decision makers in the protection of these taonga - a right which is guaranteed to us in the articles of Te Tiriti o Waitangi.

It seems that Māori are listed as ‘interested parties’ in the development of this National Policy Statement to date - merely participants in a stakeholder group, not elevated to our true role in the Te Tiriti relationship.

The National Policy Statement sets a number of targets including that 10% of the lands are protected within Significant Natural Areas, yet TMF Inc. fails to see how Māori Landowners, Whānau and Hapū have
inputted into the setting of this target, or how we have any input into the application of the target nationally or regionally.

We query its tangible benefit to indigenous biodiversity without a strategic approach.

**This policy disincentives landowners from caring and growing their indigenous biodiversity.**

TMF Inc. thinks this approach is heavy handed, and could drive landowners to reduce the amount of Significant Natural Area found on their property. There is potential for disagreements between landowners, tangata whenua and local authorities in applying and interpreting the policy.

**Concern’s for Implementing the National Policy Statement Indigenous Biodiversity in Northland As Early Implementers of this National Policy Statement**

Northland Regional Policy Statement became operative in May 2016 and included the requirement for District Council’s found within the Northland Region, to establish their Significant Natural Areas within 2 years.

The current definition provided by the Regional Policy Statement, can be found in Appendix 5, page 175 as “Areas of Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna in Terrestrial, Freshwater and Marine Environments”.

This definition is materially different from that provided in the National Policy Statement for Indigenous Biodiversity.

We have concerns that Te Taitokerau could be prejudiced, because the Northland Regional Council are early adopters of Significant Natural Areas compared to other rohe across the country.

**Overall concerns about further erosion of Mana Motuhake**

TMF Inc. holds the view that all National Policy Statements must give demonstrable effect to the full articles of Te Tiriti o Waitangi.

We firmly reject the current wording in the Resource Management Act 1991 sections 8 and 45 which refer to Te Tiriti and its principles. We insist that the full protection of the Maori Landowners, Whānau and Hapū role in Te Tiriti o Waitangi is given effect to, in the development of any National Policy Statements, not just the principles of The Treaty.

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This policy does not explicitly outline ‘who’ tangata whenua may consist of and we know of many cases where the Crown has favoured one grouping over another. This is a grave concern for Te Taitokerau.

It is clear in Ngati Whatua Orakei vs Auckland Council (2019) that local authorities must pay attention to the multiple groups with interests in an area, not favour one. We require measures within the National Policy Statement that protect all Maori interests in development, implementation, management and evaluation of this policy and do not want to see favouring of one group over another.

**Conclusion**

TMF Inc. opposes the proposed National Policy Statement in its current form on the basis that there is no evidence the measures it includes will achieve the objective of maintaining and enhancing biodiversity.

We hold concerns that the National Policy Statement could have an adverse reaction from forest owners and Māori Landowners that will threaten the very values which the proposed National Policy Statement seeks to protect.

TMF Inc. holds fears that Māori Landowners will be disproportionately prejudiced as Forest Owners and administrators of whenua tūpūna. They will carry further burden of costs without compensation because of the large percentage of whenua which will be deemed National Policy Statement, compared to those landowners who have cleared indigenous biodiversity from their lands.

TMF Inc. supports the continued use of non-regulatory methods and incentives as the most effective way to achieve the desired biodiversity objectives. These methods should be adequately resourced by Central Government to ensure that they will be effective and the desired biodiversity gains are achieved.

TMF Inc. requires tangata whenua to be a part of the design, implementation, management and monitoring of the National Policy Statement as guaranteed in Te Tiriti o Waitangi.

We oppose the National Policy Statement at this time until substantive changes are made to reflect our concerns, or ultimately withdraw until such time as we can have meaningful engagement into the process.

Nga mihi, na

Dated 13 March 2020

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On behalf of Tatokerau Maori Forests Inc.

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