

Submission on
Proposed National Policy Statement for Indigenous Biodiversity

To: Ministry for the Environment

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Submitter: Ngāti Hine Forestry Trust

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Our Submission:

NHFT **Oppose** the proposed NPS and call for substantial changes to be made to reflect the feedback provided in this submission - or withdraw the NPS in its entirety.

Introduction:

Ngāti Hine Forestry Trust (“NHFT”) is an Ahu Whenua Trust constituted under Te Ture Whenua Māori 1993. With a land corpus of 5,310ha, we represent some 5,246 shareholders. As administrators of our whenua tūpuna we take a moasic approach. Within our corpus we have 3,200ha of second rotation Pine Forestry being planted through a joint venture with Te Uru Rākau, a further 490ha of Mānuka planting will be completed by mid-2020. We have 600ha of existing Native Forest under Kawenata with Ngā Whenua Rāhui.

Our kaupapa is “He Ringa Ahuwhenua, He Hanga Mahi - To Actively Grow our Assets”. Our approach to whenua management are underpinned by our tikanga:

1. Mana Motuhake - self reliance
2. Kaitiakitanga - safeguard our lands
3. Te Tū o Ngāti Hine - Ngāti Hine conventions
4. Whakanekeneke - transformative

5. Manawaora - we plan long term

In addition to our whenua we have diversified our investment portfolio to include 5 Kiwifruit orchards in Kerikeri totally 43.57ha of land with 26.77ha of canopy:

- Pukerau Zespri G3 Gold (3.85ha canopy)
- Ahuareka Zespri G3 Gold (5.64ha canopy)
- Te Ara Kōpeka Zespri G3 Gold (5.26ha canopy)
- Te Tara Kowhai A19 Gold (6.73ha canopy)
- Paparata Hayward Green (5.29ha canopy)

NHFT has a small housing portfolio in Kaikohe of 11 houses and units which are tenanted and managed through Housing New Zealand.

NHFT manages a beekeeping operation locally with over 600 hives. We have a nutraceuticals arm known as Hineora LTD scoping potential native/ bioactive research and development avenues.

We have representation on the following whenua Māori/ forestry related groups: Northern Wood Council, Tai Tokerau Māori Forestry Inc, Tai Tokerau Tōtara Project, Te Uru Kahikatea (Ngāti Hine Land Entities) and Worksafe.

We Support Protection of Indigenous Biodiversity

NHFT **SUPPORT** the objective of the proposed NPS – to maintain and enhance indigenous biodiversity as Māori landowners and kaitiaki we have an innate desire to uphold and protect the taonga on our whenua tūpuna tuku iho.

Our kaupapa of mana motuhake is reaffirmed through He Whakaputanga me Te Tiriti o Waitangi. We assert that as administrators of NHFT we know our whenua, our taonga and are capable of making wise decisions in whenua management which upholds our kaitiakitanga values.

WAI 262 clearly sets out recommendations to the Government for the protection of indigenous flora and fauna. The proposed NPS could potentially undermine the important work being undertaken right now to develop an 'All of Government' approach to addressing the recommendations of the Waitangi Tribunal.

NHFT support the submission of Tai Tokerau Forestry Inc stating:

TTMFI **DO NOT** support the NPS in its current form as it undermines our rights 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 NPS design, nor is there any clarity as to how Māori will be a part of its implementation, nor monitoring nationally or locally.
2. The NPS empowers Local Govt to implement and then monitor (inc 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 SNAs could see our whenua Māori locked up prohibiting us to utilise our whenua according to their own 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 SNA
5. As Māori landowners with forestry plantations there are fears that our lands with potential indigenous fauna could be classified as an SNA and prohibit our future commercial use
6. This policy risks disincentivizing landowners to retain their native bush and pest control activities

TTMFI view the NPS as being heavy handed to Māori landowners; we view tangata whenua as the most impacted by the NPS as much of our lands remain in native and/ or undeveloped at this time.

NHFT cannot see over the 3yr period of development of the proposed NPS Māori Landowner, whānau, hapū input. Development of the NPS on Indigenous Biodiversity without meaningful tangata whenua engagement is a breach of Te Tiriti o Waitangi.

Proposed NPS Does Not Deliver on WAI262 Recommendations

The 2011 report Ko Aotearoa Tenei Volume One summarised that a Treaty compliant environmental management regime is one that is capable of delivering the following:

- Control by Māori of environmental management in respect of taonga, where it is found that the kaitiaki interest should be accorded priority
- Partnership models for environmental management in respect of taonga, where it is found that kaitiaki should have a say in decision-making but other voices should also be heard ; and
- Effective influence and appropriate priority to the kaitiaki interests in all areas of environmental management when the decisions are made by others.

The Tribunal also pointed out that many powers granted to Māori were by sections 33, 36b and 188 of the RMA 1991 and that iwi should not have to turn to Treaty settlements to achieve what the RMA was supposed to deliver.

NHFT do not believe this NPS Indigenous Biodiversity delivers security, either on its own, or in conjunction with other environmental management instruments and seek:

1. Stronger protection in the protections and
2. A clear tangata whenua decision making hierarchy to guide decision makers on the legitimacy and weighting of the 'taonga' as outlined in the NPS Indigenous Biodiversity.
3. Implementation of 3.8 recommendation 4 of Ko Aotearoa Tenei on the greater use of national policy statements. "We recommend that the Ministry for the environment develop national policy statements on Māori participation in resource management processes, including iwi resource management plans, and arrangements for kaitiaki control, partnership, and influence on environmental decision-making"¹

NHFT requires the proposed NPS to include tangata whenua (at all levles) in decision making, implementation and monitoring.

Biodiversity Collaborative Group:

NHFT notes the Biodiversity Collaborative Group formed in 2017 relegated tangata whenua input to being a stakeholder, with minimal Māori representation. The articles of Te Tiriti o Waitangi provide for Māori to be decision makers - however through the 3yrs of development of the NPS we have been relegated to "stakeholder". NHFT reject the way tangata whenua have been treated through this process.

The Collaborative Group however did however identify the following kōrero whakatūpato to the decision makers in the drafting of the proposed NPS:

*"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."*²

Disproportionate Regulation on Whānau, Hapū Māori Land Still Stands

NHFT lands reside in Far North District Council. We know that over 50% of Whenua Māori is covered in potential SNAs in the Far North District.

This is seen in the Far North District case study:

¹ https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356416/KoAotearoaTeneiTT2Vol1W.pdf

² Pg 19. Report on the Biodiversity Collaborative Group, 2018

- Over 50% Whenua Māori is SNA areas
- Approx 25% of general title land is SNA areas

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.

Tangata whenua are disadvantaged as the cost is to be born by the applicant would still require an Environmental Effects Assessment by a 'qualified person', which also includes mātauranga Māori. NHFT query 'who' will be deemed as the 'qualified person' considering the inclusion of mātauranga Māori - will this create a further layer of compliance to Māori landowners/ and be prohibitive to Māori becoming the 'qualified person' in the future?

Appropriating Matauranga Māori Concepts without Consent

NHFT have examined the proposed NPS and note the appropriation of "Hutia Te Rito" from the Waitangi Tribunal Report on WAI 262; using it as the underpinning Māori values system for the proposed NPS.

We cannot see any visible references to the articles of Te Tiriti o Waitangi, nor He Whakaputanga. Rather these sacred kawenata have been supplanted by our whakatauki "Hutia Te Rito " as the underpinning philosophy for the NPS.

NHFT require authentic meaningful engagement with tangata whenua, Māori landowners, whānau, hapū. While the proposed NPS seeks to give mātauranga Māori a platform for monitoring outcomes and is to be included in the Environmental Effects Assessments. It provides no safeguards for these important concepts to be given effect by Māori, as mana whenua in their own rohe of interest.

NHFT asserts that through the articles of Te Tiriti o Waitangi we are guaranteed the right to protect our taonga. However, nowhere can we see how Māori will be decision makers in the protection of our taonga tuku iho, powers for implementation rests in local government.

The proposed NPS sets out a range of targets - however there is no clear evidence as to how we as tangata whenua inputted into the setting of the targets nor how we will be involved in the monitoring of performance in reaching targets regionally and nationally.

This policy disincentives landowners from caring and growing their indigenous biodiversity

NHFT supports Tai Tokerau Forestry Inc in stating the strong regulatory approach is heavy handed, and could drive landowners to reduce the amount of SNA found on their property. There is potential for

disagreements between landowners, tangata whenua and local authorities in applying and interpreting the policy.

NHFT notes the likely significant constraints the proposed NPS will cause to Māori landowners. In the discussion document (page 54) It also notes that for those land blocks with large amounts of indigenous vegetation on them, the landowners will have limited options for development.

As stated earlier - whenua Māori landowners in the Far North will be disproportionately affected as large tracts of our whenua is likely to be classed as SNA - where is our mana motuhake in managing our whenua in accordance with our own tikanga?

NHFT assert we have the ability to manage our own taonga, whenua with indigenous flora and fauna and already have our own tikanga in place to guide our best land use. 2020 will see our pest control program commence over our Kawenata Whenua - this work is in partnership with Ngā Whenua Rāhui and a demonstration that as administrators working through our existing relationships we are capable of tiaki whenua as is expected by our shareholders and tūpuna who vested the lands into NHFT.

Concern's for Implementing the NPS Indigenous Biodiversity in Northland As Early Implementers of this NPS

NHFT has been alerted that Northland Regional Council is an early adopter of the approach to identify SNAs through our 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 in the RPS is found in Appendix 5, page 175 of the RPS found here³ 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 NPS Indigenous Biodiversity.

We have concerns that Tai Tokerau could be prejudiced because Northland Regional Council are early adopters of SNAs compared to other rohe across the country.

³ <https://www.nrc.govt.nz/media/10930/regionalpolicystatementfornorthlandmay2016updatedmay2018.pdf>

Concerns as a Māori Forest Owner

NHFT recognises there are some provisions in the proposed NPS for plantation forest, but there seems to be a lack of clarity on the provisions and scope which means we remain concerned as Māori forest owners.

By definition NHFT would be deemed a 'plantation forest biodiversity area' which through the proposed NPS would require our SNAs within our plantations to be mapped within our local District Plans. There remains concerns at the lack of definition in the NPS to define what is "significant" which could mean that our plantation forest could potentially be deemed SNA. That could mean that we could be limited in our forestry activity as the plantation could be deemed a habitat for indigenous fauna.

As an owner of potential 'plantation forest biodiversity areas' we would be required to manage adverse effects that our forestry activities could have on indigenous flora and habitat for threatened or at risk fauna.

There are significant risks for us in this provision, as a second rotation forestry with highly mobile fauna known within our ngahere, we could see new regulations imposed on us which could impact our future forest harvesting activities. For example: When a resource consent application is triggered by indigenous biodiversity controls, policy 3.19 contains onerous requirements for assessment (survey/ mapping) 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. NHFT assert that Māori Forest owners will bear the burden of future cost implications (land rentals, land values etc) and limit the benefits to their shareholders and uri.

NHFT reaffirm our mana motuhake over our lands, resources and taonga. We call for evidence to be presented to landowners to demonstrate there is well founded research that demonstrates that this high level of regulation will be effective.

NHFT assert as kaitiaki and kaupuri taonga that we through our own tikanga are managing our whenua and taonga with best practice, we have indigenous biodiversity monitoring taking place, pest control initiatives planned for commencement in 2020, and maintain a strong kaitiakitanga lens with our forest managers in all of our business and forestry activities.

NHFT again refutes the proposed NPS as a blunt instrument of Crown over-regulation undermining our rights as Māori Landowners, Whānau, Hapū guaranteed through He Whakaputanga me Te Tiriti o Waitangi.

Conclusion

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

NHFT assert that Māori Landowners will be most affected and will carry the burden of costs without compensation due to the fact that a large percentage of whenua Māori is undeveloped and will now be deemed SNA through these new provisions, inhibiting and undermining our ability to utilise our whenua according to our own tikanga and strategies.

NHFT promote the current non regulatory approach within industry and incentives as the best way to maintain and protect existing indigenous biodiversity. We call on increased resourcing from central government to support the strengthening of these activities to grow the momentum that already exists in the sector.

NHFT call for meaningful tangata whenua engagement in the development of the NPS - we must be a part of the design, implementation, management and monitoring of any future NPS as guaranteed through the articles of Te Tiriti o Waitangi.

Nga mihi, na

Dated 11 March 2020

A handwritten signature in black ink, appearing to read 'Pita Tipene', enclosed within a faint, light-colored rectangular border.

Pita Tipene

Chair, Ngāti Hine Forestry Trust