14th March 2020

Attention: indigenousbiodiversity@mfe.govt.nz
c/- Ministry for the Environment
PO Box 10362
Wellington 6143
New Zealand

Tena Koe

Re: Draft National Policy Statement on Indigenous Biodiversity

Ko Manaia te Maunga
Ko Whangarei Terenga Paraoa te Moana
Ko Ngāti Wai, Ngapuhi, Ngāti Whatua nga Iwi
Ko Patuharakeke te Hapū
Ko Takahiwai te Marae

This submission is from Patuharakeke Te Iwi Trust Board Inc (PTB) on behalf of Patuharakeke Hapū, tangata whenua of the Rohe o Patuharakeke with respect to mana whenua, mana moana, mana takutaimoana. Patuharakeke Rohe is located on the south side of the Whangarei harbour and includes our marae at Takahiwai. Our rohe stretches on the seaward side, including the foreshore and seabed, from a point at the north of Mangawhai Heads to the entrance of the Mangapai river just south of Whangarei. Our area of interest includes the offshore islands of Marotiri and Tawhitirahi and Taranga. The boundary extends inland to include the Brynderwyn and Kakanui Ranges. We adopt the submission of Ngā Uri o Ngā Hapū o Whangarei Terenga Parāoa me Mangakahia resolved at a hui held at Hui 12th March 2020 at Whangarei Terenga Paraoa Marae, Wangarei and attach below.

Nga manaakitanga,

Juliane Chetham (Trustee and Co-convenor RMU/Taiao Unit)
Patuharakeke Te Iwi Trust Board

1 See map in our HEMP https://patuharakeke.maori.nz/te-taiao-environment/hemp/
Our Submission:

Patuharakeke Te Iwi Trust Board Oppose the proposed NPS and call for substantial changes to be made to reflect the feedback provided in this submission - or withdraw the NPS Indigenous Biodiversity in its entirety.

Introduction:
We are members of hapū found in the Whangarei and Mangakahia rohe. At this time the Crown do not hold any statutory relationships with iwi over the resources and lands found within our rohe which give effect to Te Tiriti o Waitangi. We support the works of those who have stood for the outcomes of the WAI1040 and WAI262 inquiries, namely the Waitangi Tribunal WAI 1040 Stage One findings that signatories to Te Tiriti o Waitangi did not cede their sovereignty published 2014, and the recommendations made in Ko Aotearoa Tēnei published in 2011.

We support mana whenua of all groupings to outlining their response to this Draft NPS Indigenous Biodiversity. The Crown has conceded that hapū of Whangarei Terenga Parāoa were left virtually landless by the acts and omissions of the Crown with only 4% lands remaining in Whenua Māori. The result of this and other breaches of Te Tiriti has impacted on hapū cohesiveness and so we acknowledge and support any other submissions from mana whenua groupings within the Whangarei rohe with diverse or opposing views to those presented in this submission and do not claim to represent any other than those who are named above.

We support the protection and management of taonga and indigenous biodiversity:
We lament the losses and extinctions of the last two centuries, and the fact that as hapū we have been powerless in the management of these taonga. We seek the tools to give effect to Te Tiriti o Waitangi so that mana whenua groupings and hapū may re-establish the relationships within Te Ao Turoa for all in our hapū rohe. Our hapū are active and knowledgeable about indigenous biodiversity. This matauranga is continually denigrated in modern resource management processes. We support the intent of the ‘All of Government’ approach to implement WAI262 Waitangi Tribunal recommendations and see this Draft NPS as well as the RMA Reform as an undermining of that approach.

Hapū and Mana Whenua Input into this Draft NPS is Lacking
In the 2018 cabinet paper by Hon Eugenie Sage discussing a biodiversity strategy, it was proposed that a mana whenua reference group would be established and resourced. That Mana Whenua members would also have input into stakeholder and technical reference groups to guide the review of the NZ Biodiversity Strategy. It seems this was not supported or executed, and instead a single Biodiversity Collaborative Group which included a small representation of the Iwi Leaders Forum with no other mana whenua participation was tasked to provide the initial guidance to inform this Draft NPS.

Furthermore it is unfortunate that this group did not consider any analysis on the articles of Te Tiriti o Waitangi, or WAI 262 Waitangi Tribunal Report recommendations.
We regret that this Draft NPS which seeks to give regard to taonga and matauranga Māori has been able to proceed to this point with so little input from the Māori worldview.

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

In some of the district case studies, we know that over 50% of Whenua Māori is covered in potential Significant Natural Area in the Far North District for example. The Biodiversity Collaborative Group said “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 is SNA areas
- Approx 25% of general title land is SNA areas

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

In our view the 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, still at cost to the applicant and would still require an Environmental Effects Assessment by a qualified person, which also includes matauranga Māori. This provision fails to identify who would apply the offsetting or conditions, combined with the cost of an EEA and offsetting negotiations this amounts to further loss of Tino Rangatiratanga of Māori over their lands.

It is our view that this mollycoddling of Whānau and Hapū aspirations in their duties toward the indigenous biodiversity seen in this policy are constrictive and results in external agencies deciding what land use results in significant contribution to social cultural and economic wellbeing, undermining mana motuhake. There is no explicit link to how these mana whenua groupings will have input to these definitions.

Furthermore, this Draft NPS outlines a goal that 10% of all regions are retained as SNA’s, yet we fail to see how Whānau or Hapū would have any input into the application of this target, or it's tangible benefit to indigenous biodiversity without a strategic approach.

**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 National Policy statement has appropriated this term, to give meaning to the policies, which would need to come a long way to be founded in Te Ao Māori. While this policy requests that Māori 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 are to be given effect to by Māori, in ways which are authentic to the mana whenua of the relevant area.
This policy 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 given to us in the articles of Te Tiriti.

While the intent of this NPS seeks to strengthen tangata whenua role in RMA processes, in our view this NPS will result in the commercialisation of matauranga without protecting mana motuhake or accountability to tangata whenua. We completely oppose this approach and do not see the RMA 1991, Mana Whakahono a Rohe agreements or any of the NPS sufficient to protect the articles of Te Tiriti o Waitangi.

This policy disincentives landowners from caring and growing their indigenous biodiversity
As Hapū we think this 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.

Does Not Meet WAI262 Standard for Flora and Fauna, Matauranga
We support WAI262 Waitangi Tribunal findings found in Ko Aotearoa Tēnei. For the reasons outlined above, our position is that this Draft NPS fails to meet the standard set in WAI262, and has potential to undermine these recommendations being given effect in the current all of government review of WAI262. While we await to understand how we as hapū may engage in that conversation, we remain hopeful that future ministers will understand the progress which can be made when genuine co-design with Te Tiriti partners is allowed to take place.

Overall concerns about further erosion of Whānau and Hapū Mana Motuhake
In our view, all National Policy Statements must give demonstrable effect to the full articles of Te Tiriti o Waitangi. We firmly reject that the current wording in the Resource Management Act 1991 sections 8 and 45 which refer to Te Tiriti and it's principles and we insist that the full protection of 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.

Actions

- We seek that the NPS Indigenous Biodiversity or associated resource management implements are explicitly made to protect mana motuhake as protected in Te Tiriti o Waitangi.
- In this submission we seek that robust analysis from Maori worldview is essential and that large and diverse Mana Whenua reference group made up of iwi, hapu, whanau and Maori Landowners is tasked to conduct a full review of this Draft NPS.