



**ADDERLEY
HEAD**

ENVIRONMENTAL LAW SPECIALISTS

SUBMISSION ON PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Clause 6, First Schedule of the Resource Management Act 1991

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

Submitter: **RAYONIER NEW ZEALAND LIMITED**
C/- Adderley Head,
Attention: Chris Fowler/Meg Buddle

Proposal: Proposed National Policy Statement for Indigenous Biodiversity

Submission: **Oppose** the Proposed National Policy Statement for Indigenous Biodiversity and seek that it be substantially amended in response to the concerns expressed below or otherwise withdrawn entirely.

SUBMISSION ON PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

Name of submitter

- 1 Rayonier New Zealand Limited (**Rayonier**).

Introduction

- 2 Rayonier New Zealand Ltd is a wholly-owned subsidiary of US-based corporation Rayonier Inc. Rayonier manages approximately 120,000 hectares of productive area of plantation forest in New Zealand, for Matariki Forests, and has had a significant presence in New Zealand since 1992. Rayonier has identified 522 Significant Natural Areas present in Matariki forests, amounting to approximately 35,000 hectares.
- 3 Rayonier is the New Zealand's third-largest forest owner with the forest estate spanning both the North and South Islands. Rayonier currently manages forests within 11 regions and 24 districts throughout New Zealand.
- 4 Rayonier supports the protection and maintenance of biodiversity and adopts a range of measures throughout its operations for this very purpose. However, Rayonier considers that unless the Proposed National Policy Statement for Indigenous Biodiversity (**NPSIB**) is substantially modified, it will result in high costs for limited environmental benefit, and creates a real risk of exacerbating the loss of biodiversity on private land.

Forestry in New Zealand

- 5 Plantation forests are widespread throughout New Zealand and provide important economic, social and environmental benefits, including:
 - (a) contributing significantly to the New Zealand economy in terms of exports and employment;
 - (b) supplying sustainably managed and renewable resources to local and international markets;
 - (c) playing a vital role in carbon sequestration to mitigate the effects of climate change and helping to meet our international obligations;
 - (d) providing valuable environmental support, including the maintenance of water quality, mitigation of peak flood flows, and control of soil erosion and sedimentation.
- 6 Historically, regulation of plantation forestry has failed to encourage new and continued investment in this sector. In particular, plantation forestry activities have been subject to a complex maze of inconsistent and excessive regulation in district and regional plans throughout New Zealand.

- 7 In September 2017 the Government gazetted a National Environmental Standard for Plantation Forestry (the **NESPF**). The general purpose of the NESPF is to encourage growth and investment in the forestry sector by providing a simpler and more consistent regulatory framework.
- 8 The NESPF contains many regulations that refer to the treatment and protection of indigenous biodiversity in areas classified as Significant Natural Areas (**SNAs**) by the relevant local authority¹. These SNAs are typically discrete areas of “remnant” indigenous vegetation that are identified and readily provided for during plantation forestry activities.
- 9 This broader context of the role and benefits of forestry in New Zealand should be kept in mind when considering the potential impacts of the NPSIB and whether it is an appropriate response to the issue of biodiversity.

Rayonier’s contributions to improving biodiversity

- 10 In simple terms, the objective of the NPSIB is to halt biodiversity decline and to require its maintenance and protection. This objective is driven by the importance of biodiversity in protecting the quality of our environment and in the social, economic and cultural well-being of New Zealand.
- 11 Rayonier supports this broad objective and is very conscious of the value of biodiversity. It prides itself on being an environmentally responsible company that adopts sustainable management techniques throughout its forestry operations.
- 12 Rayonier is internationally certified under the Forestry Stewardship Council (**FSC**). In order to maintain certification, Rayonier must adhere to and be audited against the FSC Principles and Criteria for Forest Stewardship. The Principles and Criteria require management of the ecosystem services and environmental values of a forest.
- 13 Over the years Rayonier has paid for, and or participated in, various research projects relating to mobile indigenous fauna within its plantations. A current three-year project is being undertaken in Southland; looking at populations and how Karearea are utilising plantations for habitat. The project is a joint project with three other forest owners and Rayonier’s this project is \$22,000.00.
- 14 With regard to indigenous flora and fauna, Rayonier is involved in the following community projects:
- (a) Glenbervie Community Pest Control Area (CPCA) for kiwi - Northland \$105k over 6 years;

¹ See Regulations 6(2)(b), 20(2)(c), 43, 55(1), 78, 79, 93, and Schedule 3 of the NESPF

- (b) Omataroa Kiwi Project in the Bay of Plenty. **Appendix A**, accompanying this submission, sets out more detail on the project;
- (c) Athenree Restoration Project in the Bay of Plenty;
- (d) Kirikiri Bird Corridor in the Bay of Plenty;
- (e) Whio Project in the Bay of Plenty;
- (f) Kakabeak propagation in the Hawkes Bay;
- (g) Ohurakura wetland Restoration in the Hawkes Bay;
- (h) Mudfish protection project in Canterbury; and
- (i) Gecko relocation in Canterbury.

15 The above initiatives clearly show Rayonier's acceptance of the importance of biodiversity. The Omataroa case study in particular shows that biodiversity outcomes are often achieved by non-regulatory methods which are landowner or community-led and have cross-community support and engagement.

General concern with NPSIB drafting

- 16 Rayonier acknowledges that the NPSIB contains some recognition that plantation forest should be treated differently from other land uses. However, these provisions are limited in scope, their meaning is unclear, and their relationship with other parts of the NPSIB is ambiguous.
- 17 The NPSIB defines plantation forests that contain SNAs as "plantation forest biodiversity areas" (**PFBA**s), and later at Clause 3.10, it excludes these PFBA from the Clause 3.9 requirements of avoiding adverse effects on SNAs.
- 18 However, as currently drafted Clause 3.8 of the NPSIB would require all SNAs within plantation forest to be identified and mapped in district plans.
- 19 Because of the excessive breadth of the criteria for identifying SNAs included in Appendix 1 of the NPSIB, large areas of plantation forest would be classified as SNA. The surveys required to complete this task would come at an enormous cost and achieve little benefit in terms of maintaining indigenous biodiversity.
- 20 Clause 3.10, which applies only to PFBA, requires that adverse effects of plantation forestry activities on threatened or at-risk flora must be managed, and that adverse effects on significant habitat for threatened or at-risk indigenous fauna are managed to maintain long-term populations of such fauna.

- 21 Rayonier is very concerned about what this means in practice. Firstly, it's unclear how implementers of the NPSIB will identify this flora and fauna, and what requirements will be imposed on plantation forest owners to manage and maintain them. Secondly, several of the available interpretations of the interplay between Clause 3.10 and the remainder of the NPSIB could lead to plantation forestry areas being heavily restricted by the NPS.
- 22 For other (i.e. not threatened or at-risk) indigenous biodiversity within PFBA's, Clause 3.13 and Clause 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 clauses could lead to new and stringent regulation of harvesting activities.
- 23 Again, Rayonier is very concerned about what this means in practice. There are many difficulties with the proposed approach to protecting highly mobile fauna through regulatory means, which are expanded on below.
- 24 If indigenous biodiversity controls trigger a resource consent application, Clause 3.19 contains onerous requirements for assessment of potential adverse effects. These requirements would be very expensive to complete in the context of large scale land use such as plantation forest harvesting activities.
- 25 Rayonier considers the inevitable rules that will result from the introduction of the NPS will have significant negative implications for its forestry activities and not be effective at achieving positive biodiversity outcomes. We now elaborate on the potential consequences of the NPSIB for the forestry sector.

Potential implications for forestry

- 26 Rayonier has significant reservations on the consequences that the NPSIB's proposed regulatory approach will have on forestry operations. These concerns are divided into three broad categories and discussed below.
- 27 Firstly, Rayonier is legitimately concerned about the potential restrictions on harvesting that may be created by the regulation that flows from the NPSIB.
- 28 As noted above, Rayonier is responsible for managing approximately 120,000 ha of productive forests throughout New Zealand. The presence of indigenous biodiversity is a common occurrence in many of these plantations. As noted above the criteria proposed for identifying SNAs in Appendix 1 of the NPSIB is phrased broadly and could lead to the majority of plantation forestry areas meeting the requirements.
- 29 The NPSIB, particularly by operation of the clauses listed above, could result in substantial additional costs for Rayonier and challenge the viability of some of Rayonier's operations.

- 30 For example, in many North Island plantations, indigenous vegetation will quickly regenerate in the understorey of plantation forest. By the time the plantation is ready for harvest, this indigenous understorey may be well developed and subject to rules introduced under the Proposed NPS to protect biodiversity. This could lead to an outcome where Rayonier is prevented or constrained from harvesting and its plantation, completely removing or reducing the financial return that is essential for such a long term investment.
- 31 To date, the majority of rural district plans exclude understorey in plantation forests from their definitions or controls on indigenous vegetation. Further, the current NESPF at regulation 93 (2)(a), permits the clearance of indigenous vegetation that grows up under plantation forest. The only method to avoid the destruction of the understorey is to prevent the harvesting of the tree crop, the land preparation and the subsequent replanting of the new tree crop.
- 32 New plantation forest trees could not survive if replanted into the understorey. There simply would not be enough light for the seedlings to grow. By leaving the understorey over hundreds of years, the plantation forest would eventually revert to a natural forest. If it is not the intent of the NPSIB to ensure plantation forests ultimately revert to natural forests, then understorey of a tree crop should not, in any way, be part of the NPSIB Appendix 1 SNA attributes.
- 33 Likewise, plantation forests are home to many species of fauna (such as kiwi and frogs) that may be under threat due to loss of natural habitat. The NZ Falcon (Karearea) actually prefers the open cutover of plantation forest as a surrogate for its natural open hunting grounds. Rayonier and the industry are well aware of the presence of these species and are very effective at managing these without unnecessary interference from regulatory bodies.
- 34 These negative effects will not only be experienced by Rayonier but by all forestry operators throughout the country where local authorities adopt the regulatory approach that logically follows from the NPSIB. This will have a significant negative impact on the industry as a whole and discourage any new investment in the sector. As noted above, this is contrary to the NESPF, which seeks to encourage and support plantation forestry and the economic and environmental benefits this provides to New Zealand.
- 35 Secondly, Rayonier is concerned with the NPSIB requirements that habitats of mobile fauna be mapped and managed by councils to manage viable populations of highly mobile fauna across their natural range. Mapping of mobile fauna areas is not an effective way to manage mobile fauna, as any survey will be at best a snap-shot in time and the distribution of fauna will continue to change post-survey; with the corresponding habitat shifting to reflect this. Mobile fauna are not constrained by legal boundaries.
- 36 Pest control, rather than just land management practices, is crucial for maintaining populations of indigenous fauna. This is not new science, and the current Government itself recognises this by its funding of pest management on its own estate. Furthermore,

effective pest control must operate across legal property boundaries in order to achieve results.

- 37 Therefore Rayonier considers that a community project, working with other property owners, is a more efficient model for providing habitat for mobile fauna.
- 38 The NPSIB does not require DoC to manage its estates to maintain any identified populations of mobile indigenous fauna identified within the estate, as it treats the DoC estate as an existing use. Rayonier has thousands of kilometres of joint boundaries with Department of Conservation (DoC) estate. Pests, like mobile fauna, move across boundaries and therefore coordinated, cross-boundary pest control programmes are required to maintain native populations. This hard to do when Rayonier shares miles of boundary with DoC land, which the NPSIB is less prescriptive of in terms of mobile fauna management.
- 39 The NPSIB does not recognise the ongoing issue of dealing with pest control across private land bounded by public land. This aspect of the NPSIB cannot be supported by Rayonier.
- 40 Thirdly, Rayonier is also concerned with the enormous cost of the SNA mapping requirement in Clause 3.8, coupled with the wide-ranging of criteria included in Appendix 1 of the NPSIB.
- 41 Councils faced with the expensive task of mapping additional large tracts of land for indigenous biodiversity may seek to shift this burden onto land and forest owners. This outcome would impose substantial costs on plantation forestry and would unfairly penalise the forestry sector over other rural industries (such as farming), as plantation forestry by nature contains a higher proportion of indigenous biodiversity that other rural land uses.
- 42 The Southland District Council's (SDC) submission on the NPSIB expresses significant concerns about the costs associated with the implementation of the NPSIB; and further that SDC recognises the role of non-regulatory methods in achieving biodiversity outcomes.² In particular:
- (a) The SDC questions of the appropriateness of the overly regulative approach:
- The NPSIB is heavily reliant on regulatory intervention to achieve protection, maintenance AND restoration and enhancement. This is a costly and often adversarial approach. If local authorities had even a portion of the total funding that implementation will cost is that best invested in a regulatory framework – **What could be achieved if this funding was invested into relationship building and existing areas identified for restoration and enhancement?** [emphasis in original quote]*

² Southland District Council *Meeting Agenda 4 March 2020* (4 March 2020) at pages 345 to 358

- (b) The SDC's conservative estimate of its own cost of implementing the NPSIB was \$9 million over five years; requiring a rating increase of 6.23% to service this biodiversity need alone; and
- (c) Putting cost aside, the SDC is concerned that it does not have enough staff and other resources at its disposal to complete the SNA mapping and policy change within the timeframes stipulated in the NPSIB.

43 For these reasons, Rayonier considers that the NPSIB would result in unduly high costs for foresters and the wider community that are not balanced by the (low) potential gains in biodiversity value. We will now discuss the consequences for biodiversity that could result from the proposed NPSIB.

Potential implications for biodiversity

44 In addition to the negative implications for forestry, Rayonier is concerned that the NPSIB will miss the mark in achieving its objective for biodiversity. One may assume that including more rules in district and regional plans for the protection of biodiversity would lead to improved biodiversity outcomes. However, in many cases, such heavy-handed regulation can have the opposite effect.

45 Achieving successful outcomes on private land has its own unique set of challenges and constraints that must be recognised and provided for when developing effective solutions. The Regulatory Impact Statement prepared by the Government on the NPSIB accepts this potential, stating³:

There is a risk that without appropriate non-regulatory support, some stakeholders will perceive the proposed NPSIB as constraining land use (in the case of SNAs) and therefore the proposed NPSIB may unintentionally disincentivise landowners from protecting and restoring indigenous biodiversity.

46 The Government's section 32 Report on the NPSIB shares this sentiment:⁴

However, past experience demonstrates that voluntary methods can be effective to incentivise and foster the contribution of landowners, communities and tangata whenua to ecological restoration and enhancement initiatives compared to an unnecessarily heavy focus on regulatory approaches.

47 The need for landowner cooperation has been highlighted before during national reviews of the management of indigenous biodiversity. In 2000, the Government funded a Ministerial Advisory Committee (**MAC**) to consult widely about biodiversity and private land. One of the key issues considered was whether an NPS on biodiversity was desirable and would be an effective tool for maintaining and protecting biodiversity. The findings and

³ Peter Brunt and Jo Gascoigne *Impact Statement: Improving indigenous biodiversity management under the Resource Management Act (1991)* (Ministry for the Environment and the Department of Conservation, 2019) at pages 4 and 5

⁴ Jerome Wyeth and Mark Ashby *National Policy Statement For Indigenous Biodiversity – Section 32 Evaluation And Cost Benefit Analysis* (Department of Conservation, October 2019) at page 92

recommendations of this process are captured in a report titled "Biodiversity and Private Land", August 2000 (the **MAC Report**).

- 48 As noted in the MAC report, the risk with regulation is that it may provoke resistance and undermine goodwill⁵. People generally do not like being told what to do on their own land, even when the intention is to protect a value which they support. Faced with such a prospect, many landowners will quickly move to an entrenched position, from which retreat becomes difficult and negative attitudes multiply. This atmosphere of mistrust eliminates the potential for any positive biodiversity outcomes and amplifies existing problems.
- 49 Applying this to Rayonier's circumstance, if the type of regulation discussed above does eventuate, Rayonier will be reluctant to actively monitor and record biodiversity within its plantations due to fear that this information may be used to restrict its activities. Positive engagement with the Ministry for the Environment, Department of Conservation and local authorities will diminish and the positive voluntary initiatives that Rayonier currently implements may be compromised. This is not a good outcome for biodiversity, but one which is at real risk of occurring if the Proposed NPS is introduced.
- 50 At the far end of the spectrum, the NPSIB may cause pre-emptive action by landowners to clear native vegetation on their properties which they would otherwise have been happy to retain.
- 51 Rayonier strongly supports the continued and increased use of non-regulatory methods and incentives as the most effective way to achieve the desired biodiversity objectives. Rayonier's involvement in, and dedication to, projects aimed at enhancing indigenous biodiversity are discussed at length above.
- 52 A national policy statement is simply not the right tool to encourage and support such proposals. For the reasons outlined earlier in this submission, the NPSIB is more likely to result in increased regulation which is counterproductive to the outcomes it seeks to achieve.

Overall costs, benefits and alternatives – section 32 evaluation

- 53 Rayonier considers that the section 32 report does not fully explore the consequences of the chosen option, the NPSIB. As a result, the s 32 report wrongly concludes that it is the best option for maintaining and improving biodiversity outcomes. As stated repeatedly in this submission, Rayonier believes that non-regulatory methods are preferable to the NPSIB.
- 54 With regard to mobile indigenous fauna, Clause 3.10 (2) of the NPSIB requires plantation forest owners to "maintain long-term populations of the indigenous fauna species". However, the section 32 report contains no analysis of how this would be achieved and the

⁵ Page 35, para 1, MAC Report

costs of any such methods. Rayonier considers that the only way this requirement can be achieved is for it to undertake regular surveys across its plantations, to identify mobile fauna present in these plantations.

55 While district councils may bear the initial costs of surveying plantation forests, these costs will then be passed onto the foresters as a never-ending survey cost. The Clause 3.10 requirement does not recognise that mobile indigenous populations may not just reside in a single plantation forest, but often move across boundaries for instance into DOC estate land or iwi land. Mobile fauna may move for reasons totally unrelated to the land use practices of the forester, for example due to droughts or major rainfall events that make the plantation no longer attractive to the mobile fauna.

56 As discussed above, Rayonier considers that a major factor in indigenous fauna survival is pest control. While Rayonier may undertake pest control within its plantations it cannot force DOC adjacent to its boundaries to undertake similar control. Porous boundaries for pest movement could mean that no matter how Rayonier manages its plantations, mobile fauna populations will be reduced. The Omataroa Kiwi project is just one example of how cross-boundary pest control is highly effective in maintaining populations.

The costs of pest control to maintain mobile indigenous fauna populations are not analysed in the section 32 report. If it is not the intent of the NPSIB to require foresters to undertake pest control to ensure populations are maintained, then Clause 3.10(2) is nonsensical. Populations of indigenous mobile fauna cannot be maintained without pest control.

Conclusion

57 Rayonier is the New Zealand's third-largest forest owner with the forest estate spanning both the North and South Islands. Rayonier manages approximately 120,000 hectares of productive area of plantation forest in New Zealand; and an additional 35,000 hectares worth of SNAs present in and around these productive forest areas.

58 While Rayonier supports the protection and maintenance of biodiversity and adopts a range of measures throughout its operations; Rayonier does not support the NPSIB as currently drafted.

59 Rayonier considers the inevitable rules that will result from the introduction of the NPS will have significant negative implications for its forestry activities and not be effective at achieving positive biodiversity outcomes; potentially having a net adverse effect on indigenous biodiversity.

60 Rayonier considers that the NPSIB should be substantially modified to address the above concerns and should place much more emphasis on non-regulatory measures and incentives to support positive outcomes for indigenous biodiversity within plantation forest.

61 Alternatively, if the above outcome is not viable, the NPSIB should be withdrawn in entirety in favour of the NESPF.

Dated 13 March 2020



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Appendix A - Omataroa Kiwi Project

The Omataroa Kiwi Project is on Māori land in the hills behind Awakeri and Te Teko near Whakatane.

The land is administered by the Omataroa-Rangitaiki No 2 Trust, and there are over 6000 shareholders in the land. The main focus of the project is the bio-diversity rich Puhikoko Reserve (546 ha), which is home to kiwi, kereru and North Island Robin. A kawanata is in place over Puhikoko Reserve, and intensive predator trapping and poisoning is undertaken to control mustelids, rats, cats and possums. Regular kiwi aversion training is also held with the local Omataroa hunting club and kaitiaki work is undertaken with forestry contractors to prevent harm to kiwi during forestry operations.

The objective of the project is to protect the kiwi population and the wider bio-diversity values of the forest, while also helping people reconnect to the whenua and develop their skills as kaitiaki. Ian Tarei leads the work on the ground, and has a strong interest in engaging whānau in kiwi conservation from a young age. Local kōhanga reo are regular attendees at kiwi releases, and a group of Te Teko youth have been trained to undertake predator control and kiwi work.

Wild juvenile kiwi have recently been found in the area, highlighting the benefits to the kiwi population from the animal pest control and advocacy work. Operation Nest Egg (**ONE**) has been successfully utilised to return chicks to the reserve once they have reached a safe weight. This has helped reinvigorate the resident kiwi population with young birds. Kiwi chicks have also been gifted to other local kiwi projects to help ensure a robust gene pool in the now isolated populations.

Omataroa occupies an area of 7,777 hectares, consisting of approximately 7100 ha of exotic production forest and a further 640 hectares of indigenous forest. The plantation forest and bush remnants which surround the mature forest of Puhikoko Reserve contain significant kiwi habitat, and kiwi sign is regularly seen. The long-term aim is to extend kiwi protection over the entire Omataroa area. Currently Rayonier Forestry fund buffer trapping around Puhikoko Reserve, and there are plans to extend this network. Kiwi call count monitoring is also planned over a wide area to help direct the future expansion of the project.

The Bay of Plenty Regional Council (**BOPRC**) has also recently offered support to the project, joining with Ngā Whenua Rāhui to fund the intensification of the existing predator control network.

Like all community-based conservation projects, finding the funding to continue a challenge. The support of the BOPRC, Ngā Whenua Rāhui and Rayonier Forestry is a big help to the Trust.

Extract from the Kiwi Trust report set out in:

<https://www.kiwisforkiwi.org/what-we-do/who-are-kiwis-for-kiwi/community-efforts/bay-of-plenty/omataroa-kiwi-project/>.