

He tono nā



**Te Rūnanga o NGĀI TAHU**

ki te

**MINISTRY FOR PRIMARY INDUSTRIES- MINISTRY FOR THE  
ENVIRONMENT**

e pā ana ki te

**A NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY**

11 Whā/August 2015

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**contact person**

Donna Flavell | General Manager – Strategy and Influence | Te Rūnanga o Ngāi Tahu



## **1. EXECUTIVE SUMMARY**

- 1.1. Te Rūnanga o Ngāi Tahu (Te Rūnanga) welcomes the opportunity to comment on the National Environmental Standard for Plantation Forestry (NES-PF).
- 1.2. Te Rūnanga understands and generally agrees with the objectives and intent behind the NES-PF.
- 1.3. Te Rūnanga supports the inclusion of provisions to ensure cultural and historical values are protected by the NES-PF.

## **2. STATEMENT OF POSITION AND OVERALL RECOMMENDATIONS**

- 2.1. The position of Te Rūnanga is that:
  - National Environmental Standards are a good tool for creating consistent national approaches to protecting the environment from the potential adverse effects of activities such as forestry. An NES gives consistency to the industry to allow them to be confident in their activities and processes.
  - For a National Environmental Standard to be effective, it must exist in harmony with existing environmental and cultural protections, and have no impact on their effect other than to reinforce or strengthen them.
  - The NES should uphold and protect Ngai Tahu interests and values and recognise the kaitiaki responsibilities of mana whenua.
  - Te Rūnanga takes a holistic approach to environmental management and protection, ki uta ki tai, from the mountains to the sea.
  - Te Rūnanga supports any efforts to improve bottom line environmental requirements, not just within our takiwā, but at national level.
- 2.2. The following overall recommendations are made by Te Rūnanga:
  - That the instances in which councils can apply greater stringency to protect waterways and sites of significance for cultural and biodiversity values within the NES-PF are currently narrow, and should be broader.
  - The NES-PF should take a more holistic, entire catchment approach to water quality and quantity protection.
  - That the NES- PF should include provisions for effective management of culturally significant sites, landscapes and taonga. This includes accidental discovery of cultural items, including human remains and any prospective wahi tapu sites.
  - The NES-PF must effectively raise the bottom line for environmental outcomes in each phase of harvest. This includes the management of wilding conifers.



### 3. TE RŪNANGA O NGĀI TAHU

3.1. This response is made on behalf of Te Rūnanga o Ngāi Tahu. Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act).

3.2. We note the relevant provisions of our constitutional documents:

Section 3 of the Act States:

*"This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act."*

Section 15(1) of the Act states:

*"Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui."*

3.3. The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interests.

3.4. Te Rūnanga respectfully requests that Treasury accord this response the status and weight due to the tribal collective, Ngāi Tahu Whānui, currently comprising over 55,000 members, registered in accordance with section 8 of the Act.

3.5. Notwithstanding its statutory status as the representative voice of Ngāi Tahu Whānui "for all purposes", Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

### 4. TE RŪNANGA INTERESTS IN THE NES-PF

4.1. Te Rūnanga notes the following particular interests in the National Environmental Standard for Plantation Forestry;

#### *Treaty Relationship*

- Te Rūnanga o Ngāi Tahu has an expectation that the Crown will honour Te Tiriti o Waitangi (the Treaty) and the principles upon which the Treaty is founded.
- As a Treaty partner, Te Rūnanga must be engaged throughout the formation of any reform to ensure that issues of particular interest to Te Rūnanga can be reflected and accommodated in a manner that best suits the needs and interests of Ngāi Tahu Whānui.
- The management of the environment within the takiwā of Ngāi Tahu Whānui, for which Ngāi Tahu whānui have kaitiaki responsibilities and over which Ngāi Tahu Whānui maintain rangatiratanga status, must be consistent with the principles of the Treaty of Waitangi.
- Te Rūnanga do not consider devolvement of Crown responsibility or power to local government or external providers to diminish inherent responsibilities to the Treaty of Waitangi.



### ***Kaitiakitanga***

- In keeping with the kaitiaki responsibilities of Ngāi Tahu Whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, protecting taonga species and mahinga kai resources for future generations.
- The ability of our mana whenua communities to fulfill their role as kaitiaki at a local level depends on measures employed at the national and international level to address the environmental consequences activities in the Ngāi Tahu takiwā. There is the potential for measures to be compatible with, and support, kaitiakitanga, or otherwise undermine mana whenua efforts.

### ***Whanaungatanga***

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu Whānui and ensure that the management of Ngāi Tahu assets, which includes forestry, and interests supports the development of iwi members and wider community within the Ngāi Tahu takiwā.
- 4.2. Te Rūnanga has a specific interest by virtue of the Ngāi Tahu Claims Settlement Act 1998 (the NTCSA). The Act provides for Ngāi Tahu and the Crown to enter an age of co-operation. An excerpt of the Act is attached as Appendix One, as a guide to the basis of the post-Settlement relationship, which underpins this response.
- 4.3. The Crown apology to Ngāi Tahu is a recognition of the Treaty principles of partnership, active participation in decision-making, active protection and rangatiratanga.
- 4.4. With regards to the Ngāi Tahu takiwā, Section 5 of the Te Rūnanga o Ngāi Tahu Act 1996 statutorily defines the Ngāi Tahu takiwā as those areas “south of the northern most boundaries described in the decision of the Māori Appellate Court ...” which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.
- 4.5. Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area, which is shown on the map attached as Appendix Two.

## **5. AREAS WITH SIGNIFICANT BIODIVERSITY VALUE**

- 5.1. Te Rūnanga supports greater stringency for forestry activities that could impact areas that are valuable for indigenous vegetation or as habitat for indigenous fauna.
- 5.2. Ngāi Tahu are statutorily recognised as kaitiaki of our takiwā. This includes recognition of the special relationship Ngāi Tahu have with a number of Taonga Species. These species (both flora and fauna) are treasured. Ngāi Tahu have an active role in their management and revitalisation.
- 5.3. There has been massive loss of biodiversity in the Ngāi Tahu takiwā and Te Rūnanga are committed to preventing further loss. Thresholds for protection of values and flora and fauna cannot be so high as to leave those which do not meet the criteria vulnerable. This will inevitably lead to a net loss of biodiversity which is unacceptable.
- 5.4. Te Rūnanga notes that the proposal appears to acknowledge that there are sites and biodiversity values that may not have significant classification within plans, yet still should be afforded further protection by local government where appropriate.



- 5.5 However, the proposed NES-PF lacks clarity as to how these measures may be applied by local authorities. This may prevent local government protecting areas appropriately.

### **Recommendations**

- 5.6 Te Rūnanga recommends the following:
- The NES-PF empowers local government to impose greater stringency on activities that could impact areas that are valuable for indigenous vegetation or as habitat for indigenous fauna.
  - That acknowledgement within the NES-PF that there are biodiversity sites, values and priorities that are not necessarily included in regional plans and other documents is appropriate and that local government should have the ability to ensure their protection.
  - Furthermore, this sub-category of acknowledged biodiversity values and areas must be clarified and clear provision be made for protecting them.

## **6. WATER QUALITY AND QUANTITY**

- 6.1 The approach that the NES-PF has taken towards issues of water management is relatively narrow from a Ngāi Tahu perspective.
- 6.2 Te Rūnanga take a whole catchment approach, based in the principle of 'Ki uta ki tai' (from the mountains to the sea). It is important that the NES-PF gives meaningful recognition to the broader contexts and effects. Sole focus on areas directly affected by forestry activity and ignoring downstream environments and cumulative effects does not demonstrate a true commitment to water quality and quantity.
- 6.3 The provisions by which local government will be able to set more stringent rules around water management in the proposed NES-PF extend only to water bodies and values that have been recognised in planning or another formal protection mechanism.
- 6.4 This does not offer protection to those water bodies and wetlands that fall outside the classification of these documents and plans, with no consideration to their significance and value in a broader regional context.
- 6.5 The proposed NES – PF relies on operator's plans to assess and address risks to the environment their activities pose. It is not clear whether local authorities would have the opportunity to require amendments to these plans under the NES-PF.
- 6.6 Te Rūnanga notes that the proposed NES-PF places issues of water quantity and yield as out of scope, with local government retaining authority to manage afforestation in catchments that regional or district plans identify as water sensitive.
- 6.7 However, again this is a narrow approach, as the NES-PF does not clearly articulate whether there are any mechanisms available to limit effects of forestry on water quantity in other areas and at a broader catchment level.
- 6.8 This point is relevant because some regional plans within the Ngāi Tahu takiwā are based on an entire catchment approach, incorporating values from across communities, including ngā Papatipu Rūnanga.



### **Recommendations**

6.7 Te Rūnanga recommends the following:

- That an NES-PF take a broader approach to water quality management and protection than currently proposed. The current parameters are too narrow, a more holistic approach that seeks to promote entire catchment health is necessary.
- That the NES-PF is amended to allow local government to apply more stringent rules in order to align forestry activities that may have adverse impact on water values with local management priorities.
- Furthermore, the NES- PF should account for wetlands and water bodies that fall outside of the current requirements such as inclusion in plans, as they often hold value and significance in a broader context. The proposal seems to allow for this with regard to sites and values of significance for biodiversity so Te Rūnanga sees no reason why a similar sub set of values or priorities cannot be applied to water protection.
- That the proposed NES-PF is amended to give greater clarity as to what authority local government will have to manage impacts of forestry on water quantity and yield. Te Rūnanga expects this to be considered in the context of broad, national aspirations for water management.

## **7. CULTURAL AND HERITAGE VALUES**

- 7.1 The consultation document lists 'Places and areas of known cultural or heritage value' as a matter for which local government can apply greater stringency.
- 7.2 Te Rūnanga agrees that there is too much variation regionally for there to be a nationally consistent approach to protecting places that have cultural and heritage values and that a local approach is appropriate.
- 7.3 However, Te Rūnanga has concerns that there are no explicit provisions made within the proposed NES- PF for accidental discoveries and what course of action foresters need to take if they discover something that has cultural significance.
- 7.4 The NES-PF must ensure appropriate measures are taken upon discovery of items that would have significance to Ngāi Tahu, or be wāhi tapu.
- 7.5 Typically, the Papatipu Rūnanga of Ngāi Tahu will have Iwi Management Plans or relationships with the local government within their respective takiwā, and these will often include Accidental Discovery Protocols.

### **Recommendations**

7.6 Te Rūnanga recommends the following:

- That the NES-PF should either include provisions that directly address the management of accidental discoveries, or explicitly empower councils to do so.



- That the NES-PF facilitates clear pathways for communication between foresters, local government and mana whenua which will allow confidence to all parties that any cultural values will be managed efficiently and appropriately.

## **8. TOOLS FOR IMPLEMENTATION, GUIDANCE AND RISK ASSESSMENT**

- 8.1 Te Rūnanga acknowledges the intent of the Crown to create guidance material and templates to assist local government with implementation of the proposed NES-PF.
- 8.2 Te Rūnanga consider that mana whenua involvement in the development and delivery of these implementation materials is a necessity, and are concerned that engagement to this end has not been apparent.
- 8.3 Te Rūnanga has some concerns around the development and Environmental Risk Assessment tools that underpin the proposed NES- PF.
- 8.4 The Fish Spawning Indicator timeframes are generic. For example, Large Galaxiid spawning periods on the West Coast differ from those proposed in the Indicator. Such inconsistencies undermine the intent and protective effectiveness of the risk assessment tools.
- 8.5 The Wilding Spread Risk Calculator and Erosion Susceptibility Classification tools that assess the risk of forestry species spreading and assess the erosion potential of forestry land will have implications beyond the NES-PF, linking to recent changes to the Emissions Trading Scheme. Assessment of the risk of spreading is likely to determine whether wilding pines will be left to develop as forests, for example. Assessment of erosion risk is likely to determine whether ETS liabilities can be offset through low density planting of willows and poplars, as another example.
- 8.6 Te Rūnanga does not have confidence in the tools, and their potential impact on Ngāi Tahu lands, particularly in relation to spread of exotic species, without clear understanding of the details of their development and implementation.
- 8.7 Te Rūnanga consider these Risk Assessment tools to be critical in underpinning the intent of the NES-PF and setting the bottom lines for environmental protection. Therefore, it is important they are accurate.

### ***Recommendations***

- 8.8 Te Rūnanga recommends the following:
  - That mana whenua are formally involved in the development and delivery of support material for local government. This will help ensure the NES-PF can be implemented in alignment with local cultural values, as well as being an opportunity to build relationships between local government and mana whenua.
  - That the Risk Assessment tools that underpin the NES-PF are reassessed to ensure that they will deliver the intended level of protection regionally, allowing for variation between regions.



## APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

### *Part One – Apology by the Crown to Ngāi Tahu*

#### *Section 6 Text in English*

The text of the apology in English is as follows:

1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai takatā, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tira morehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

*"This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name."*

The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

2. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.
3. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.
4. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tirenī!' ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').
5. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.
6. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi

Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

7. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.
8. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."



## APPENDIX TWO:        NGĀI TAHU TAKIWĀ





# Proposed National Environmental Standard for Plantation Forestry Template for Submitters

We would like to hear your views on the proposed NES-PF.

Please feel free to use this template to prepare your submission. Once complete please email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

As stated in section 8.2 of the consultation document, your submission must include at least the following information:

- your name, postal address, phone number and, if you have one, email address
- the title of the proposed standard you are making the submission about
- whether you support or oppose the standard
- your submission, with reasons for your views
- any changes you would like made to the standard
- the decision you wish the Ministers to make.

When commenting on specific draft rules, please be as clear as possible which rule you are referring to and provide a reference e.g. to the relevant page number, heading or text.

For more information about how to make a submission, please refer to section 8 of the consultation document.

## Contact details

**Name:**

**Postal address:**

**Phone number:**

**Email address:**

**Are you submitting on behalf of an organisation? Yes [Y]      No [ ]**

**If yes, which organisation are you submitting on behalf of?**

**If you are a forest owner/manager, what size of forest do you own/manage (in hectares):**





### ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

### ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*Please indicate below if you wish your personal details to be withheld:*

☐ [Y] Please withhold my personal details where submissions are made public

☐ [ ] Please withhold my personal details in response to a request under the Official Information Act 1982

## **Questions for submitters**

The questions for submitters that are included throughout the consultation document are provided below. We encourage you to provide comments to support your answers to the questions below.

1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry?

Please provide comments to support your views.

Sections 2.1 and 2.2 have clearly identified problems faced by the plantation. However, as we are not foresters we are unable to comment on whether the problems stated are accurate and complete.



2. Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry?

Please provide comments to support your views.

In line with the policies, objectives and methods as stated in Ngāti Whātua Ōrākei (NWŌ) Iwi Management Plan 2012 (IMP), we believe the proposed conditions can be strengthened by enforcing the establishment of riparian margins and/or buffer zones within each and every plantation forest. A riparian margin and/or buffer zone can minimise, reduce and eliminate the risks/environmental effects associated with the permitted activities in the following ways:

- Improve water quality;
- Reducing disturbance to waterways and life within;
- Minimise erosion;
- Lessen the spread of wilding trees;

Riparian margins and/or buffer zones will also provide a sanctuary for native biodiversity.

3. Are the conditions for permitted activities clear and enforceable (see appendix 3 of the consultation document)? Can you suggest ways of making the rules clearer and more enforceable?

Please provide comments to support your views.

The rules and conditions can be made clearer by incorporating:

- a more kinesthetic approach (ie pictures and diagrams);
- a summary of main points for each activity;
- simple language

Meaningful engagement with Mana Whenua enabling them to uphold their kaitiakitanga responsibilities and cultural values will assist with enforcing the conditions for permitted activities.

4. Are the matters where local authorities can retain local decision-making appropriate (summarised in Table 2 and Table 4 and provided in detail in Appendix 3 of the consultation document)?

Please provide comments to support your views.

Yes, however we believe that local authorities should not be confined to what is listed in table 2 and 4.





5. Will the environmental risk assessment tools (the Erosion Susceptibility Classification, the Wilding Spread Risk Calculator, and the Fish Spawning Indicator) appropriately manage environmental effects as intended (see section 3.5 of the consultation document)?

Please provide comments to support your views.

In our opinion the environmental risk assessment tools do not appropriately manage environmental effects. As mentioned in our answer for question 2, a riparian margin and/or buffer zone can minimise, reduce and eliminate the risks/environmental effects by:

- Improving water quality;
- Reducing disturbance to waterways and life within;
- Minimising erosion;
- Lessening the spread of wilding trees.

6. Do you have any comments about any particular activity or draft rule (see appendix 3 of the consultation document)?

Please include reference to the rule you are referring to.

In light of the on-going diminishment of the mauri (life force, somewhat compatible with ecological health) of harbours, streams, wetlands, lakes and our whenua; and in line with NWŌ's IMP we do consider a range of the forestry activities to be an adverse effect to Mana Whenua values. As a result, we strongly advocate for meaningful Mana Whenua engagement in all aspects of forestry activity.

7. Is the NES-PF the best option to meet the assessment criteria (in Box 13 of the consultation document)?

Please provide comments to support your views.

Based on the information provided the NES-PF is the preferred option, however again we need to emphasise the importance of meaningful engagement with Mana Whenua, from point of initiation of any project.

8. Have the expected costs and benefits of the NES-PF been adequately identified (see section 4.3 of the consultation document)?

Please provide comments to support your views.

Based on the information provided, we are unable to make an informed response.



9. Are there any issues that may affect the successful implementation of the NES-PF (such as decision-makers applying the permitted baseline test more frequently)?

Please provide comments to support your views.

The lack of meaningful engagement with Mana Whenua could hinder the implementation of the proposed NES-PF.

10. Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.

Past practices of colonisation, development, infrastructure and construction, has aided in the destruction and loss of significant and sacred sites, settlements and trees. With this said, we feel that unscheduled sites of significance are not adequately addressed and protected in this proposal.

Any excavation work in any area can potentially disturb and uncover both scheduled and unscheduled cultural heritage. Therefore, it is vital that Mana Whenua are given the opportunity to identify any adverse effects to Mana Whenua values.

11. Will the proposed NES-PF support regional councils to implement the NPS-FM (see section 6.1 of the consultation document)?

Please provide comments to support your views.

The only way the NES-PF can support the implementation of the NPS-FM is by having a riparian margin and/or buffer zone can minimise, reduce and eliminate the risks/environmental effects by:

- Improving water quality;
- Reducing disturbance to waterways and life within;
- Minimising erosion;
- Lessening the spread of wilding trees;

12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF (see section 7 of the consultation document)? How should these activities be delivered (for example, training, online modules, guidance material)?

In our opinion, the following suggestions will aid interested parties in getting a better understanding of this proposal:

- Offer a range of hands-on, practical workshops; and
- Provide a brochure for each activity, summarising its main points and conditions.



13. Are there any other issues that you would like to raise?

Through the exploitation of the natural resources of Aotearoa from the 1790's we have seen the loss and extinction of native biodiversity. This catastrophe has led to the loss of customary practices of Kaitiakitanga that were associated with these natural resources of native flora and fauna. In light of this loss and exploitation by the Crown, NWŌ consider the use of riparian margins/buffer zones an appropriate form of mitigation.

On page 105 of the Consultation document, it states:

"If sites are identified or exposed before or during forestry activities, then strict procedural rules must be followed."

Our questions in relation to this statement are:

1. What are the strict procedural rules?
2. Were Mana Whenua involved in the establishment of these rules?
3. Do Mana Whenua consider these rules to be appropriate?



s 9(2)(a)

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**From:** Nikki Searancke s 9(2)(a)  
**Sent:** Tuesday, 11 August 2015 12:27 a.m.  
**To:** NES PF Consultation  
**Subject:** NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY  
SUBMISSION

## NUHITI Q INCORPORATION

s 9(2)(a)

s 9(2)(a)

### 1. HERITAGE AND CULTURAL SITES - SIGNIFICANT TO WHANUA, HAPU AND IWI.

Nuhiti Q and the hapu of Wakarara submit that all sites and history of whanau, hapu of Wakarara own the wahi tapu, and wahi tupuna. Under the current Heritage New Zealand Act 2014, whanau and hapu and iwi are recognised as the stewards or kaitiaki of any sites known and unknown, whether they are identified under Council plans. Further, Nuhiti Q will work with all forest managers to manage harvest plans and their implementation processes to ensure that the wahi tapu sites and wahi tipuna site are protected prior to harvest planning.

### 2. OVERLAY 3 - GISBORNE DISTRICT COUNCIL

Nuhiti Q supports the Gisborne District Council submission position (submission made ref: 15/227) "Orange Zone Harvesting"

This zone under Overlay 3 in our area requires a resource consent. Nuhiti Q supports this stance; we oppose any permitted activity.

### 3. CONSULTATION

Nuhiti Q is disappointed at the short and inadequate consultation undertaken by the MPI. Plantation forestry is a major land use activity in Gisborne District Region. Further consultation and meetings/hui should be undertaken as soon as possible to inform communities throughout the Coast.

In closing, Nuhiti Q thanks MPI for the opportunity to make this submission.

Nga mihi, Nikki Searancke.

**Subject:** National Environmental Standard for Plantation Forestry Submission

**Prepared by:** Trevor Freeman (Chief Science Specialist)

**Meeting Date:** 5 August 2015

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## **Report to ENVIRONMENTAL PLANNING & REGULATIONS Committee for decision**

### **SUMMARY**

Council submitted on a discussion document for a proposed National Environmental Standard for Plantation Forestry (NES) in 2010, and then a proposal itself in 2011. The submissions were in opposition, being concerned at a potential lowering of environmental standards for plantation forestry activities. A new NES proposal has been developed over the past two and a half years. Plantation forestry is an important land use in this district and is concentrated on difficult to manage erosion prone land. Although the Chief Science Specialist has been a member of the Working Group tasked with advising Ministry of Primary Industries (MPI), and the new proposal is an improvement on the 2011 version, substantial issues remain. Appropriate management of forestry activities is critical to sustainable land and water management in this district. Two consultation meetings have been held in Gisborne. Submissions on the proposal are now open. It is considered essential that Council tables a submission to assist in exercising its statutory responsibilities.

### **RECOMMENDATIONS**

#### **That the Committee**

- 1. receives the report**
- 2. instructs staff to prepare a submission on the National Environmental Standard for Plantation Forestry proposal covering the points identified in this report**
- 3. forwards the submission to the Ministry for Primary Industries, the Minister for the Environment and the Minister for Primary Industries.**



Trevor Freeman  
**Chief Science Specialist**



Kevin Strongman  
**Group Manager Environmental & Regulatory Services**

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**Keywords:** National Environmental Standard, NES, Plantation Forestry

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## 1. BACKGROUND

Under the Resource Management Act 1991, government may prepare National Environmental Standards (NES's) to regulate environmental effects. An NES can stipulate nationally applicable standards, thresholds and methods. An NES may prohibit an activity, permit an activity (provided it does not have significant adverse effects on the environment) or require resource consent processes, in much the same way as District and Regional Plans do. There are implications for District and Regional Plans; they cannot be more lenient than an NES and can only be more stringent if the NES expressly allows. Once an NES takes effect it replaces relevant existing plan rules. Councils must amend its plans to reflect the NES requirements as soon as practical.

The New Zealand Forest Owners Association began promoting an NES for plantation forestry in late 2008. The Ministry for the Environment released a scoping document in September 2009 and Council forwarded a detailed submission at that time. A stakeholder workshop was convened in December 2009 and subsequently Trevor Freeman (District Conservator at the time) became part of a working group to better provide for regional and district council perspectives.

In October 2010 council submitted on a Proposed NES for Plantation Forestry discussion document and submitted again in June 2011 on a revised proposal. At that time a cost-benefit analysis was unable to show a positive benefit. In February 2013 further work on the NES proposal by MfE was deferred, but Cabinet directed Ministry for Primary Industries to explore complementary measures to address forestry issues, building on the work done up to that time. The resulting programme to deliver increased planning certainty and consistency for forestry considered a range of options before deciding an NES was the preferred option.

A new NES proposal has been developed over the past two and a half years. The Working Group has met frequently and Ministry for Primary Industries staff have done most of the NES drafting. Various pieces of work were commissioned from consultants and Crown Research Institutes. The Cost-Benefit analysis was revised and reassessed to give a quantifiable marginal net benefit. The resulting new NES proposal has been released as a consultation document with a call for submissions by 11 August 2015.

### **Forestry and Land Erosion**

Plantation forestry is an important land use in this district, occupying some 160,000 ha. The Gisborne District is home to the largest concentration of the most erosion prone land in New Zealand. Plantation forest establishment has long been an important tool for soil erosion control. Various Government incentive schemes and policies have seen plantation forests concentrated on much of the most erosion prone lands. The Erosion Control Funding Programme supported by the Council's Overlay 3A rule continues this trend. Once planted in plantation forest the land remains vulnerable to disturbance.

Plantation Forestry on steep and erosion prone hill country involves landscape disturbance activities that can be on a large scale, unlike any other land use. Forest road construction is usually a minimum of six metres in width and to strict grade. Flat landings have to be formed on prominent ridges. This means substantial cuts and fills, including across slopes. Both are potentially destabilising. Clear-fell operations include harvesting of large areas, regularly greater than 100ha. Whole catchment clearance can affect gullies downstream. Clear-fell harvesting affects biodiversity and re-introduces erosion risk similar to grassland for a number of years. Forestry slash, woody debris and sediment can end up being deposited in large quantities in receiving environments – whether they be streams, wetlands or the coast.



Existing rules in Council's statutory RMA plans are adequate to manage most, but certainly not all of the adverse effects, however they will be required to be changed to be consistent with the NES. Local communities have also recently voiced concerns over woody debris ending up in streams, rivers and beaches.

## **2. DISCUSSION AND OPTIONS**

Staff participation at the Working Group level has been useful in shaping the NES. The latest proposal is an improvement on the 2011 version, many of the concerns expressed in Council's submission at that time have been resolved, at least in part. However, some substantial issues remain, some of which are fundamental to sustainable land and water management in the Gisborne District. In addition significant new issues have arisen which relate to the NPS-FM released in 2014, and the work done by the Council to progress its requirements.

It was apparent when work began on a nationwide NES with limited room for councils to retain more stringent provisions in their plans, that the Gisborne District could be particularly adversely affected. This being due to the natural variability of the landscape, the vulnerability of large areas to severe soil erosion and the concentration of plantation forests on these areas. The objectives of the NES are expressed at a national level. There will inevitably be "unders and overs" with some regions facing tighter controls and having the ability to strengthen environmental outcomes, while some others will face looser controls and an inability to retain or enhance environmental outcomes in some areas. Gisborne is in the latter group and likely to be at the extreme end.

The NES proposal is quite complex and an appreciation of the impacts requires an understanding of the land use capability units applying to each region that make up the Erosion Susceptibility Classification upon which activity rules are based. There are multiple land use capability legends too, some of which straddle council boundaries.

A public meeting and a hui directed more at tangata whenua were held in Gisborne on 14 July 2015. Both were well attended. Forestry interests, consultants, farmers, Department of Conservation, iwi, non-government organisations and interested members if the public attended along with staff, Councillor Seymour and the Mayor. MPI staff presented and invited questions and discussion.

Key concerns were relayed to the Ministry for Primary Industries officials however, a full response by way of formal submission is considered essential. The following submission points are considered to capture the key issues identified by staff and those arising from the consultation meetings. The submission will of necessity be detailed. The consultation document contains a number of errors. Those identified have already been brought to the attention of MPI and will be addressed through the Working Group.

The key concerns also address those voiced at the 16 July Future Tairāwhiti meeting.

## **3. KEY SUBMISSION POINTS**

### **NES Review**

A review of the NES after five years would be a useful precaution given the wide reaching impact it would have on present controls in plantation forestry and the potential for adverse environmental effects. Council's plans are required to be reviewed every ten years and they are formed through much more detailed community consultation and Schedule 1 RMA processes.

### **Orange Zone Harvesting**

Harvesting on all of the Orange Erosion Susceptibility Class (ESC) is a permitted activity. Orange land includes a number of Land Use Capability (LUC) units that are steep to very steep on erosion prone soft geology prone to soil slipping that removes the entire soil layer down to bedrock that is then unable to sustain trees of any type. This land is found in areas known to be “hotspots” for cyclonic storms, such as Whararata, inland Tolaga Bay and East Cape. It is the source of woody debris that has been recently deposited onto river flats, into river channels and on beaches in large quantities. Under the District Plan harvesting requires a consenting process to give the flexibility to develop and put in place site specific preventative and mitigation measures such as re-planting requirements. This will enable further woody debris mitigation measures for instance. The NES permitted activity conditions are inadequate and rigid. It is unacceptable that such land is afforded permitted activity status given the risks involved. Section 43 A (3) (b) RMA 1991 does not allow an NES to state that an activity is a permitted activity if it has significant adverse effects on the environment. This is such an activity for our district.

### **Orange Zone Afforestation**

Linked to Orange ESC harvesting issues is afforestation (of new forests) on Orange being a permitted activity. This would prevent any planting restrictions as a method to mitigate woody debris from future harvesting.

### **Sensitive Receiving Environments**

The ESC classification is based on LUC which is then used to determine activity status. This is a very good process to assess risk on the sites where the forestry activities are being carried out, but takes no account of variations in downstream receiving environments which demand site specific measures to avoid or mitigate adverse effects. Where the activity status includes a resource consent requirement this imparts the flexibility to provide for differing receiving environments. However where permitted activity status applies, supported by generic permitted activity conditions only without any or adequate allowance for variations in downstream receiving environments, this is of major concern. It also breaches the Section 43A (3) (b) RMA 1991 stipulation. Sensitive receiving environments include areas such as estuaries, coastal marine areas, water intakes, dwellings and amenity. It is noted an earlier Plantation Forestry NES proposal included an exception for sensitive receiving our district environments, but this has been removed.

### **Uncertainty of Conditions**

The proposed permitted activity conditions frequently use uncertain language such as “as far as is practicable”, “if unavoidable”, “except where unsafe or impracticable to do so”. Such language results in conditions that are litigious or unenforceable. A rule that is unenforceable has little effect and leaves our district vulnerable. Uncertain language appears throughout permitted activity conditions. The NES proposal explains further analysis and drafting is envisaged and the rules as they are amount to drafting instructions. There is no obvious clear and certain language for many of the rules that would suitable manage adverse effects across all circumstances. Therefore it is important that if permitted activity status is retained the relevant conditions err on the side of caution, alternatively a consents regime needs to be required.

### **Ability to be More Stringent**

The listed NES activities covered by rules encompass all major within forest activities. The ability for councils to be more stringent is tightly constrained. For instance unmapped wahi tapu sites, unmapped significant indigenous flora and fauna and all significant freshwater bodies (including mapped significant freshwater bodies) are not included. To properly apply sustainable management and give effect to their statutory responsibilities councils need the ability to be more stringent than allowed for in the NES. Mapping areas of significance is expensive and takes considerable time to collect and collate the required data. Not all significant natural areas and not wetlands are mapped in the District Plan. Good outcomes can be achieved through setting out key parameters and using site specific assessments.

### **Management Plans**

Harvest Plans, Quarry Management Plans and Erosion and Sediment Control Plans are required to be prepared for harvesting, quarrying and earthworks respectively. The contents required of these plans is broadly described and it is by no means certain that plans will adequately describe activities or the activities intended will be sufficient to achieve other permitted activity conditions. The role of councils is restricted to being advised when activities will begin and having the Plans made available to them. There is no provision for councils (or any other body) to certify the Plans as adequate.

### **Mechanical Land Preparation – Root Raking**

Root raking is using a bulldozer with a slotted blade to clear vegetation by driving straight downslope. Root raking is permitted in the Orange and Red Zones on slopes  $>25^{\circ}$  if the activity does not affect the subsoil. This would allow total removal of the topsoil. Top soil removal would severely limit plant growth of any kind and is a practice not regarded as sustainable land management. Without topsoil and plant cover land is subject to soil erosion. Topsoil disturbance needs to be kept to a minimum.

### **Permitted Activities**

The proposal, for this district would mean fewer forestry activities would be subject to resource consent processes. Instead there would be more permitted activities subject to NES permitted activity conditions. The cost of monitoring resource consent conditions is recoverable from consent holders. The cost of monitoring permitted activity conditions is not. This would amount to a shift in cost from those carrying out forestry activities to the wider rate paying community. This could easily equate to \$120,000 per year.

Resource consent processes involve pre-application discussions, requiring further information and formulating clear activity based conditions that will lead to required environmental outcomes. These are proactive processes by which forestry activities are able to be shaped before they begin. They enable useful advice to be conveyed to contractors not used to local conditions. Forestry activities such as earthworks, quarrying and harvesting are irreversible and are often large in scale and happen very quickly. Where activities are permitted they are able to proceed without council approval. How the activities are carried out is unable to be influenced. Council involvement is limited to compliance monitoring and enforcement. These are reactive in nature, occurring after activities have occurred. This is not acceptable for our district.



## **Freshwater Plan and NPS-FM**

Council has been preparing its Freshwater Plan which is due to be notified later in this year. While forestry can have positive benefits on water quality while the trees are growing large scale clear-fell operations, and the development of infrastructure (culverts, fords, roading) which goes with this can have significant localised effects, which if not managed carefully can have a wider adverse impact.

While some of the activities that are part of forestry establishment and harvest are specific to forestry, many, such as roading installation, culverts, bridges, riparian vegetation clearance and earthworks are not unique to the forestry industry. These activities occur in relation to many industries and land uses. Existing rules in relation to these in the Regional Land and District Combined Plan and Regional Discharges will be replaced by the new provisions in the Freshwater Plan. Generally the Freshwater Plan does not differentiate with regard to the purpose of an activity such as installing a culvert, or a discharge to a waterway, but by the effects of activities. Therefore this means that forestry would be treated differently to other activities even though the effects of the activities will occur. This is not acceptable for our district.

### **Water Quality Limits**

The Freshwater Plan has been prepared under the framework of the National Policy Statement for Freshwater Management (the NPS-FM). From staff analysis it appears that many of the proposals in the draft NES cut across the NPS-FM Objectives 1 and 2, and the requirements for the Council to manage water quality set out in that NPS-FM. While the "Ability to be more stringent" section of the NES identifies that this is "where required to meet the Objectives of the NPS-FM", the discussion document identifies this as:

- where a limit has been set that has not been met, and forestry activities are the source of the contaminant; and

Based on this explanation, this would seem to cut across the NPS-FM requirement for Councils to "maintain and improve" water quality – as council could only be more stringent if the water quality was degraded. This is not acceptable for our district and is contradictory to our prepared Freshwater Plan.

### **Outstanding waterbodies**

To add further confusion, the list of rules set a number of permitted and controlled activity rules for outstanding waterbodies which could be likely to specifically adversely affect their values. For example, the NES allows a culvert to be constructed within an outstanding waterbody as a Controlled Activity – consent must be granted. This could destroy the values that make the waterbody outstanding. A slash trap in an outstanding waterbody is a Permitted Activity. This is not acceptable for our district.

### **Wetlands**

The NPS-FM specifically requires the protection of the significant values of wetlands. The NES rule tables reference wetlands greater than 2500m<sup>2</sup> and provide for a range of permitted and controlled activities which would adversely affect significant values of wetlands. Gisborne has few remaining wetlands, and many of those left are smaller than 2500m<sup>3</sup>, some of these have been identified as Regionally Significant. This is not acceptable for our district.

### Timing of Earthworks

Timing of earthworks and activity within riverbeds is a significant issue both in terms of generation of sediment and avoidance of impacts on aquatic ecosystems and riverine birdlife. No provision for an earthworks “close out” season is provided for in order to protect the values of sensitive receiving environments including outstanding waterbodies and wetlands. This is not acceptable for our district.

### Fish Species Spawning, Migration and Riverine Birds

The NES includes some provisions around work within waterways and providing for times where this should not be undertaken in order to protect the spawning of some specific species of native and exotic fish life – however only 5 of these species are found in the Gisborne region and this does not include a large number of the significant species which are present in Gisborne waterways including:

Long finned eel, short finned eel, short jawed kokopu, torrentfish, Crans bully, bluegill bully, upland bully, giant bully, inanga, banded kokopu, lamprey and smelt.

For those species which are listed, the dates provided for in the NES don't align with the local spawning times in the Gisborne region, and exempt axle movements up to 20 per day and the hauling of partly suspended logs across rivers with a bed of less than 3m wide. These types of activities could completely destroy a fish spawning area.

No provision is made for the protection of the migration activities of native fish.

In relation to riverine birds, only the nesting times of nationally critical or nationally endangered species have any consideration – in the case of regionally threatened species or stronghold populations the Council has no ability to be more stringent.

### **New Zealand Coastal Policy Statement**

There is no ability to be more stringent in relation to meeting the requirements of the New Zealand Coastal Policy Statement.

The National Coastal Policy Statement has specific policies around natural character, water quality and other matters. Policy 22 specifically requires:

“Control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry”.

## **4. COMMUNITY OUTCOMES**

This report contributes to all three community outcomes; people, the environment, culture and economy, and our aspirations. Sustainable land and water management is fundamental to community wellbeing.

The outcomes of the Freshwater Plan will be compromised along with the substantive “good will” that has been created through the collaborative plan making process.

## **5. STRATEGIC PRIORITIES**

Fundamental to the community outcomes is environmental stewardship.

## **6. POLICY**

There could be later implications for Council's policies in its statutory plans as a result of this NES, but not at this consultation stage.

## **7. LEVELS OF SERVICE**

Levels of Service will be unaffected at this stage but a redirection of resources and a requirement for additional resources in the compliance monitoring area may well result should the proposal take effect.

## **8. APPENDICES**

- Appendix I Summary Consultation Document. For the full consultation document see:  
<http://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-plantation-forestry/>
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## A National Environmental Standard for Plantation Forestry

### Summary consultation document June 2015

The Ministry for Primary Industries is seeking your views on the proposed subject matter of a National Environmental Standard for Plantation Forestry (NES-PF). This is a proposal to change how plantation forestry activities are managed under the Resource Management Act 1991 (RMA). If implemented, an NES-PF would replace councils' existing district and regional plan rules for managing plantation forestry. It would provide a nationally consistent approach that is responsive to local environments.

This document summarises the full consultation document, *A proposed national environmental standard for plantation forestry*, which is available from [www.mpi.govt.nz/nep-pf](http://www.mpi.govt.nz/nep-pf)



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*

Ministry for Primary Industries  
Manatū Ahu Matua



## Plantation forestry in New Zealand

Plantation forests cover an estimated 1.75 million hectares (about 7 percent) of New Zealand's land area and contribute about 3 percent of gross domestic product.

Plantation forestry delivers significant economic and social benefits to New Zealand. It also provides environmental benefits such as improving water quality and controlling erosion.

As with all land use activities, plantation forestry can have adverse environmental impacts if it is not managed appropriately. Such adverse impacts are most often associated with harvesting and earthworks activities, which occur only at particular stages of the forestry life cycle.

### How plantation forestry is currently regulated and managed

The RMA is the main piece of legislation used to manage the environmental effects of plantation forestry. Local government is primarily responsible for giving effect to the RMA. Councils develop plans with objectives, policies and rules to manage the environmental effects of land use activities such as plantation forestry. These objectives, policies and rules are developed through community planning processes and are subject to review over time.

Local plan rules establish the conditions under which forestry activities are allowed or whether consents are required in a region or district. As a result:

- plantation forestry is regulated differently in different regions and districts;
- conditions placed on forestry activities can change over the life of a forest as plans change.



### The “problem”– uncertainty and inconsistency

Councils take into account local environmental conditions (such as high erosion susceptibility) and community priorities (such as heritage and cultural values) when setting planning rules. Therefore, across the country some variation between councils' plans is expected and desirable.

However, sometimes the reasons for the differences between council approaches are unclear and hard to justify. This “unwarranted variation” creates unnecessary costs and complexity for all forestry sector participants (not just forestry operators) and leads to uncertain environmental outcomes.

Unwarranted variation is variation between plans that is not justified by environmental, economic, social or cultural benefits and imposes an unnecessary cost.





## Overview

The objectives of the proposal are to:

- remove unwarranted variation between local councils' planning controls for plantation forestry;
- improve certainty of RMA processes and outcomes for plantation forestry stakeholders, while maintaining consistency with the purpose of the RMA;
- improve certainty about environmental outcomes from plantation forestry activities for forestry stakeholders, including communities, nationally;
- contribute to the cost-effectiveness of the resource management system by providing appropriate and fit-for-purpose planning rules to manage the effects of plantation forestry.

### What is being proposed?

The proposed NES-PF introduces technical standards for plantation forestry activities across New Zealand. If implemented, an NES-PF would apply to plantation forestry as defined in the box. The proposal includes a set of draft rules for each of the eight core plantation forestry activities and general conditions that all activities must also meet.

For a visual overview of the proposal see pages 6.

A National Environmental Standard (NES) (as provided for under sections 43–44A of the RMA) would establish a technical standard for forestry activities and set out when an activity is permitted and when consent is required. An NES would override rules for plantation forestry in planning documents, except in relation to matters where councils are allowed to be more stringent than the NES.

The proposed NES-PF is based on good industry and environmental practice and up-to-date science. To develop the proposal, the Ministry for Primary Industries worked with the Ministry for the Environment and forest owners, councils, environmental non-governmental organisations and resource management experts. The proposal has also been discussed with a wide range of stakeholders. Their feedback was incorporated into the draft rules when it improved the rules and would improve the balance between environmental protection and economic efficiency.

These draft rules may change as a result of this consultation. If an NES-PF proceeds, the wording of the draft rules is likely to change when the Parliamentary Council Office formally writes the regulation required to implement the NES-PF. However, the intent of the rules should not change.

The Ministry for Primary Industries proposes that *plantation forestry* is defined as:

- at least 1 hectare of forest cover of forest species that has been planted and has been, or will be, harvested;
- including all associated internal infrastructure; but
- not including:
  - a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 metres;
  - forest species in urban areas;
  - nurseries and seed orchards;
  - fruit and nut crops;
  - long-term ecological restoration planting of forest species;
  - willows and poplars space planted for soil conservation purposes.



## Rules for eight plantation forestry activities

The proposed NES-PF contains activity-specific rules for eight plantation forestry activities. These activities cover the whole plantation forest life cycle:

Activity	Adverse environmental effects to be managed
<b>Mechanical land preparation</b> 	Erosion and sedimentation, related effects on habitats and water quality from sediment run-off
<b>Afforestation</b> 	"Wilding" spread, sedimentation from earthworks in erosion-prone areas
<b>Earthworks</b> 	Erosion and sedimentation (for example, from construction of roads and infrastructure)
<b>Forestry quarrying</b> 	Similar to effects from earthworks, impacts on cultural sites, over-burden disposal
<b>River crossings</b> 	Erosion and sedimentation, restricting or preventing fish passage, bed erosion, accumulation of debris, damage to structures during flooding
<b>Pruning and thinning-to-waste</b> 	Usually minor environmental effects, effects on and in water bodies if debris not appropriately managed
<b>Harvesting</b> 	Discharge of slash and sediment onto land and into water, soil disturbance and erosion, riparian vegetation disturbance
<b>Replanting</b> 	Similar to effects for afforestation, although likely to be less impact from earthworks in second generation forestry because of pre-existing infrastructure



## More about the proposal

### Principles underpinning the draft rules

The draft rules that form the basis of the proposed NES-PF are based on four principles:

1. Where possible, activities should be permitted (that is, not need a resource consent) provided robust permitted activity conditions are met.
2. As the risk of adverse environmental effects at the location of the activity increases, the requirement for consent becomes more likely and conditions become more stringent.
3. The proposed rules and the threshold at which consent is required should be based on up-to-date science.
4. The rules should provide a consistent approach nationally, but should be responsive to local environmental conditions.

### Retaining local decision-making

Although a primary objective of the NES-PF is greater national consistency, local authorities sometimes need to be able to manage activities because of unique environmental, social or cultural factors. The proposed NES-PF identifies matters where councils would have the ability to be more stringent than the proposed NES-PF.

Subject to conditions, councils could set more stringent rules in plans or more stringent conditions in resource consents in relation to:

- the coastal marine area (to align with the New Zealand Coastal Policy Statement);
- geothermal and karst protection areas;
- areas of known cultural or heritage value;
- significant natural areas and outstanding natural features and landscapes;
- shallow aquifers (as groundwater systems may be complex in local areas);
- meeting the objectives of the National Policy Statement for Freshwater Management.









## Environmental risk assessment tools

Three tailored environmental risk assessment tools will be used to assess the risk of adverse environmental effects: the Erosion Susceptibility Classification, Fish Spawning Indicator, and Wilding Spread Risk Calculator. These tools will determine the level of risk that needs to be managed and, in turn, the level of control over an activity. This information allows the proposed NES-PF to be responsive to local environmental factors.

### Wilding Spread Risk Calculator

In the right place, conifer tree species provide environmental benefits and are a valuable economic resource for communities. However, when they spread in an uncontrolled way, they can have an adverse effect on landscape and biodiversity values, other land uses and catchment hydrology. The Wilding Spread Risk Calculator identifies the risk of wilding conifer spread and informs when consent is required.

### Fish Spawning Indicator

If not carefully managed, forestry activities can adversely affect the spawning habitats of freshwater fish. The Fish Spawning Indicator enables controls to be targeted, so restrictions on activities occur only when they are absolutely needed (that is, only during seasonal fish spawning where fish are likely to be present). The Fish Spawning Indicator will apply to 21 species, of which 14 are indigenous.

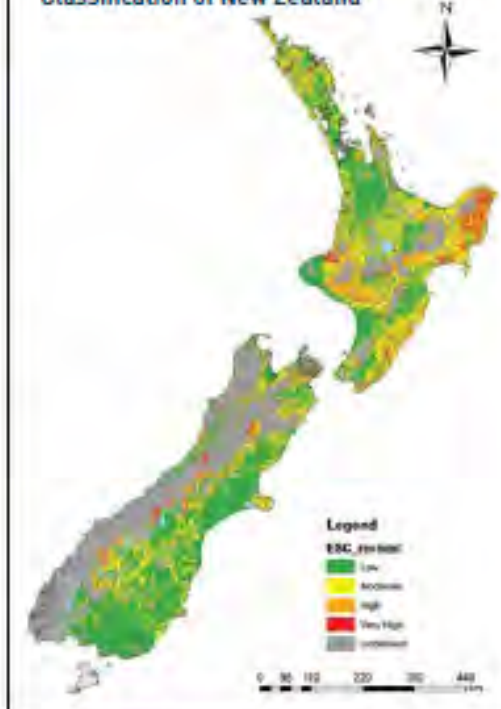
### Erosion Susceptibility Classification

The Erosion Susceptibility Classification categorises the risk of erosion on land, coding land zones as low risk (green), moderate (yellow), high (orange) and very high (red). Typically, in Green and Yellow zones, a forestry activity will be permitted, provided conditions are fully met. In contrast, forestry activities will be more tightly controlled in Red and Orange Zone land, and activities in these zones are more likely to require consent.

Percentage of New Zealand's plantation forest land in each Erosion Susceptibility Classification category.

ESC category	Low	Moderate	High	Very high
%	39%	37%	18%	6%

### Erosion Susceptibility Classification of New Zealand



Source: Landcare Research, 2015.

Note: Undeveloped land is conservation land and urban areas.



## Identifying the preferred option

The Ministry for Primary Industries assessed 18 possible solutions to address the problem of unwarranted variation before identifying an NES as the preferred option.

Solutions that could not be enforced or monitored effectively or would not achieve national consistency were discounted, which left four viable options. An NES-PF was the option that best met all the assessment criteria. It would:

- ensure consistent planning rules based on good industry and environmental practices across district and regional boundaries;
- increase certainty about the planning environment for forestry stakeholders over time;
- once finalised, come into effect quickly (that is, on the date of commencement in the regulation);
- prevent local planning rules from diverging over time because review of an NES-PF would be nationally co-ordinated.

Several non-regulatory solutions were also identified to support the implementation and enhance the outcomes of the proposed NES-PF. In particular, planning guidance and staff training will be developed for councils and forestry operators.

### Expected costs and benefits of an NES-PF

An independent assessment of the costs and benefits of the proposed NES-PF was conducted by the New Zealand Institute of Economic Research. This work excluded environmental costs and benefits, so Scion (a Crown research institute specialising in forestry related research) assessed these environmental impacts.

Overall, these assessments indicated that the benefits of the proposed NES-PF will outweigh the costs. The proposed NES-PF is expected to result in net benefits over a 30-year period compared with the status quo (that is, doing nothing). Analysis of the environmental benefits of the NES-PF found that these would certainly increase the net benefit over time.

The main environmental benefits of the NES-PF would be:

- Improved management of wildings in small forests as a result of higher afforestation controls
- Avoided erosion as a result of greater control of harvesting of forests on land with high or very high erosion risk
- Improved freshwater quality and biodiversity as a result of increased setbacks and the use of the Fish Spawning Indicator.





## Expected impacts on different groups

The proposed NES-PF would introduce a consistent set of national rules for forestry activities to replace existing district and regional plan rules. Because the draft rules are operational rules, their primary impact would be on councils and forest owners. However, all stakeholders are expected to benefit from greater certainty about the level of control of forestry activities. Multiple stakeholders would also likely benefit from a reduction in plan advocacy costs and a reduction in plan development costs for councils.

**District and regional councils** will no longer need to develop forestry-specific rules in plans, except for matters where they are able to apply greater stringency. This will reduce the cost of plan development and litigation. Councils will need to monitor permitted activity conditions. Initially, councils will also need to remove any duplication or conflict between an NES-PF and existing or proposed plans.

**Forest owners'** decisions will be better informed, with greater certainty about planning controls over the lifetime of a forest. In general, plantation forestry activities will be permitted when they occur in an area with low risk of adverse environmental effects. However, all forest owners will need to keep good records and make sure certain information (such as Harvest Plans) is made available to the council within set

timeframes. Large forest owners will benefit from reduced variation in planning rules across regional boundaries and will not need to be as involved in plan advocacy. Working under a nationally consistent rule set will mean it is easier to provide targeted guidance, support and training to all foresters.

**Iwi** will continue to be involved in planning processes for managing unique local environments and protecting cultural and heritage values. Wāhi tapu that meet the definition of archaeological sites will be treated in a manner similar to that under existing plans.

**Local communities** will be able to continue to participate in local planning processes for managing unique local environments and protecting cultural and heritage values.

**Environmental non-governmental organisations** can expect to spend less time and fewer resources on plan advocacy and can be assured of consistent environmental outcomes. However, they may need to spend more time examining consent processes in areas where consents increase.

Everyone will gain from greater certainty about environmental effects from plantation forestry activities.





## Next steps

The Ministry for Primary Industries will analyse all submissions before preparing advice for Ministers with recommendations for the proposed subject matter of an NES-PF. The Ministry will also evaluate the proposal under section 32 of the RMA. This evaluation will assess the extent to which the objectives of an NES-PF are the most appropriate way to achieve the purpose of the RMA.

The Ministers are likely to receive the report on the outcome of this consultation and the Section 32 evaluation by late 2015. If the decision is to proceed with an NES-PF, regulations will be drafted. The regulations would likely be publicly notified in the *New Zealand Gazette* during the first quarter of 2016 and come into effect later that year. This will allow time for those responsible for implementing the rules and conditions, along with forest owners and other stakeholders, to familiarise themselves with the changes.

### How the Ministry for Primary Industries will assist the transition

If the NES-PF proceeds, the Ministry for Primary Industries will be responsible for the implementation phase of NES-PF at a national level. If the proposal is progressed, after public notification of the NES-PF and before it comes into force, the Ministry for Primary Industries will give affected parties access to information, training and tools to help them adapt to the new regulations. This material will be, for example:

- guidance material for groups such as the

New Zealand Farm Forestry Association, the Forestry Industry Contractors Association, corporate foresters and councils;

- training and other support to councils to help them transition from current plans to the NES-PF;
- templates for harvest plans, Erosion and Sediment Control Plans, and Forestry Quarry Management Plans to help forest owners develop their plans;
- a framework to evaluate how effectively the NES-PF is meeting its objectives.

The Ministry for Primary Industries will seek further input from forest owners and councils to make sure the guidance material and training will be useful for the target audiences. Feedback on the type of guidance and training that would be helpful is welcome through the submission process.

Once the implementation phase is complete councils will be responsible for giving effect to the NES-PF and enforcing its requirements.

### Monitoring and review

If the NES-PF is implemented, the Ministry for Primary Industries will undertake ongoing monitoring to assess the effectiveness of the NES-PF. Councils would assist in this process by gathering data and providing this data to the Ministry. The Ministry expects to review the NES-PF five-to-seven years after it comes into force. The data gathered through monitoring will be used to identify whether changes are necessary.



## How to make a submission

Anyone may make a submission on the proposed NES-PF before **5 pm, Tuesday, 11 August 2015**.

At a minimum, your submission must include:

- your name, postal address, phone number and, if you have one, email address;
- the title of the proposed standard you are making the submission about;
- whether you support or oppose the standard;
- your views and reasons for them (with evidence if possible);
- any changes you would like made to the standard;
- the decision you wish the Ministers to make.

Questions for submitters are included throughout the document.

Submissions can be made using an online survey at [www.mpi.govt.nz/nep-pf](http://www.mpi.govt.nz/nep-pf).

Alternatively, a submission template can be downloaded at [www.mpi.govt.nz/nep-pf](http://www.mpi.govt.nz/nep-pf). Your submissions can be emailed to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz) or posted to:

Stuart Miller  
Spatial, Forestry and Land Management  
Ministry for Primary Industries  
PO Box 2526  
Wellington 6140



### Where to find more information

The summary document and full consultation document, *A proposed national environmental standard for plantation forestry* are available at [www.mpi.govt.nz/nep-pf](http://www.mpi.govt.nz/nep-pf). You can request a printed copy from [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

The following information is available also at the above link:

- a Regulatory Impact Statement for the proposed NES-PF;
- analysis of economic and environmental effects of the proposed NES-PF;
- reports about the environmental risk assessment tools (the Erosion Susceptibility Classification, Wilding Spread Risk Calculator and Fish Spawning Indicator);
- information from the Ministry for the Environment's 2010 and 2011 consultations on this matter.

### Public meetings and hui during the consultation period

During the eight-week consultation period to 11 August, the Ministry for Primary Industries will hold public meetings and hui to provide information, answer questions and seek feedback on the proposal. These are advertised on the Ministry's website at [www.mpi.govt.nz/nep-pf](http://www.mpi.govt.nz/nep-pf).

### Legislative requirements

All submissions are subject to the Official Information Act 1982 and may be released (along with submitters' personal details) under that Act.

If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in your submission. The Ministry for Primary Industries will consider those reasons when assessing the release of submissions, if requested to do so under the Official Information Act.

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.



Patuharakeke Hapu  
Patuharakeke Te Iwi Trust Board



10 August 2015

To: Ministry for Primary Industries [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)  
Attn.: Stuart Miller

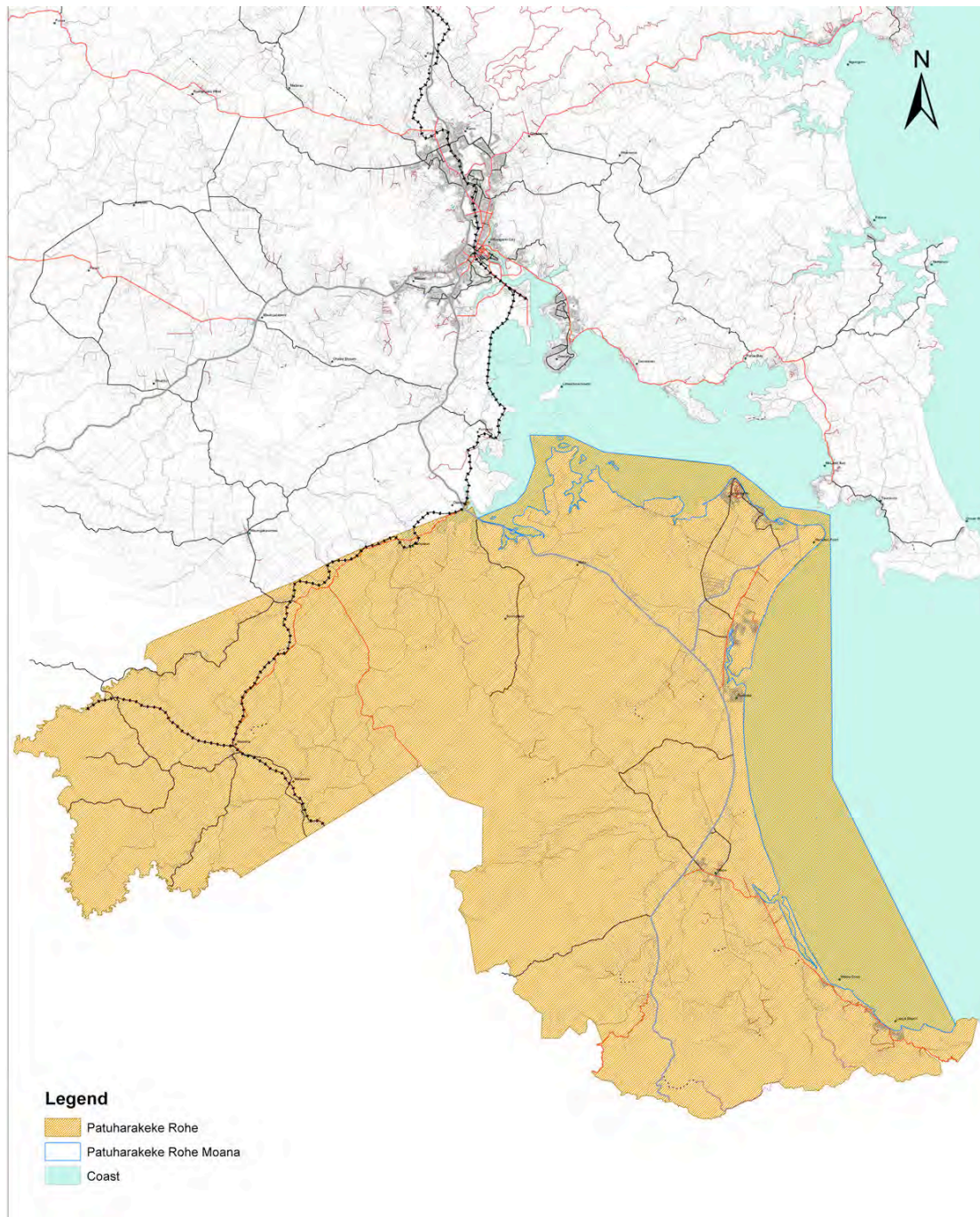
Tena Koe e Stuart

**RE: Proposed new National Environmental Standards (NES) for  
Plantation Forestry in NZ.**

*Ko Manaia te Maunga  
Ko Whangarei Terenga Paraoa te Moana  
Ko Patuharakeke te Hapu  
Ko Takahiwai te Marae  
Ko Te Pirihi te Tangata*

## **1. INTRODUCTION**

This submission is from Patuharakeke Te Iwi Trust Board Inc (PTB) on behalf of Patuharakeke Hapu, 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 includes all the lands beginning at Otaika then west to Tangihua ranges, including Ruarangi and then south through Waikiekie and on to Taipuha and then across to Wakatarariki (Bream Tail)... onwards to the northern point of Mangawhai harbour, then out to Te Hauturu o Toi to Aotea and up through the Mokohinau's to Tawhitirahi and Aorangi (the Poor Knights) and encompassing Marotiri, Ngatuturu and Taranga (the Hen and Chickens). The boundary runs up the centre of the Whangarei Harbour to the south side up through Toetoe to Otaika (the point of commencement) and back down the harbour to take in Kopuawaiwaha, Mangapai, Totara, Springfield, Mata, Mangawhati, Ngatiti, Takahiwai, One Tree Point, Poupouwhenua, Ruakaka, Waipu and Langa Beach to Wakatarariki (Bream Tail). A visual depiction of our current mainland rohe for the purposes of contemporary management is provided below.



Patuharakeke have consistently sought a precautionary approach to Genetic Engineering ('GE') in our rohe, through submissions and appeals at the regional policy and district plan level.

Our Hapu Environmental Management Plan also includes a range of aspirations around the management of forestry in our rohe. This government

must consider and plan early for the future impacts of climate variability and change in order for us to be more resilient in the face of that change.

## **2. OUR SUBMISSION**

### **2.1 Patuharakeke Hapu Environmental Management Plan**

Our recently reviewed and updated hapu environmental management plan (HEMP) includes a section on Vegetation Clearance including Plantation Forestry.

We recognise the following issue in relation to Plantation Forestry:

- Commercial forestry operations can have adverse effects on waterways, sites of significance, indigenous biodiversity, cultural landscapes and amenity values.

The corresponding objective is:

- Sound land management practices become the norm in our rohe with waterways, sites of significance, indigenous biodiversity and cultural landscapes protected from the adverse effects of vegetation clearance and commercial forestry operations.

Relevant Policies and Methods include:

- The promotion of land use and land use management that avoids undue soil disturbance and vegetation clearance.
- Opposition to vegetation clearance in areas that are identified as high risk for soil erosion, areas of significant indigenous biodiversity, and culturally significant sites.
- Promotion of the establishment of native forestry operations in the rohe.
- Advocacy for the protection and enhancement of indigenous forests in our rohe (eg. by way of submissions to National and Regional policy and planning documents etc).

### **2.2 New NES Specific Comments**

(a) PTB supports smart, strong environmental standards for plantation forests in New Zealand – standards that give certainty and encourage the long-term sustainability of the industry.

(b) A sustainable forest sector is one that protects our indigenous vegetation and habitats, protects our soils from erosion and our waterways and estuaries from siltation; and protects the fisheries that depend on them.

(c) A sustainable forest sector is also one that takes a precautionary approach to outdoor use of Genetically Modified Organisms ('GMO's') by preventing the planting of GE tree stocks (field trials or releases) which

would cause GE contamination of the local environment; and continues to allow local communities to have a say on forestry practices and place strong precautionary and prohibitive GE rules in local plans.

(d) In response to the draft National Environmental Standard for Plantation Forestry, PTB support wording to achieve the following:

- (i) Indigenous vegetation and habitats protected from being over-planted with exotic trees;
- (ii) Clear cut size limited to reduce erosion and sediment loss;
- (iii) The adoption of international best practice standards on riparian buffer zones and setback along water ways and wetlands to protect their natural character and water quality;
- (iv) All wording referring to genetically modified trees and rootstock must be removed from the NES-PF (i.e. NES-PF 6.4, P43, 64 & 82). We object to MPI's proposed section 6.4 and want it removed from the new NES for plantation forestry. The proposal seeks to remove NZ councils' precautionary and prohibitive GE policies. These must be retained. Local councils have the right (and obligation) to prevent outdoor GE tree experiments and GE tree releases (using the RMA).
- (v) We also want our councils to be able to introduce stronger controls than what MPI has in the proposed new NES (eg. to prevent erosion, control wilding trees, and protect the environment). PTB note that GE trees are prohibited by both international certification bodies (Forest Stewardship Council and the Programme for the Endorsement of Forest Certification) who certify genuinely sustainable forests globally.

(e) PTB seek incentives to plant more diverse tree species to reduce fire risks and increase indigenous biodiversity.

Heoi ano ra



For Patuharakeke Hapu

A submission from

**Raukawa Charitable Trust**

To

**Hon Jo Goodhew**

**Associate Minister for Primary Industries**

On

**Draft National Environmental  
Standard for Plantation Forestry**

**August 2015**

Contact person

Grant Kettle, Group Manager, Pūtake Tajao

Email: [REDACTED] | Phone: [REDACTED]



11 August 2015

NES-PF Consultation  
Ministry for Primary Industries  
PO Box 2526  
**WELLINGTON 6140**

By email: NES-Pfconsultation@mpi.govt.nz

Tēnā koe

## **DRAFT NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY 2015**

### **1. INTRODUCTION**

- 1.1. This submission is provided on behalf of the Raukawa Charitable Trust (**Raukawa**). The Raukawa Settlement Trust (**RST**) represents 16 marae and 10 hapū and was formed in 2009/10, replacing the earlier Raukawa Trust Board, to receive Treaty settlements. The Raukawa Charitable Trust is mandated by RST to represent Raukawa as the iwi authority for resource management purposes.
- 1.2. Raukawa is a large iwi associated with a significant area of the central north island that is rich in natural and cultural heritage, as well as being a key area for energy and primary production for the country. The Raukawa takiwā is represented by four takiwā: Te Pae O Raukawa, Wharepūhunga, Maungatautari and Te Kaokaoroa O Pātetere. These four areas include Mōkai, Atiamuri, Whakamaru, Mangakino, Tokoroa, Putāruru, Tīrau, Tapapa, Matamata, Kēmureti, Kihikihi and Te Awamutu. The Raukawa takiwā is shown in Appendix One.
- 1.3. The Crown has acknowledged the relationship between Raukawa and the Waikato River through the signing in December 2009 of the Deed in Relation to a Co-Management Framework for the Waikato River. This was followed with the enactment of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 and the signing of the Raukawa Deed of Settlement of Historic Claims in June 2012. The Crown has also acknowledged the relationship between Raukawa and the Te Waihou River and negotiations are currently underway regarding a co-management framework for this taonga.

### **2. RAUKAWA POSITION ON THE DRAFT NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY 2015**

- 2.1 Our position on the proposed amendments can be summarised as:
  - 2.1.1 Raukawa are **kaitiaki** of the terrestrial (whenua) resources within our takiwā and have associated obligations to ensure the health and wellbeing of these resources. Raukawa interests in land resources incorporate economic, environmental, social and cultural aspirations. Ensuring land resources within our takiwā are developed and used sustainably is a central tenet of our obligations as kaitiaki of these resources.
  - 2.1.2 Raukawa **welcome** the Ministry of Primary Industries invitation to provide comments in the way of a submission on the Draft National Environmental Standard for Plantation Forestry (NES-PF).
  - 2.1.3 Raukawa **note** that treaty settlements have established co-management arrangements for the Waikato River through the Waikato Raupatu Claims (Waikato River) Act 2012, Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 and the Nga Wai o Maniapoto (Waipa River) Act 2012;

2.4. Raukawa **direct** the Ministry for Primary Industries towards the key messages in the submission that specifically relate to:

- Raukawa acknowledge that the draft NES-PF states the proposals will not displace or override any existing arrangements created under Treaty settlements.
- Te Ture Whaimana has the effect of a national policy statement and prevails over any inconsistent provision in any national policy statement, national environmental standard — including the draft NES-PF— or water conservations order developed under the RMA
- As drafted the NES-PF is unlikely to assist to achieve Te Ture Whaimana: the Vision and Strategy for the Waikato River and, has the potential to compromise the outcome of the Healthy Rivers Wai Ora plan change process.
- The draft NES-PF may be inconsistent with the National Policy Statement for Freshwater Management (NPS-FM) 2014, specifically in relation to achieving freshwater objectives and maintaining the integrity of limits that are set for water quality limits.
- There is a high level of discomfort with the one-size-fits-all permissive approach adopted through the draft NES-FP, particularly with relation to:
  - The potential for unmanaged cumulative effects from plantation forestry activities being undertaken as permitted activities throughout the Raukawa takiwā;
  - The potential for non-compliance with permitted activity standards;
  - The lost opportunity of managing plantation forestry in an integrated catchment manner through district and regional plans; and
  - increased costs of monitoring permitted activities falling onto regional and district community.
- Areas and sites of significance to Raukawa, including cultural landscapes, that are under plantation forestry may not be afforded adequate protected under the draft NES-PF
- Raukawa have invested significant time and resources into working with regional and district councils to fine tune existing regional and district planning documents and, the draft NES-PF effectively negates this investment and the outcomes that have been achieved.

### 3. RAUKAWA IN CONTEXT

- 3.1. The Raukawa takiwā is approximately 530,000 hectares, a significant proportion of which is comprised of plantation forestry. It is important to note a considerable area of land, currently under plantation forestry, includes sites of cultural significance and cultural landscapes that are of importance and value to Raukawa.
- 3.2. In its contemporary kaitiaki role, Raukawa recognise that best environmental outcomes will result from the adoption of best practice methodologies, and that these methodologies require strong and enduring relationships based on understanding and meaningful engagement. Whilst Raukawa has relationships in place with a number of forestry operators within the takiwā, over a number of years Raukawa has developed a working relationship with Hancock Forest Management, based on the attributes listed. This highly valued relationship demonstrates to Raukawa that iwi and the forestry sector can work alongside each other to deliver quality environmental and stakeholder outcomes.
- 3.3. There are currently three Acts of Parliament that directly relate to the management of the Waikato River and its catchment, viz Waikato Raupatu Claims (Waikato River) Act 2012, Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010 and the Nga Wai o Maniapoto (Waipa River) Act 2012.

- 3.4. These Acts provide, amongst other matters, legislative recognition of the Vision and Strategy for the Waikato River. The Vision and Strategy is the primary direction setting document for the Waikato River and activities in the catchment that affect the Waikato River. It sets out a suite of objectives and strategies for the restoration and protection of the health and wellbeing of the Waikato River for present and future generations. The draft NES-PF must not inhibit the ability of the iwi and the community to achieve these targets.
- 3.5. Of particular relevance is the recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities; and that the Waikato River should be swimmable and fishable over its entire length within 20 years.
- 3.6. Environmental monitoring undertaken by the Waikato Regional Council indicates that the quality of the environment within the Raukawa takiwā is not improving, including:
- increases in contaminant loading of surface and ground waters, primarily through intensification of resource and land use;
  - increases in the contamination of soils;
  - a reduction in biodiversity in all ecosystems; and
  - increasing fragmentation and loss of indigenous vegetation.
- 3.7. The Crown, local government, iwi and community at large have invested a significant amount towards achieving the restoration and protection of the health and wellbeing of the Waikato River and the outcomes sought through the Vision and Strategy. The current Crown investment through the Co-Management Framework for the Waikato River currently sits at approximately \$467 million<sup>1</sup>. Raukawa submits that this investment should not be put at risk.
- 3.8. Raukawa acknowledge that the consultation document states the proposals will not displace or override any existing arrangements created under Treaty settlements. Raukawa seeks to expand our involvement in the management of freshwater resources within our rohe that build upon, or fall outside of, those arrangements

#### **4. MINISTERIAL ACCORDS**

- 4.1. Raukawa has a number of Ministerial Accords including with the Minister of Primary Industries and the Minister for the Environment. High quality engagement with the RST in regards to the development of key policy is central to these Accords. We note that no direct engagement in the development of the Draft NES-PF or the discussion document has taken place with the RST, despite both Ministries recognising the extensive forestry resource within the Raukawa takiwā.
- 4.2. Raukawa would value an opportunity to directly engage with senior officials at both the Ministry for Primary Industry and the Ministry for the Environment, prior to any decisions being made on whether to progress the draft NES-PF.

#### **5. POINTS OF SUBMISSION**

##### **Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River**

- 5.1. Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River is the primary direction-setting document for the Waikato River and, provides for the restoration and protection of the health and wellbeing of the Waikato River. The draft NES-PF seeks to introduce a regime for plantation forestry that is largely permissive in nature. Raukawa is concerned that the application of

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<sup>1</sup> Crown contribution to co-management framework – \$210 million Clean up Fund, \$150 million iwi capacity funding Waikato River iwi (Waikato-Tainui, Raukawa, Maniapoto, Te Arawa and Ngati Tuwharetoa), \$10 million Clean up Fund contribution as part of the Maniapoto Deed of Co-Management, \$50 million Waikato-Tainui river projects funding, \$20 million Waikato-Tainui Endowment College and \$27 million Waikato River Authority operational funding.

the NES-PF (if approved) could result in plantation forestry activities being undertaken in a way that is broadly inconsistent with achieving Te Ture Whaimana.

- 5.2. Te Ture Whaimana has the effect of a national policy statement and prevails over any inconsistent provision in any national policy statement, national environmental standard or water conservations order developed under the RMA. In addition, regional and district plans must give effect to Te Ture Whaimana.
- 5.3. Raukawa notes the consultation document refers to Treaty of Waitangi settlement legislation (including Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010), but fails in our view to provide the full context and legislative weight of Te Ture Whaimana. To provide certainty and clarity to the resource users, Raukawa submits Te Ture Whaimana should be afforded more visibility in the document particularly in the interpretation at the front of the standard.
- 5.4. To provide strategic direction and guidance to policy makers, Raukawa have formulated a number of key principles that will be used to test whether the overall intent of policy mechanisms assists to achieve Te Ture Whaimana. In respect of the Draft NES-PF three key principles are relevant:
- A precautionary approach to setting limits and addressing water quality problems must be adopted;
  - Recognition and avoidance of cumulative effects; and
  - Operating in an integrated manner across catchments to restore and protect the health and wellbeing of the Waikato and Waipā Rivers.
- 5.5. Specific comments are provided in the subsequent sections of this submission in respect of whether the draft NES-PF would assist to achieve Te Ture Whaimana.

#### **National Policy alignment**

- 5.6. Raukawa are concerned the permissive regime in the NES-PF may be inconsistent with the National Policy Statement for Freshwater Management (NPS-FM) 2014, specifically in relation to achieving freshwater objectives and maintaining the integrity of limits that are set for water quality limits. As an example, Raukawa are concerned the coarse scale detail used to inform the Environmental Risk Assessment tools and the corresponding broad scale approach to permitting the range of plantation forestry activities may lead to increased degradation of water quality within the Raukawa takiwā. Raukawa find more comfort in the existing approach employed by regional and district council using much finer scale information to inform decision-making. Accordingly, Raukawa believe the NES-PF would not “recognise and avoid cumulative effects” and, is likely to be inconsistent with the NPS-FM.
- 5.7. The NPS-FM directs regional councils to manage freshwater resources through freshwater management units (FMUs). The reasonable expectation of Raukawa is FMUs will be of a scale that is commensurate to managing freshwater in a way that water quality limits can be maintained over time. This would indicate FMUs are to be set at a catchment or sub-catchment scale and, is inconsistent with the broad scale approach adopted through the NES-FP.
- 5.8. Raukawa consider plantation forestry needs to be managed at a similar scale to the management of freshwater and, must be managed in an integrated manner as opposed to being managed in isolation as a separate disconnected land use. At this time Raukawa consider the existing management regime for plantation forestry is at the appropriate scale of detail and is more likely to achieve the NPS-FM and, importantly assist to achieve Te Ture Whaimana.

#### **Choice of Instrument**

- 5.9. Raukawa questions whether the draft NES-PF is the best instrument to achieve a consistent approach to how regional and district councils manage the potential and actual adverse effects on the receiving



environment from plantation forestry activities. In addressing the scope of the problem articulated in the draft NES-PF and, in considering the matter raised by Raukawa in this submission, the matters related to consistency of definitions could be addressed through the proposed national planning template. The matters related to a more consistent regulatory approach may find a place in a NES or could be worked through into second generation regional and district plans as they are produced.

- 5.10. Raukawa also anticipates the draft NES-PF approach may set a dangerous precedent for other sector groups to also seek the development of an NES to articulate their own outcomes. Putting aside the benefits that could be gained through consistent definitions, the promulgation of multiple permissive regimes could severely limit the ability of regional and district councils to manage the potential or actual adverse effects, including cumulative effects on the receiving environment.
- 5.11. Raukawa consider a number of disconnected NES instruments would lead to uncertainty and additional costs to land owners and the community. Such an outcome would be contrary to a key rationale that is cited as a reason for developing the NES-PF. In the absence of central government leadership regional councils would also most likely be left to remedy these problems.

#### **One-size-fit-all Permissive Approach**

- 5.12. The draft NES-PF sets out a one-size-fits-all regime that is largely made up of permitted activities, including performance standards. Raukawa considers permitted activities should only be employed where the adverse effects of an activity on the receiving environment is deemed to be no more than minor. The community, including Raukawa, needs to have certainty that identified environmental outcomes would be maintained over time and, the plantation forestry activities undertaken are able to be satisfactorily managed.
- 5.13. Raukawa consider permitted activity regimes can lead to significant risk of serial non-compliance. The report of the Auditor-General<sup>2</sup> released in September 2011 identified the Waikato Regional Council permitted activity framework was not effectively managing the significant risks to freshwater quality in the region. The report found a high level of non-compliance in the region (pg 47) largely as a function of the proliferation of permitted activities. Raukawa suggests supports a more hierarchical/cascade approach of activity status relative to the level of risk to the receiving environment.
- 5.14. Raukawa are also concerned the approach fundamentally ignores the likelihood that many regional and district planning documents already have finely tuned regulatory instruments that are fit for purpose and provide an appropriate level of control for plantation forestry activities. Many regional and district councils are in the process of, or have completed, second generation planning documents. Raukawa note that the South Waikato District Council has recently made operative their second generation District Plan and the Waikato Regional Council are in the process of reviewing their Regional Plan. The problems identified in the NES-PF with regional and district planning documents may already be resolved.
- 5.15. A key matter of concern for Raukawa is the cumulative effect of multiple diffuse source discharges to freshwater from land uses across the takiwā, including plantation forestry. The draft NES-PF does not provide regional and district council with a tool to manage cumulative effects of plantation forestry activities within the Raukawa takiwā. Added to which the permissive regime makes it extremely difficult for a regional council to manage multiple plantation forestry activities that are operating as permitted activities.
- 5.16. Raukawa are concerned that regional and district councils would not be able to recover the costs of monitoring plantation forestry activities under the NES-PF. Because the community will require monitoring information to support regional policies to restore and protect water quality —through the NPS-FM and HRWO plan change process— this means the costs of monitoring production forestry activities would be passed onto ratepayers, including Raukawa uri. Raukawa consider this is an

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<sup>2</sup> Office of the Auditor-General, September 2011: Managing Freshwater Quality: Challenges for regional Councils

unintended consequence of the NES-PF and, the costs of monitoring the effectiveness or otherwise of the NES-PF should be transparent and potentially levied back to the plantation forestry sector.

#### **Co-governance relationships and existing regional processes**

- 5.17. Over the past 10-years Raukawa have invested significant time and effort into working with the Waikato Regional Council and the South Waikato District Council to shape the direction of regional and district planning documents. Raukawa has also invested resources into the First Schedule of the Resource Management Act 1991 processes to ensure the values, interests and aspirations of Raukawa are provided for and in some instances protected. In many cases Raukawa have worked to shape the existing regulatory framework regarding plantation forestry activities through regional and district plans.
- 5.18. Raukawa has a co-governance partnership with the Waikato Regional Council. The partnership responsibilities are articulated in a number of ways including through Joint Management Agreements and, Raukawa being co-governors in the Healthy Rivers Plan for Change: Wai Ora He Rautaki Whakapaipai (HRWO). The HRWO plan change process is a key vehicle for assisting to give effect to Te Ture Whaimana through the restoration and protection of the Waikato and Waipa Rivers and, in particular setting robust and enforceable water quality limits.
- 5.19. In assessing risks of implementation of any NES-PF, the outcome of the HRWO plan change process is not likely to be operative for some time. Therefore a potential for the existing regulatory regime to be superseded by the NES-PF exists. Raukawa consider replacing the existing WRC activity cascade approach with the NES-PF approach could in the short-term, prior to any HRWO plan change taking effect, allow permit an increase in discharges of contaminants (eg, sediment) from plantation forestry activities that may exacerbate water quality problems and be in conflict with achieving Te Ture Whaimana.
- 5.20. Raukawa does not share the view in Section 6.1 of the draft NES-PF where it is suggested the Environmental Risk Assessment tool would assist to achieve freshwater management outcomes sought through the NPS-FM. The draft NES-FM makes an assumption that existing regional rules—in relation to production forestry activities—are not geared to achieve the outcomes sought through the NPS-FM. At this time, however, Raukawa considers the existing regulatory framework contained in the Waikato Regional Council regional plan would have a significantly higher chance of achieving the freshwater outcomes (eg, in relation to contaminants such as sediment) than the NES-PF permissive regime.

#### **Sites and areas of cultural value and significance**

- 5.21. Raukawa acknowledge there is a process in place to address both recorded and unrecorded archaeological sites. Despite this, Raukawa contends that unidentified cultural and archaeological sites face considerable risk of modification and/or destruction from the operation of heavy machinery in the vicinity of such sites. There are numerous recorded instances where this has happened within the Raukawa takiwā in the past. Raukawa submits that an active and systematic approach to the early detection of such sites will mitigate some of this risk. Raukawa is aware that a number of territorial authorities utilise alert layers and other similar tools to identify the existence of cultural sites and landscapes in district and regional plans, and these pro-active methods are forming best practise in the management of cultural heritage. These additional tools, where they exist, should also inform the implementation of the NES-FP in relation to cultural sites and landscapes.
- 5.22. Raukawa note that Table 4 in the consultation document provides an opportunity to customise the regulatory framework for 'places and areas of known cultural or heritage value'. Raukawa has significant concerns that this approach does not consider or provide for unrecorded cultural landscapes and cultural or archaeological sites.
- 5.23. Raukawa has undertaken a significant body of work under the Ngā wāhi tūturu me ngā taonga tuku iho: Raukawa Cultural landscapes and taonga programme. This project identifies, documents, and

manages sites and areas of importance within the Raukawa takiwā according to Raukawa tikanga and kawa. As a large percentage of currently known sites are within forestry sites Raukawa submits that it is important that these sort of projects are acknowledged by the NES-PF.

- 5.24. Raukawa submits that the NES-PF should acknowledge both recorded and unrecorded sites and areas of importance, and promote meaningful engagement with iwi to ensure these taonga are managed appropriately and sustainably for the benefit of future generations.

#### **Environmental Risk Assessment tools**

- 5.25. The information behind the Erosion Susceptibility Classification (ESC) mapping was undertaken at a coarse scale (eg, a scale of >1:50,000). Raukawa are aware that in a number of cases regional and district councils have high quality mapping information at a finer scale than the ESC. Decisions made using fine scale of information provide Raukawa with more certainty than decisions made using coarse scale information.
- 5.26. There is also no clear process for how the environmental risk assessment tools would be amended over time. For example the most recent adjustments to the mapping information that underpins the ESC resulted in significant changes (eg, of up to 40%) to the accuracy of information. While improved information should result in better decisions over time, a change of up to 40% in the information base that identifies where different rules apply creates uncertainty for regional councils, forest owners and the community.

## **7. CONCLUSION**

- 7.1. Raukawa thank the Ministry for Primary Industries for the opportunity to provide feedback on the draft NES-PF. Raukawa look forward to engaging with the Ministry of Primary Industries to cement in place the key matters of concern for Raukawa.

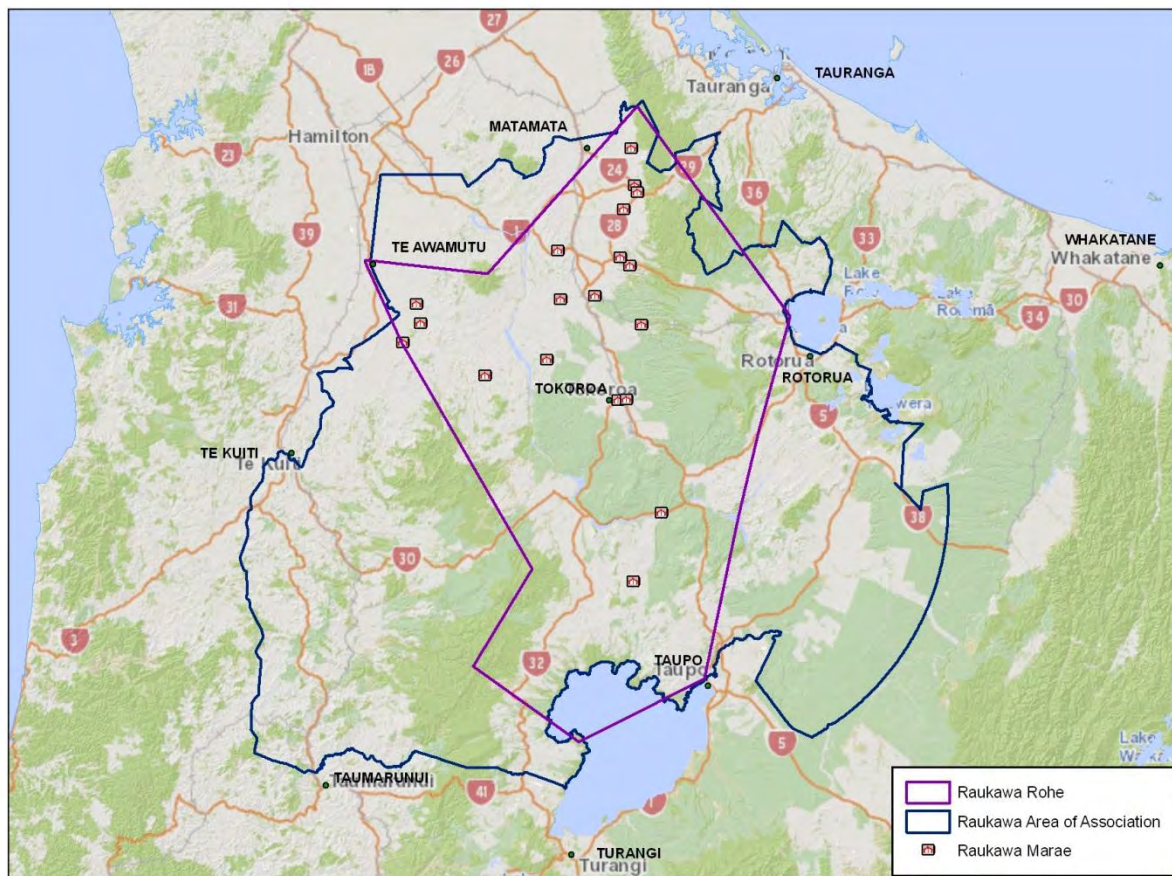
Nāku noa, nā



**Grant Kettle**

Group Manager, Pūtake Taiao

## Appendix One – Raukawa Takiwā and Area of Association







## Proposed National Environmental Standard for Plantation Forestry Template for Submitters

We would like to hear your views on the proposed NES-PF.

Please feel free to use this template to prepare your submission. Once complete please email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

As stated in section 8.2 of the consultation document, your submission must include at least the following information:

- your name, postal address, phone number and, if you have one, email address
- the title of the proposed standard you are making the submission about
- whether you support or oppose the standard
- your submission, with reasons for your views
- any changes you would like made to the standard
- the decision you wish the Ministers to make.

When commenting on specific draft rules, please be as clear as possible which rule you are referring to and provide a reference e.g. to the relevant page number, heading or text.

For more information about how to make a submission, please refer to section 8 of the consultation document.

### Contact details

**Name:**

Jane Masters

**Postal address:**

**Phone number:**

**Email address:**

**Are you submitting on behalf of an organisation? Yes [X]      No [ ]**

**If yes, which organisation are you submitting on behalf of?**

Te Arai Coastal Lands Limited, Te Arai North Limited, Te Uri o Hau Settlement Trust, Te Arai South Forest Joint Venture / Ngati Manuhiri Settlement Trust, Tara Iti Holdings Limited



**If you are a forest owner/manager, what size of forest do you own/manage (in hectares):**

Approximatley 1370m<sup>2</sup>

### ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

### ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*Please indicate below if you wish your personal details to be withheld:*

☐ Please withhold my personal details where submissions are made public

☐ Please withhold my personal details in response to a request under the Official Information Act 1982

## **Questions for submitters**

The questions for submitters that are included throughout the consultation document are provided below. We encourage you to provide comments to support your answers to the questions below.

1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry?

Please provide comments to support your views.

N/A

2. Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry?

Please provide comments to support your views.

N/A





3. Are the conditions for permitted activities clear and enforceable (see appendix 3 of the consultation document)? Can you suggest ways of making the rules clearer and more enforceable?

Please provide comments to support your views.

N/A

4. Are the matters where local authorities can retain local decision-making appropriate (summarised in Table 2 and Table 4 and provided in detail in Appendix 3 of the consultation document)?

Please provide comments to support your views.

N/A

5. Will the environmental risk assessment tools (the Erosion Susceptibility Classification, the Wilding Spread Risk Calculator, and the Fish Spawning Indicator) appropriately manage environmental effects as intended (see section 3.5 of the consultation document)?

Please provide comments to support your views.

N/A

6. Do you have any comments about any particular activity or draft rule (see appendix 3 of the consultation document)?

Please include reference to the rule you are referring to.

N/A

7. Is the NES–PF the best option to meet the assessment criteria (in Box 13 of the consultation document)?

Please provide comments to support your views.

N/A

8. Have the expected costs and benefits of the NES-PF been adequately identified (see section 4.3 of the consultation document)?

Please provide comments to support your views.



N/A

9. Are there any issues that may affect the successful implementation of the NES-PF (such as decision-makers applying the permitted baseline test more frequently)?

Please provide comments to support your views.

N/A

10. Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.

N/A

11. Will the proposed NES-PF support regional councils to implement the NPS-FM (see section 6.1 of the consultation document)?

Please provide comments to support your views.

N/A

12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF (see section 7 of the consultation document)? How should these activities be delivered (for example, training, online modules, guidance material)?

N/A





13. Are there any other issues that you would like to raise?

**The Submitters land at Te Arai: Background**

- a. The Te Arai land comprises two significant blocks of coastal land at Te Arai, Mangawhai as identified on the attached plan. These blocks are commonly referred to as the Mangawhai North Forest (“the North Forest”) and the Mangawhai South Forest (“the South Forest”). Both blocks are herein collectively referred to as “the Te Arai land”, which have a combined area of approximately 1,370 hectares.
- b. The North Forest forms part of the Treaty of Waitangi settlement between the Crown and Te Uri o Hau. TACL, TUoH and TIHL own the North Forest, which has an area of some 616 hectares. Approximately two thirds of the block is currently utilised for production forestry. The other third (being the majority of the northern portion) is currently under development as a golf course and residential lots in accordance with a suite of resource consents and Plan Change 166 to the Operative Auckland Council District Plan: Rodney Section.
- c. The South Forest forms part of the Treaty of Waitangi settlement between the Crown and Ngati Manuhiri, and has an area of some 754 hectares. The majority of the block is currently utilised for production forestry.
- d. Te Arai Coastal Lands Trust holds a Certificate of Compliance (Reference 52700 & L58051) dated 2 December 2011 for the harvesting of the existing North Forest. This permitted harvesting includes associated ground disturbance, removing stumps, forming and maintaining roads, tracks and landings. Further COC applications for harvesting are currently being sought.

**Submission**

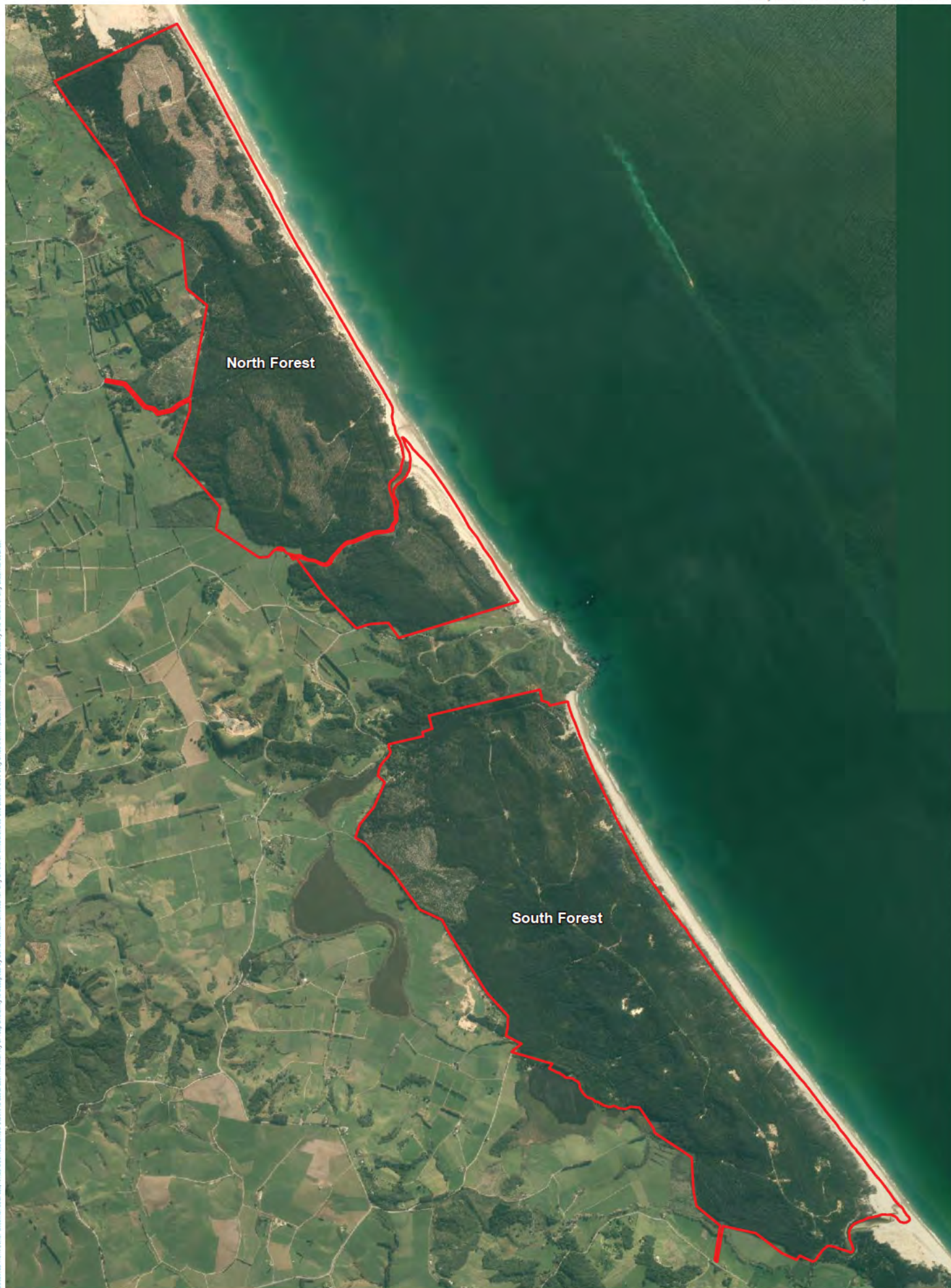
The provisions of the NES-PF purport to override the existing Certificates of Compliance (COC) for harvesting and forestry. While section 43(b)(5) of the Resource Management Act states that “*a land use consent or subdivision consent granted before the date on which a NES is notified in the Gazette prevails over the standard*”, this does not include approved and unexpired COC’s.

The Operative Rodney District Plan provides for Forestry as a Permitted Activity on the submitters land at Te Arai and this is confirmed by the existing COC dated 2 December 2011. There will also be other forestry operators nationwide that have existing unimplemented COC’s.

We submit that amendments be made to the NES-PF to confirm that existing COC’s prevail over the standard where they have been granted before the date on which the NES is notified in the Gazette. We suggest the following wording be included at the beginning of the NES-PF;

*“A Certificate of Compliance granted before the date on which a NES is notified in the Gazette prevails over the standard.”*





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Legend

 Te Arai Site Boundary

TE ARAI NORTH & SOUTH FORESTS

Location of North and South Forest at Te Arai

Date: 10 August 2015 | Revision: 0

Plan Prepared by Boffa Miskell Limited

Author: SGa | Checked: JMa



NES-PF Consultation  
Attn: Stuart Miller  
Spatial, Forestry and Land Management  
Ministry for Primary Industries  
P.O.Box 2526  
Wellington 6140

11 August 2015

Tena koe Stuart

**RE: PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY**

**1. INTRODUCTION**

- 1(a) This submission to the Ministry for Primary Industries (MPI) on the proposed National Environmental Standard for Plantation Forestry has been prepared by the Environmental Officer for Te Mana o Ngāti Rangitihi Trust (TMoNRT), Matatā.

**2. MANDATE AND STRATEGIC OBJECTIVES**

- 2(a) Te Mana o Ngāti Rangitihi Trust is a Post Settlement Governance Entity (PSGE) established as a Common Law Trust to administer assets derived via the Central North Island Collective Settlement (CNI). TMoNRT is also a Mandated Iwi Organisation (MIO) recognised by the Crown to represent Ngāti Rangitihi in negotiations with the Crown for the comprehensive settlement of all historical Treaty claims for and on behalf of the Ngāti Rangitihi iwi.

- 2(b) The Trust Deed Mandate for TMoNRT (in addition to exercising stewardship over the CNI settlement seeks to ensure that:

- Ngāti Rangitihi is enabled to flourish in perpetuity, supported by their unique self-determining capabilities
- The mana of the iwi is upheld, developed and organised
- The iwi resource are identified and optimised
- The survival and growth of the iwi is enabled (including: cultural, economic, social, spiritual, environmental and political survival and growth)
- The iwi whanau support networks which are developed and maintained; and

**[www.ngatirangitihi.iwi.nz](http://www.ngatirangitihi.iwi.nz)**

**Te Mana o Ngati Rangitihi Limited**

administrator@ngatirangitihi.iwi.nz | 07 322 2452 or 0800 AKATEA | Fax 07 322 2453  
3 Onewairere Place, Matatā | PO Box 831, Whakatane 3158



- The iwi members capacity to be self-reliant is enhanced
- 2(c) TMonRT regularly works alongside its neighbour iwi and local, regional and central authorities in social, cultural, environmental and economic matters
- 3. IWI ENVIRONMENTAL MANAGEMENT PLAN (the Plan)**
- 3(a) The New Zealand Planning Institute awarded TMonRT the Nancy Northcroft Planning Practice Award: Supreme Practice Award for TMonRT – Iwi Environmental Management Plan, May 2013.
- 3(b) TMonRT was also the recipient of the Best Practice Award: Non-Statutory Planning for the Iwi Environmental Management Plan, May 2013.
- 3(c) Te Mahere āRohe mō Ngāti Rangitihi – Ngāti Rangitihi Iwi Environmental Management Plan (IEMP) was lodged with the Whakatane District Coouncil (9 February 2012), Bay of Plenty Regional Council (23 February 2012), Rotorua District Council (April 2013) and the Western Bay of Plenty District Council (February 2014).
- 3(d) The Plan can be viewed at [www.ngatirangitihi.iwi.nz](http://www.ngatirangitihi.iwi.nz)
- 4. KAITIAKITANGA**
- 4(a) The Plan recognises kaitiakitanga (active guardianship) and the duty of Ngāti Rangitihi to sustain the mauri of natural and physical resources and; to protect and preserve conservation values within areas of cultural significance to Ngāti Rangitihi, consistent with s5(c) and s7(a)(aa) of the Resource Management Act 1991 (the Act).

The Bay of Plenty Regional Water and land Plan (2008) asserts that failure of iwi or hapū to protect, restore, maintain and enhance mauri through the practice of kaitiakitanga, has the potential to adversely affect the relationship of iwi or hapū with their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (part 2, para 10).

The Bay of Plenty Regional Policy Statement 2010 (RPS) supports the implementation of policies and objectives from Iwi Environmental Management Plans. The RPS (2010) asserts that Iwi Environmental Management Plans can assist authorities with undertaking their obligation under Part ii of the RMA 1991, and that a precautionary



approach should be taken to activities with potentially significant adverse effects on ancestral taonga (Policy IW8D)

## **5. GENERAL**

- 5(a) Thank you for providing TMoNRT the opportunity to submit to MPI on the proposed National Environmental Standards for Plantation Forestry (NES-PF). TMoNRT has read the NES-PF Consultation Document (June 2015) outlining the proposal from MPI to create a NES-PF and have also attended the discussion forum in Rotorua, Monday 13 July 2015.

## **6. ISSUES**

### **6(a) Stakeholder working group**

TMoNRT are concerned that iwi were not included in the Stakeholder Working group. Pages 16 and 17 of our Iwi Environmental Management Plan highlights the stance of Ngāti Rangitihi on decision making processes and the Plan clearly defines the Objectives, Policies and Methods for active and effective participation of Ngāti Rangitihi.

### **6(b) Risk assessment tools**

TMoNRT are also concerned that the proposed three tailored environmental risk assessment tools, which are Wilding Spread Risk Calculator, Fish Spawning Indicator and Erosion Susceptibility Classification, which will be used to assess the risk of adverse environmental effects are negligent in omitting a 'Pest Population Influx' calculator. The establishment of new plantation forests are an attractant to pests such as possums and rats. Since a lot of exotic forests border native bush land, there is an ominous threat that our native fauna and flora will be affected by these pests. Pages 38 and 39 of the Plan depicts the stance of Ngāti Rangitihi concerning unwanted pest species.

## **7. PROPOSAL**

It is understood that the objectives of the proposal are to:

- Remove unwarranted variation between local council's planning controls for plantation forestry
- Improve certainty of RMA processes and outcomes for plantation forestry stakeholders, while maintaining consistency with the purpose of the RMA
- Improve certainty about environmental outcomes from plantation forestry activities for forestry stakeholders, including communities, nationally
- Contribute to the cost-effectiveness of the resource management system by providing appropriate and fit-for-purpose planning rules to manage the effects of plantation forestry

## 8. RECOMMENDATIONS


- 8(a) TMonRT supports in principle the Proposed National Environmental Standards for Plantation Forestry (NES-PF).

## 9. CONCLUSION

- TMonRT wish to participate in all stages of the Proposed National Environmental Standards for Plantation Forestry (NES-PF)
- TMonRT does not want to hinder economic development by imposing barriers to the Proposed National Environmental Standards for Plantation Forestry, however, as mana whenua of the resources found within it's rohe, TMonRT seeks greater participation into the decision making process

Once again thank you the opportunity to submit on the Proposed National Environmental Standards for Plantation Forestry. If you have any questions please feel free to contact me.

Nga mihi



Christopher Clarke



**Our address for correspondence is:**

Environmental Officer

s 9(2)(a)

Email: s 9(2)(a)

Phone: s 9(2)(a)

**[www.ngatirangitihi.iwi.nz](http://www.ngatirangitihi.iwi.nz)**

**Te Mana o Ngati Rangitihi Limited**

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Te Ngaru Roa ā Maui



## **Proposed National Environmental Standard for Plantation Forestry**

Spatial, Forestry and Land Management

Ministry for Primary Industries

PO Box 2526

Wellington 6140

11 August 2015

Stuart Miller

Email: [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)

Re: **Submission Proposed National Environmental Standard for Plantation Forestry**

### **TE NGARU ROA Ā MAUI (TNRM) IS OPPOSED TO THE NES-PF ON THE FOLLOWING GROUNDS.**

The Ministry for Primary Industries (MPI) has set in place a proposed National Environmental Standard for Plantation Forestry based on established industry and environmental practice in the forestry sector along with a set of draft rules and potential assessment tools.

MPI maintains that underpinning the need to set in place the NES-PF, is the unwarranted variation of regional and district plans and the costs to industry resulting in uncertainty in both the operational and environmental outcomes.

It is clear that the proposal is focused on producing a satisfactory outcome for the benefit of the Forestry sector as most of the provisions set out in draft rules are very permissive.

This approach will result in consistent degradation of the environment along with annexing Iwi/Hapu and communities rights to protect, enhance and reinstate biodiversity loss as provided in the Resource Management Act 1991.

It is extremely disappointing to have the NES- PF solely focused on established industry and environmental practice rather than set the bar higher to achieve a more

robust set of environmental bottom lines that could carry both the industry and communities economic, social and cultural values into the future with mana.

The draft rules in the proposed NES\_PF appear to have used the most permissive of the Regional and District Planning provisions. The proposed setbacks are:

- 10m - adjoining property under different ownership
- 30m - urban/residential zone
- 5m - Perennial river or stream
- 5m –wetlands
- 10m –lakes
- 10m - Outstanding freshwater bodies
- 30m –coastal
- Road setbacks set for shading purposes only

The setbacks from an environmental sustainability and cultural lenses are far too permissive and need to be extended.

During the clear cut harvesting phase, the setback distances are ignored and any riparian margin is destroyed which then results in large sediment dumps entering into waterways and nullifies any biodiversity gains that has previously taken place. MPI acknowledges that it

Research has identified that 20 m wide buffers on either side of 75% of the stream length is beneficial and that the extra costs are justified by environmental benefits. And that not replanting pine within a 5-20m buffer zone was acceptable.<sup>1</sup>

In November 2014 complaints were made to the Waikato Regional Council regarding a clear cut forestry operation in the Whaingaroa Raglan catchment with sediment entering into one of the main awa that exits into the Whaingaroa harbour. The clear cut felling contractor was ordered to stop their operation and clean up the site, particularly the slash that blocked the awa and allowed the banks to be breached along with subsequent erosion and sediment loss.

TNRM do have concern that the dragline operations can drag trees, slash and debris into the waterways with impunity without Council and community oversight if the proposed NES-PF gets approved with the draft provisions. The industry should not be allowed to self regulate their own activities. Already we have firsthand experience of an operator that needed to have community and Council oversight and controls.

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<sup>1</sup> *Riparian buffers mitigate effects of pine plantation logging on New Zealand streams 2. Invertebrate communities* John M. Quinna\*, Ian K.G. Boothroydb, Brian J. Smitha a National Institute of Water and Atmospheric Research, P.O. Box 11-115, Hamilton, New Zealand b Kingett Mitchell and Associates Ltd., PO Box 33926, Takapuna, Auckland, New Zealand Received 18 June 2003; received in revised form 24 August 2003; accepted 21 November 2003 pg 130

Additionally, clear cut felling and logging is to take place over the next ten year period in many of the blocks that are in Whaingaroa catchment. Whaingaroa harbour is an area of areas of significant conservation value (ASCVs) in the Waikato Regional Coastal plan and there is concern that significant adverse impacts will take place unless more stringent rules and provisions are set in place.

The Forestry industry readily acknowledges that plantation forestry has high water use and water yields relative to pasture by between 25 and 50% in some New Zealand sites. Also that poor forestry practices such as roading and skid sites increase sedimentation. <https://www.greenplan.co.nz/understanding-forestry/enviromental-effects.aspx>

The 5m setback from a wetland is totally inadequate to offer any form of protection, particularly from the trees that need high water demands. Wetlands are a scarce resource and should be afforded better protection. More so in areas that have lower water flows and are in low-to-moderate rainfall areas.

The Proposed NES-PF setback provisions are a blunt tool and do not provide for flexibility, therefore the setbacks needs to be adjusted to provide for more certainty that adverse effects will be minimised.

The quality of the erosion susceptibility classification mapping has been reduced to offset costs to the plantation forestry industry which results in less defined areas that will be subject to erosion control. At issue is that some areas that had high erosion susceptibility are now classified as being moderate.

The Proposed NES –PF does not allow for Council to direct or control clear cut activities away from at risk high susceptibility erosion areas. Certainly, the shift from using the 2011 NPS-PF ESC has a high potential to impact on our fish species in both the fresh water rivers and the coastal intertidal zones.

MPI has failed to provide information on the impact that sedimentation has on species that travel up into freshwater estuaries and rivers to feed and spawn. Both grey and yellow eyed mullet has been observed spawning and feeding in the intertidal zone of rivers and streams.<sup>2</sup> Other fish species are like flounder and kawahai are also at risk from increased sedimentation. There are no specific provisions or controls on planting to protect the coastal estuaries and embayments from silt/ sedimentation.

TNRM do have concerns that the fish spawning indicator developed by Niwa may not result in an adequate response to the marine species that travel up the freshwater areas such as the grey and yellow eyed mullet, flounder and kawahai.

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<sup>2</sup> The President of Wellington Recreational Marine Fishers Association Jim Miko has written several articles relating to both grey and yellow eyed mullet in the intertidal zones.



TNRM are opposed to the proposed NES\_PF that seeks to make planting genetically modified tree stock (GMO) a permitted activity and place limits on both Regional and District Councils to set in place land use planning mechanisms under the Resource Management Act (RMA).

Recent Case law has established that Councils do have the jurisdiction to place policies, rules and objectives, on the management of GMO land use activities as part of their management and planning functions in their regional and district plans.<sup>3</sup>

The use of untested and risky GMO tree technology has the potential to create irreversible harm and significant adverse effects. There is a high likelihood that GE trees could contaminate other plantation forest blocks and destroy the economic opportunities and investment of existing foresters and landowner's who are organic or certified under FSC certification.

The Wilding Tree Risk Calculator is also an indicator that identifies that there is a risk of wilding plants establishing viable out crops of plantations that are considered a risk to biodiversity. The same windblown/effects could also create large destructive areas of GE modified trees if allowed to remain in the Proposed NES\_PF.

The draft rules for unrecorded archaeological sites are totally inadequate and should provide for Tangata Whenua to be involved rather than just Heritage New Zealand Pouhere Taonga and circumvents some existing council rules

#### **The decision TNRM would like the Minister to make**

- Remove all GM clauses in the proposed NES – PF and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and
- All wording in the NES-PF in 6.4 - Genetically modified tree/root stock (p. 43, Appendix 3, Afforestation, p. 64 & Replanting, p. 82)referring to genetically modified trees and rootstock must be removed from the NES-PF.
- Retain and provide for Regional and District Councils to place more GM stringent land use rules, objectives and policies in their plans for the management of the natural and physical resources through their mandated planning functions' under the Resource Management Act (RMA).
- Ensure that the Regional and District Councils have the ability, under the RMA, to create a much needed additional tier of local protection against the risks of outdoor release and use of GMOs.

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<sup>3</sup> Environment Court decision in *Federated Farmers of New Zealand v Northland Regional Council* 2015NZEnvC89.

- Require setbacks of at least 20 metres for streams and 30 metres around all wetlands and lakes.
- Include a new provision which requires regional councils to address the impacts of afforestation on water yields and water flows in low-to-moderate rainfall areas.
- Upgrade the Erosion Susceptibility Classification to a high resolution-definition mapping to ensure erosion prone land is correctly classified.
- Set high and clear bottom-lines on sediment loss to protect fisheries.
- Prohibit the modification of Significant Natural Areas (SNA) in any planting or replanting.
- Include Tangata Whenua in the list for unrecorded archaeological sites

Te Ngaru Roa ā Maui wishes to be heard.

Naku noa na

Malibu Hamilton

Te Ngaru Roa ā Maui

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**TE PAPATIPU O UEPOHATU TRUST**

s 9(2)(a)

s 9(2)(a)

11 August 2015

Ministry for Primary Industries  
PO Box 2526  
WELLINGTON 6140

Tena koe,

**SUBMISSION ON NATIONAL ENVIRONMENTAL STANDARD FOR  
PLANTATION FORESTRY**

Te Papatipu o Uepohatu Trust comprises a collective of seven hapu (*Rauru a Toi, Te Whanau a Umuariki, Te Whanau a Hinetaupora, Te Whanau a Ruataupare, Ngai Tangihaere, Ngati Rangi, Ngati Uepohatu*) connected to eight marae.. We strongly affiliate to our ancestress Uepohatu from whom we inherit, amongst other things, mana whenua. The geographic region of Te Papatipu o Uepohatu (simply translated as 'the homelands of Uepohatu') in summary includes areas of Te Para Tu Ika Whenua o Nga Pae Maunga o te Raukumara (areas within the Raukumara Ranges) Hikurangi/Whanakao/Wharekia and Taitai mountains the Tapuaeroa, Mangaoporo and upper Waiapu Rivers and sub catchments extending to the coastal areas which include Reporua and Tuparoa and beyond the takutai moana into the surrounding marine area. Thus the estate encompasses two of the five main tributaries of the Waiapu catchment and approximately 40,000 hectares.

This submission is based on a resolution of Te Papatipu o Uepohatu passed at a meeting of the Trust at Ruatoria on Thursday 6 August 2015. The resolution agreed that the Trust should make a submission in opposition to the NES for Plantation Forestry.

Significant areas within Te Papatipu (homelands) o Uepohatu are currently in plantation forestry, significant tracts of clear land are at risk of erosion and subject to Gisborne District Council Overlay 3A and regional scale requirements to treat erosion risk with tree planting in the next ten years. Other areas within Te Papatipu o Uepohatu are likely to be planted in trees intended for timber as subsidies and incentives for tree planting and wood products.

Representatives of Te Papatipu o Uepohatu participated in a consultation hui held in Ruatoria in March 2015 and expressed a number of concerns related to the proposed NES as it stood then. These concerns do not appear to have been addressed in the Draft NES that submissions have been invited for.

While hapū are in the process of developing capability and capacity to better participate in policy development and decision-making processes, we work closely with local authorities and a number of central government agencies including the Department of Conservation, Ministry for Primary Industries amongst others.

In this instance we have worked with Gisborne District Council staff, sharing their concerns about the likely impact of the proposed Plantation Forestry NES within Te Papatipu o Uepohatu, within Tee Rohe o Ngati Porou and the wider region. Based on a large number of concerns in the proposed NES we cannot support its progression and need to state the opposition of the hapu collective and marae that Te Papatipu o Uepohatu Trust advocate on behalf of. In conjunction with Gisborne District Council, we endorse the recommendations below and advise the Crown that should the NES progress and these issues not be addressed, we reserve the right to seek remedy through the range of legal instruments available to us as Treaty of Waitangi partners with the Crown.

### **No case made for NES**

Plantation forest establishment has long been an important tool for soil erosion control. Once planted in plantation forest the land remains vulnerable to disturbance, and plantation forestry on steep and erosion prone hill country involves landscape disturbance activities that can be on a large scale, unlike any other land use. Clearfell harvesting affects biodiversity and re-introduces erosion risks similar to, and in some cases more extreme than, grassland for a number of years. Existing rules in Gisborne District Council's statutory RMA plans are adequate to manage adverse effects. They are operative rules that have been agreed by the community, including forestry interests.

It is pleasing that MPI has recognised some variation between consenting authorities controls on forestry is natural due to environmental, economic, social or cultural factors. In this respect "unwarranted variations" is a better reason for an NES than previously used "inconsistencies" between plans. However the Trust considers the benefit of removing both "unwarranted variations" between plans and the opportunity for plan changes is more than offset by negative regional impacts on community inputs and environmental standards.

In essence the Trust does not believe an evidential case for a Plantation Forestry NES has been made and is concerned about its impacts, for this reason we oppose the proposed NES in its entirety.



Should the NES proceed, following are changes we will require to satisfy our hapū collective.

### **Orange Zone Harvesting**

*Harvesting on all of the Orange Erosion Susceptibility Class (ESC) is a permitted activity in the proposed NES. This is opposed.*

Orange land includes a number of Land Use Capability (LUC) units that are steep to very steep on erosion prone soft geology prone to soil slipping that removes the entire soil layer down to bedrock that is then unable to sustain trees of any type. This land is found in areas known to be “hotspots” for cyclonic storms. It is the source of woody debris that has been recently deposited onto river flats, into river channels and on beaches in large quantities. Under the District Plan harvesting requires a consenting process to give the flexibility to develop and put in place site-specific preventative and mitigation measures such as re-planting requirements. The NES permitted activity conditions are inadequate and rigid. It is unacceptable that such land is afforded permitted activity status given the risks involved. Section 43 A (3) (b) RMA 1991 does not allow an NES to state that an activity is a permitted activity if it has significant adverse effects on the environment. This is such an activity.

Requested change: *Include controlled or restricted discretionary status for harvesting on steep to very steep erosion prone LUC units of Orange ESC.*

### **Orange Zone Afforestation**

Linked to Orange ESC harvesting issues is afforestation (of new forests) on Orange being a permitted activity. This would prevent any planting restrictions as a method to mitigate woody debris from future harvesting. This is opposed.

Requested change: *Restricted discretionary status for afforestation on steep to very steep erosion prone LUC units of Orange ESC.*

### **Sensitive Receiving Environments**

The ESC classification is based on LUC which is then used to determine activity status. This is a very good process to assess risk on the sites where the forestry activities are being carried out, but takes no account of variations in downstream receiving environments which demand site specific measures to avoid or mitigate adverse effects. Where the activity status includes a resource consent requirement this imparts the flexibility to provide for differing receiving environments and this is supported for this reason. However where permitted activity status applies, supported by generic permitted activity conditions only without allowance for variations in downstream receiving environments, this is opposed. It also breaches the Section 43A (3) (b) RMA 1991 stipulation.

Requested change: *Inclusion of sensitive receiving environments such as estuaries, coastal marine areas, water intakes, dwellings and amenity features into the matters where Consenting Authorities can apply more stringent rules. It is noted an earlier Plantation Forestry NES proposal included an exception for sensitive receiving environments.*

## **Uncertainty of Conditions**

The proposed permitted activity conditions frequently use uncertain language such as “as far as is practicable”, “if unavoidable”, “except where unsafe or impracticable to do so”. Such language results in conditions that are litigious or unenforceable. A rule that is unenforceable has little effect. Use of uncertain language throughout permitted activity conditions is opposed. The NES proposal explains further analysis and drafting is envisaged and the rules as they are amount to drafting instructions. There is no obvious clear and certain language for many of the rules that would suitably manage adverse effects across all circumstances.

Requested change: *That if permitted activity status is retained the relevant conditions err on the side of caution, alternatively a consents regime should be required.*

## **Ability to be More Stringent**

The listed NES activities covered by rules encompass all major within forest activities. The ability for Consenting Authorities to be more stringent is tightly constrained. This is opposed. To properly apply sustainable management and give effect to their statutory responsibilities Consenting Authorities need the ability to be more stringent than allowed for in the NES. Mapping areas of significance is expensive and takes considerable time to collect and collate the required data. Good outcomes can be achieved through setting out key parameters and using site-specific assessments and conditions.

Requested change: *Unmapped wahi tapu sites, unmapped significant indigenous flora and fauna, other than outstanding but still significant freshwater bodies and natural features and landscapes (as well as sensitive receiving environments as above) all be included as matters where Consenting Authorities can apply more stringent rules.*

## **Management Plans**

Harvest Plans, Quarry Management Plans and Erosion and Sediment Control Plans are required to be prepared for harvesting, quarrying and earthworks respectively. These provisions are opposed in their present format. The contents required of these plans is broadly described and it is by no means certain that plans will adequately describe activities or the activities intended will be sufficient to achieve other permitted activity conditions. The role of Consenting Authorities is restricted to being advised when activities will begin and having the Plans made available to them. There is no provision for Consenting Authorities (or any other body such as iwi or hapū) to certify the Plans as adequate.

Requested change: *During the legal drafting phase, management plans content should be made clearer and linked to clear outcomes and provision made for*

*Consenting Authorities certification as adequately meeting the content requirements.*

### **Mechanical Land Preparation – Root Raking**

Root raking is permitted in the Orange and Red Zones on slopes >25° if the activity does not affect the subsoil. This would allow the total removal of the topsoil and is opposed. Top soil removal would severely limit plant growth of any kind and is a practice not regarded as sustainable land management. Without topsoil and plant cover land is subject to soil erosion. Topsoil disturbance should be kept to a minimum.

Requested change: Root raking in the Orange and Red Zones on slopes >25° should only be permitted if the soil A horizon is not removed. The A horizon should be defined as “the surface soil layer consisting of surface mineral horizons with maximum organic matter, usually dark in colour”.

### **Permitted Activities**

The proposal, for this district would mean fewer forestry activities would be subject to resource consent processes. Instead there would be more permitted activities subject to NES permitted activity conditions. The cost of monitoring resource consent conditions is recoverable from consent holders. The cost of monitoring permitted activity conditions is not. This would amount to a shift in cost from those carrying out forestry activities to the wider community.

Resource consent processes involve pre-application discussions, requiring further information and formulating clear activity based conditions that will lead to required environmental outcomes. These are proactive processes by which forestry activities are able to be shaped before they begin. They enable useful advice to be conveyed to contractors not used to local conditions. Forestry activities such as earthworks, quarrying and harvesting are irreversible and are often large in scale and happen very quickly. Where activities are permitted they are able to proceed without Consenting Authorities approval. How the activities are carried out is unable to be influenced. Consenting Authorities involvement is limited to compliance monitoring and enforcement. These are reactive in nature, occurring after activities have occurred.

Requested change: *Orange zone harvesting as a controlled or restricted discretionary activity; and inclusion of sensitive receiving environments as matters where Consenting Authorities can apply more stringent rules. These are areas of the NES where environmental risks are high and intensive compliance monitoring would be required.*

### **Water Quality Limits and the NPS for Freshwater Management.**

Many of the proposals in the draft NES cut across the NPS-FM Objectives 1 and 2, and the requirements for the Consenting Authorities to manage water quality set out in that NPS-FM. While the “Ability to be more stringent” section of the NES identifies that this is “where required to meet the Objectives of the NPS-FM”, the

discussion document identifies this as where a limit has been set that has not been met, and forestry activities are the source of the contaminant.

Based on this explanation, this would seem to cut across the NPS-FM requirement for Consenting Authorities to “maintain and improve” water quality – as Consenting Authorities could only be more stringent if the water quality was degraded.

Limiting the ability for the Consenting Authorities to be more stringent to only where a water quality limit has been exceeded is opposed.

Requested change: *Consenting Authorities have the ability to be more stringent in relation to all water quality limits set in order to enable them to maintain and improve water quality as required by the NPS.*

### **Outstanding waterbodies**

The discussion document identifies that Consenting Authorities can be more stringent “where significant values of outstanding waterbodies have been specified and forestry activities would have an adverse effect on these values” yet the rules set a number of permitted and controlled activity rules for outstanding waterbodies – including setbacks, river crossings and installation of slash traps. This is likely to create confusion and is opposed.

Requested change: *Delete references to outstanding waterbodies in the rules and allow Consenting Authorities the full ability to put in place appropriate rules for activities which could affect the values of outstanding waterbodies.*

### **Wetlands**

The NPS-FM specifically requires the protection of the significant values of wetlands. The discussion document does not specifically identify wetlands and their riparian areas as being a matter over which Consenting Authorities can be more stringent.

All of the forestry activities identified within the rule tables have the ability to affect the significant values of wetlands. For example In relation to setbacks the NES rule tables reference wetlands only greater than 2500m<sup>2</sup>. In many instances the setbacks proposed may be insufficient to protect a wetland’s significant values – for example by altering the water table. The provisions for wetlands in the NES are opposed.

Requested change: *That the rules in relation to wetlands are deleted in their entirety and Consenting Authorities retain the ability to be more stringent around the management of wetlands and their riparian areas across all activities.*

### **Timing of Earthworks**

Timing of earthworks and activity within riverbeds is a significant issue both in terms of generation of sediment and avoidance of impacts on aquatic ecosystems and riverine birdlife. No provision for an earthworks “close out” season is provided for in order to protect the values of sensitive receiving environments including outstanding waterbodies and wetlands.



Requested change: *Consenting Authorities have the ability to be more stringent around the timing of earthworks and activities within the bed of a river or lake in all zones where this is required to protect sensitive receiving environments.*

### **Fish Species Spawning, Migration and Riverine Birds**

The General Conditions provide for fish spawning but only relate to a small number of mostly non-migratory species. Only 5 of these species are found in the Gisborne region, and many are not found in the North Island. It does not include a number of nationally critical and nationally endangered species as species such as inanga which are a substantial component of the whitebait fishery. Relief sought: This list should be amended to include: long finned eel, short finned eel, short jawed kokopu, torrentfish, Crans bully, bluegill bully, upland bully, giant bully, inanga, banded kokopu, lamprey and smelt.

The General Conditions list periods of time where beds of rivers cannot be disturbed in order to protect the spawning of the fish species. These dates however do not align with local spawning dates of species in different parts of New Zealand. Fish will spawn at a different time in Invercargill to Northland – or Gisborne. This renders these dates ineffective and they are opposed.

Requested change: *Allow Consenting Authorities to identify the local spawning times for fish species in their region through regional plans.*

The General Conditions do not provide for native fish migration. In the case of species such as long finned eel, barriers to downstream migration can result in the death of the tuna as they have undergone physiological change in order to undertake migration and no longer feed.

Requested change: *Allow Consenting Authorities to identify important migration periods for native fish in their regions and be more stringent in relation to activities in the beds of rivers during these periods.*

The General Conditions provide for protection of nesting sites from disturbance for Nationally Critical or Nationally Endangered species. This does not provide for regionally threatened species or stronghold populations.

Requested change: *Consenting Authorities are able to be more stringent where they have identified regionally threatened species or stronghold populations.*

### **Genetic Engineering**

The proposed NES specifies that afforestation and replanting using genetically modified tree stock would be classed as a permitted activity where approval has been granted by the Environmental Protection Authority (EPA) for the use of such organisms. This is explained as affirming the EPA's authority to determine any risks of GMOs, and affirming that any conditions imposed by the EPA would be sufficient to ensure risks are managed. There would be no opportunity for a Consenting Authority to make its own rules, policies or conditions in relation to GM tree species in its landscapes and ecosystems. This provision contradicts the recent Environment Court decision (*Federated Farmers v Northland Regional Council* [2015] NZEnvC 89) where Judge Newhook found that there is jurisdiction under the RMA for regional councils to make provision for control of the use of GMOs through regional policy statements and plans. The proposal that

GMO forestry would be a permitted activity could constrain Consenting Authorities ability to respond to valid future concerns about the use of GMO species (potentially for a range of reasons including environmental risk, pest management, or risks to the regional, iwi or hapu economy, brand and reputation and our ability to market our produce overseas).

Requested change: *Consenting Authorities continue to exercise precaution and to have the ability to set rules relating to GMO in their region.*

Naku noa, na



Tui Aroha Warmenhoven

Chairperson/Hapu Coordinator | Te Papatipu o Uepohatu Trust | E s 9(2)(a) | C: s 9(2)(a)

Director | Te Runanganui o Ngati Porou | E s 9(2)(a)

Trustee | He Oranga Trust | E s 9(2)(a)



## **SUBMISSION: National Environmental Standards for Plantation Forestry (NES-PF)**

**To: Ministry for the Environment**

This Submission is from:

**Waikato-Tainui Te Kauhanganui Incorporated**

[Redacted]

[Redacted]

## ***Executive Summary***

1. Waikato-Tainui recognises the need to have a national standard when it comes to Plantation Forestry given that there is such a wide variation of regulations between the District Council's and Regional Councils. The variations can be based on the local knowledge and take into account such things as high erosion susceptibility and community priorities such as heritage and cultural values. However in some cases there can be no clear reasons for these regulations. Which can make it difficult for companies to unitise areas on farms that cannot be used for any other purpose
2. It is Waikato-Tainui view that the current systems can often make it very difficult for the forestry companies as they may be able to plant a forest without a resource consent but, will require resource consent to undertake pruning and harvesting. This can be very costly and may be declined and therefore required to go to the Environmental court to settle issues.
3. Waikato-Tainui agrees with the definition of plantation within the NES-PF.

## ***Waikato-Tainui Iwi***

4. The Waikato-Tainui Te Kauhanganui Incorporated is the principal constitutional and the legally mandated Iwi authority of Waikato-Tainui. There are 68 Waikato Raupatu Marae (Appendix 1) that affiliate to at least one of the 33 haapu of Waikato-Tainui. This submission outlines Waikato-Tainui position in regards to the proposed NES-PF.

## ***Waikato-Tainui Interests in***

5. Waikato-Tainui are tangata whenua of the Waikato and Auckland regions including West Coast Harbours (Manukau, Whaingaroa, Aotea and Kawhia) the coastal areas of these regions.
6. Waikato-Tainui are recognised as kaitiaki of our environment and view the holistic integrated management of all elements of the environment such as flora & fauna, land, air and water as of utmost importance.
7. Waikato-Tainui seeks to ensure that all NES and NPS aligns with the outcomes of two important documents:
  - Tai Tumu, Tai Pari, Tai Ao – Waikato-Tainui Environmental Plan
  - Whakatupuranga Waikato-Tainui 2050 – Strategic Plan
8. Waikato-Tainui believes co-management starts at the forefront where two parties come together and work on a matter of mutual interest and to co-create a joint solution. Waikato-Tainui considers the Accords that we have with the Crown and Government departments are a step in the right direction. However, we feel that further development may be required to achieve the desired outcome being sought by Waikato-Tainui.



## **Te Ture Whaimana Waikato River Vision and Strategy**

9. Te Ture Whaimana is intended to be the primary direction-setting document for the Waikato River and activities within its catchment affecting the River.
10. Te Ture Whaimana has certain status and generally prevails over any inconsistencies in other policies, plans, or processes affecting the Waikato River. Relevant policies, plans, and processes cannot be amended so that they are inconsistent with Te Ture Whaimana and must be reviewed and amended, if required, to address any inconsistencies. Examples include;
  - (a) Waikato Regional Policy Statement: Te Ture Whaimana, in its entirety, became part of the Waikato Regional Policy Statement ('RP S') from the date of commencement of the Waikato River Act. The Waikato Regional Council is required to amend the RP S to make it consistent with Te Ture Whaimana and Te Ture Whaimana prevails in the event of inconsistency between the RP S and Te Ture Whaimana.
  - (b) Te Ture Whaimana prevails over any inconsistent provisions in a National Policy Statement issued under section 52 of the RMA and a New Zealand Coastal Policy Statement issued under section 57 of the RMA
  - (c) A rule included in a regional or district plan for the purpose of giving effect to the vision and strategy prevails over a National Environmental Standard made under section 43 of the RMA, if it is more stringent than the standard and a water conservation order made under section 214 of the RMA, if it is more stringent than the order.

### **Objective – Te Ture Whaimana prevails**

11. Te Ture Whaimana prevails in any resource management, use and activity within the Waikato River catchment in the Waikato-Tainui rohe.
12. NES-PF within the Waikato River catchment in the Waikato-Tainui rohe is consistent with Te Ture Whaimana.

### ***Tai Tumu, Tai Pari, Tai Ao – Waikato-Tainui Environmental Plan***

13. This Waikato-Tainui Environmental Plan, Tai Tumu Tai Pari Tai Ao (the 'Plan'), is developed out of Whakatupuranga 2050. The Plan is designed to enhance Waikato-Tainui participation in resource and environmental management. The maimai aroha of Kiingi Taawhiao is the key driver and indicator of environmental health and wellbeing in this Plan. Waikato-Tainui aspires to the restoration of the environment to the state that Kiingi Taawhiao observed when he composed his maimai aroha.
14. The Plan is also intended as a tool to provide clear high-level guidance on Waikato-Tainui objectives and policies with respect to the environment to resource managers, users and activity operators, and those regulating such activities, within the Waikato-Tainui rohe. Waikato-Tainui recognises that the

successful achievement of the objectives in this Plan is a team approach that requires input and support from these external agencies.

15. Waikato-Tainui acknowledges that there may be more than one agency involved in the successful achievement of the Plan's objectives due to the different mandate, legislation, drivers, and motivation across external agencies. Waikato-Tainui encourages and advocates for external agencies to do what they can to achieve the Plan's objectives.
16. Waikato-Tainui supports and promotes a coordinated, co-operative, and collaborative approach to natural resource and environmental management, restoration, and care within the Waikato-Tainui rohe. Through this Plan Waikato-Tainui seeks to achieve a consistent approach to environmental management across the Waikato-Tainui rohe. This Plan is a living, evolving, working document that will be monitored, revised and updated to ensure it remains relevant and provides a framework for continuous improvement.
17. Waikato-Tainui seeks to ensure that the NES-PF is consistent with the Waikato-Tainui Environmental Plan.

### ***Whakatupuranga Waikato-Tainui 2050***

18. Whakatupuranga Waikato-Tainui 2050 is the strategic plan blue print for the cultural, social and economic advancement of Waikato-Tainui. Its vision is to grow a prosperous, healthy, vibrant, innovative and culturally strong iwi. Its mission is for the iwi to grow, prosper and sustain.

The strategic objectives of the plan are:

- To retain our historical role as Kaitiaki o te Kiingitanga
  - To ensure Kiingitanga remains an eternal symbol of unity
  - To preserve our tribal heritage, reo and tikanga
  - To grow our tribal estate and manage our natural resources
  - To succeed in all forms of education and training
  - To be global leaders in research excellence
  - To grow leaders
  - To develop self-sufficient marae
  - To advance the social development of our people
  - To develop and sustain our economic capacity
19. The Whakatupuranga Waikato-Tainui 2050 priorities for 2015-2017 are highlighted in Appendix 2.
  20. Waikato-Tainui seeks to ensure that the NES-PF is consistent with the objectives and outcomes being sought in Whakatupuranga Waikato-Tainui 2050.

## **WAIKATO-TAINUI NES-PF OVERVIEW**

### **Waikato-Tainui supports:**

21. The proposed rules around the eight plantation forestry activities as this align with the vision and strategy.
22. The fact that the NES-PF will still require resource consent for locations where the activity has an adverse effect on the environment. Therefore Waikato-Tainui still has the opportunity to submit on resource consent applications.
23. The fact that in some cases local authorities have the ability to be more stringent than the NES-PF.
24. The improved management of wildings in small forests as a result of higher afforestation controls.
25. The ability to avoid erosion by having greater control of harvesting of forests on with high or very high erosion risk.
26. Increased setbacks from waterways that will improve freshwater quality and biodiversity.

### **Waikato-Tainui has concerns with:**

27. Councils needing to monitor permitted activities as most councils are unable to meet their current monitoring requirements under the RMA.
28. The length of time it will take councils to remove any duplication or conflicts from their plans as a result of the NES-PF.
29. That iwi will not get to check if there is any waahi tapu or significant sites within the proposed area for plantation if it is regarded as a permitted activity.

### **Conclusion**

30. Waikato-Tainui seeks the ability to view any changes to the NES-PF after submissions have closed. To consider whether the changes made to NES-PF change the intention of the NES-PF there by changing the view that Waikato-Tainui has given.

**DATED:**

11 August 2015

**WAIKATO TAINUI TE KAUHANGANUI INC**

By its Environmental Advisor;

Kevin O'Shannessey

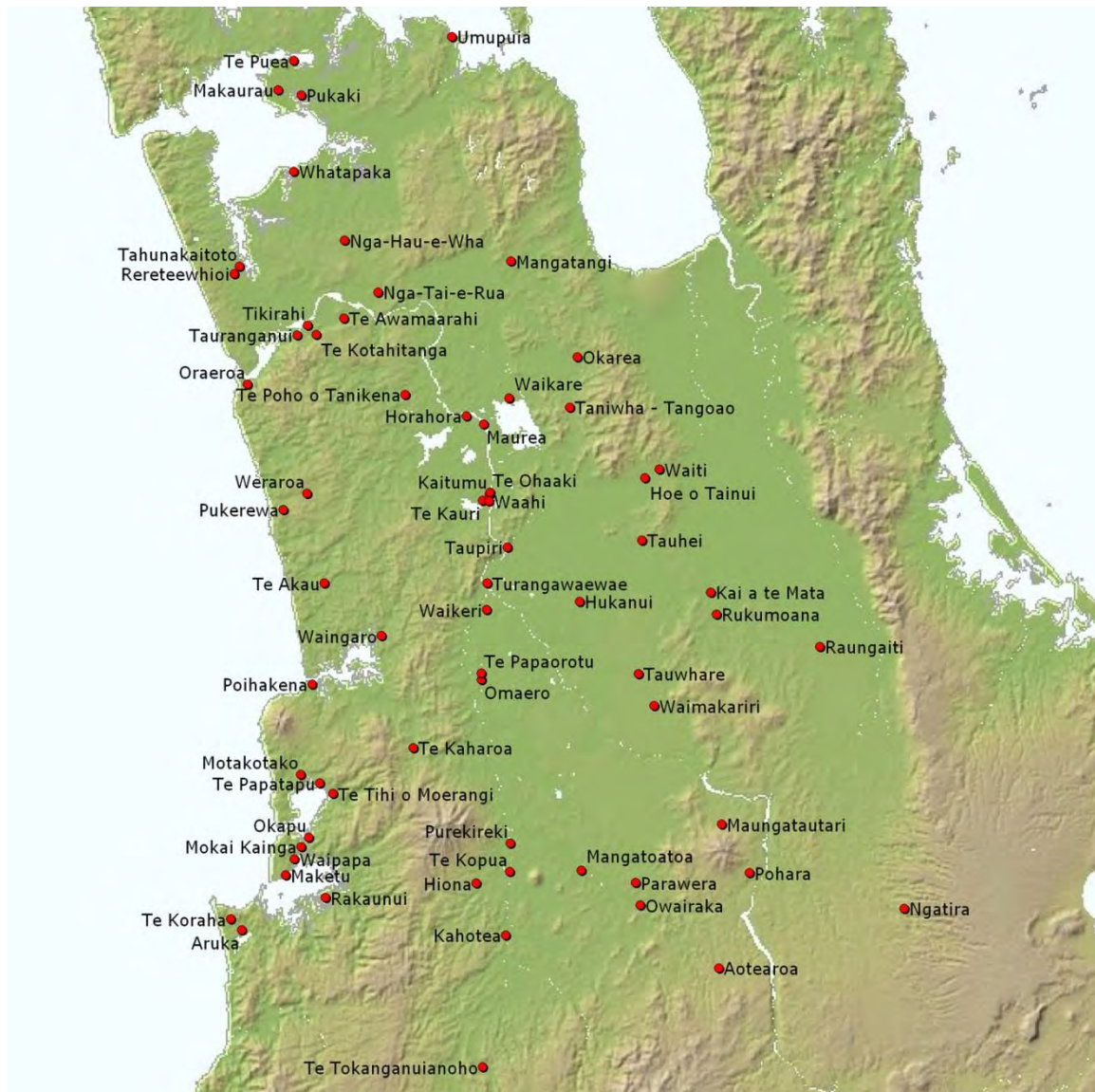
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## APPENDIX 1 – WAIKATO RAUPATU MARAE



## APPENDIX 2 – WHAKATUPURANGA 2050

### STRATEGIC OBJECTIVES WHAKATUPURANGA 2050

The framework below outlines the strategic approach that we are taking to achieve the high level goals and aspirations of Whakatupuranga 2050. It also highlights a number of strategic initiatives to be accomplished over the next three years.

KIINGITANGA	TRIBAL IDENTITY	TRIBAL SUCCESS	SOCIAL & ECONOMIC WELLBEING
TE ARATAURA STRATEGIC PRIORITIES 2013-2016			
EMPOWERING OUR PEOPLE	STRENGTHENING RELATIONSHIPS	TRIBAL PRIDE	
TE ARATAURA OUTCOMES – ONE TEAM, ONE DIRECTION			
HEALTH AND WELL-BEING	EDUCATION AND TRAINING	EMPLOYMENT	
Tribal members are healthy and active. The health and wellbeing of our Tuupuna Awa is restored.	Tribal members are well educated, qualified and prepared to engage at all levels of society.	Tribal members are benefitting from the development of targeted employment opportunities.	
CULTURE		TRANSFORMING OUR WHARE	
Tribal reo, tikanga and heritage is preserved for future generations.		Governance structures and constitutional arrangements support tribal development.	
STRATEGIC INITIATIVES FY2015-2017			
Governance and representation review completed.	Outstanding claims progressed in collaboration with Waikato-Tainui marae and hapuu.	Tribal housing initiative in place. Financial education and information workshops available to whaanau, hapuu and marae.	
Rangatahi and Taurahere strategy implemented. Annual rangatahi leadership camps initiated.	Hopuhopu redevelopment stage one completed.	Waikato-Tainui intergenerational investment strategy meeting Shareholder requirements.	
Sustainable employment and training opportunities made available to tribal members.  Relationships with partners result in employment.	Mana Marae development framework operational. Marae insurance package in place. Marae resource and asset management survey completed.	Native Nursery and Koi Carp initiatives fully operational. Lake Waikare restoration project completed. Tai Tumu, Tai Pari, Tai Ao Iwi Environmental Plan being implemented. Waikato River fisheries bylaws enacted.	
Waikato-Tainui Games, Tribal Pride Festival, Matariki, Rangatahi Summit, Waikato River Symposium, and Te Tira Hoe held.  Events to mark the first 20 years since settlement of the Raupatu claim completed.	Education initiatives from early childhood, primary, secondary and tertiary level supported. Whaanau and school engagement plan activated. Waikato-Tainui Te Reo Maori action plan underway.	'One team, one direction' culture and capability embedded across the Waikato-Tainui group.  Results based accountability framework developed and used to report progress.	