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**SUBMISSION BY Q INVEST COMPANY LIMITED ON
DRAFT NATIONAL POLICY STATEMENT ON HIGHLY PRODUCTIVE LAND**

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1. INTRODUCTION

- 1.1 This submission on the draft National Policy Statement on Highly Productive Land ("draft NPS") is made on behalf of Q Invest Company Limited ("QICL"). It responds to the discussion document "*Valuing Highly Productive Land – A discussion document on a proposed National Policy Statement on Highly Productive Land*" jointly prepared by the Ministry for Primary Industries and Ministry for the Environment dated August 2019 ("discussion document").

Background to QICL

- 1.2 QICL owns a 105 hectare property located at [REDACTED] ("the site"), just south of Auckland. The site is currently leased to a dairy farmer. The farm is not viable on its own for this purpose over the long-term. QICL therefore intends to develop it as a kiwifruit orchard to maximise the land's capability, thereby creating a more efficient land use into the future.
- 1.3 The proposal is to develop up to 75 hectares of the site with [REDACTED] kiwifruit providing approximately 50 hectares canopy cover. Advice from appropriately qualified experts has confirmed that the soils and areal extent of the site are suitable for this purpose. However, establishing the orchard will require significant capital investment.
- 1.4 To that end, QICL intends to develop the remainder of the site for rural/residential purposes, similar to other existing countryside living arrangements close to the site. The sale of these sites and homes (which QICL will develop) will fund the kiwifruit orchard development. The residents of those homes will then contribute to a fund that will support the ongoing operation and maintenance of the orchard.

Scope of submission

- 1.5 Against that background, QICL wishes to address three issues regarding the draft NPS, as that is outlined in the discussion document:
- (a) Prioritisation between using land for housing (including rural-residential development) and productive use;

- (b) Recognition and encouragement of innovative solutions that are developed to maximise the productive potential of land; and
- (c) The appropriate classification for Land Use Capability ("LUC") Class 3 land.

2. **NEED FOR DIRECTION ON PRIORITISATION**

2.1 QICL notes that the discussion document:

- (a) Acknowledges that the development of Future Development Strategies, as provided for in the draft NPS on Urban Development that is currently also out for consultation, provides the opportunity for identifying both urban growth areas and areas where urban development should be avoided¹.
- (b) Clearly states that it would not be practical, and the draft NPS is not intended, to provide absolute protection for all areas of highly productive land².

2.2 These statements are both consistent with QICL's position, which is as follows:

- (a) An integrated and coherent approach must be taken to identifying areas where urban development should be prioritised and those areas which should be retained for primary production purposes.
- (b) It is both unnecessary and inconsistent with the sustainable management of natural and physical resources to preclude urban development on all areas of highly productive land.

2.3 That said, QICL is concerned that the various NPS which have been (or are being) prepared do not appropriately integrate the respective matters of national importance they address, nor do they provide sufficient direction on the priorities between those matters. This concern is demonstrated by the three options that have been put forward in the discussion document for managing the protection of highly productive land, being:

- (a) An NPS (Option 1);
- (b) A National Environmental Standard (Option 2); or
- (c) Amendments to the existing National Policy Statement on Urban Development Capacity ("NPS UDC") (Option 3).

2.4 Clearly, there will be significant interface between the draft NPS and other NPS (both existing and proposed), in particular that regarding Urban Development. QICL considers that the draft NPS should:

- (a) Set out how potential conflicts between the various policy objectives in those documents are to be reconciled;
- (b) Direct when certain issues (such as the need for urban development) must take priority over others (such as the need to protect highly productive land); and
- (c) Encourage innovative approaches to maximizing the use of productive land for highly productive uses.

¹ Discussion Document, at page 43.

² Ibid, at page 33.

- 2.5 That is the type of guidance that should be provided by central Government and which must be included in higher order planning documents (including NPS) for them to be of value.
- 2.6 For this reason, QICL supports pursuing Option 3, which (as noted) is to address the management of highly productive land by way of amendments to the existing NPS UDC. In QICL's view, it is clear that this is the most appropriate way of providing the required level of national direction. It will certainly be more effective than promulgating yet another NPS that is based on high level, aspirational values statements (such as "*recognise the benefits of highly productive land*"), which do little more than repeat matters that are already included in Part 2 of the Resource Management Act 1991 ("RMA").
- 2.7 It is surprising that the discussion document has not identified that a key benefit of Option 3 is that a combined NPS can deal with both the need for urban development and protection of productive land, and the appropriate prioritisation between these objectives, in an integrated way. Indeed, this is not recorded as being a benefit of Option 3 in the discussion document *at all*. This is a serious gap in the analysis.
- 2.8 QICL is concerned that if the draft NPS proceeds as currently drafted, it will at best not provide any support for innovative developments like those it is proposing at Waiau Pa and at worst, mean such developments are actively discouraged, as it will be too costly and difficult to get them approved. In QICL's view, that is not an outcome that can be supported. It would leave potentially productive land lying significantly under-utilised (the likely eventual outcome for QICL's land, if its present proposal does not proceed) and mean lost opportunities to meet critical housing demand. In practical terms – the spare land surrounding the kiwifruit will most likely to be left for a few sheep to graze as a cost effective method of keeping the height of grass manageable.

3. **ENCOURAGING INNOVATIVE DEVELOPMENT SOLUTIONS**

- 3.1 QICL considers that the draft NPS should explicitly encourage and provide for innovative solutions that are developed to maximise the productive potential of land, while also meeting current housing demand. As presently drafted, it does not do so. Indeed, its effect will likely be the opposite.
- 3.2 Based on the data reported in *Our Land 2018*, the discussion document identifies the fragmentation of land for rural lifestyle properties has having had a significant impact on, and being a key issue facing, highly productive land³. Accordingly, the proposed objectives and policies of the draft NPS discourage such development, except in very limited circumstances. For example:
- (a) Proposed Policy 3 provides that there should be no urban expansion onto highly productive land, except where there is a shortage of development capacity to meet demand and it can be demonstrated that this is the "most appropriate" option.
 - (b) Proposed Policy 4 explicitly addresses rural subdivision and fragmentation, requiring territorial authorities to set minimum lot sizes, restrict subdivision and direct rural lifestyle development away from areas of highly productive land.
- 3.3 However, as QICL's proposed Waiau Pa development demonstrates, rural lifestyle development can be used to support the productive use of land, where this otherwise would not occur (or would at least be very difficult) due to site constraints, topography, water availability and other factors – particularly those which impose a high cost of start-up capital. Yet the draft NPS fails to recognise that the two land-uses

³ For example, at pages 9 and 25.

can in fact be complementary, rather than in conflict. It also does nothing to encourage parties to actively identify and pursue such opportunities, where they exist.

- 3.4 QICL's position is that the draft NPS should endorse innovative solutions to maximise the productive potential of land, including those which necessarily involve (or are supported by) rural residential development. Rather than presenting a (potentially fatal) barrier to such proposals as it currently does, the draft NPS should instead require local authorities to specifically encourage and incentivise parties to develop such solutions.
- 3.5 They are a "win-win" outcome, which not only ensures that land can be used for productive purposes (where this would otherwise not be possible), but also helps meet the increasing demand for rural residential properties in an appropriate manner. In QICL's view, this is the essence of sustainable management, as provided for in section 5 of the RMA.

4. **APPROPRIATE CLASSIFICATION FOR LUC 3 LAND**

- 4.1 Policy 1 of the draft NPS requires regional councils to identify areas of highly productive land in their region, using a set of both mandatory and discretionary criteria. As currently drafted, the latter comprise:
- (a) The current or potential availability of water;
 - (b) Access to transport routes;
 - (c) Access to appropriate labour markets;
 - (d) Supporting rural processing facilities and infrastructure;
 - (e) The current land cover and use and the environmental, economic, social and cultural benefits it provides; and
 - (f) Water quality issues or constraints.
- 4.2 While these factors do not identify whether land is actually highly productive, QICL agrees that they are critical to determining whether land can be used for productive purposes. On that basis, QICL considers that these should all be mandatory considerations in determining whether land is classified as highly productive, rather than discretionary.
- 4.3 The draft NPS proposes that until regional councils have completed the identification of highly productive land, the default definition should be as follows:
- "...a land parcel in a rural area that contains at least 50% or 4 hectares of land (whichever is the lesser) defined as LUC 1, 2 and 3 as mapped by the New Zealand Land Resource Inventory or by more detailed site mapping..."*
- 4.4 QICL does not object to the land being identified and protected as highly productive based primarily on its LUC class. This is consistent with the provisions of the partly operative Auckland Unitary Plan ("AUP"), which are based around identification of "elite soil" (defined as LUC 1) and "prime soil" (defined as LUC 2 and 3).
- 4.5 However, QICL does not support LUC 3 land being classified as highly productive land, on either an interim or permanent basis. This would be inconsistent with the provisions of the AUP, which as noted, give greater protection to LUC 1 land as opposed to LUC 2 and 3. Further, as the discussion document states⁴, identifying LUC

⁴ Supra Note 1, at page 15.

3 land as “highly productive” would almost triple the area of land that the draft NPS and its restrictions apply to (from approximately 5% of New Zealand’s land to almost 15%). MfE has not identified where these areas are, nor analysed the potential impact of the NPS on such a large area of land. QICL’s position is that there is currently insufficient evidence to demonstrate that the benefits of extending the impact of the NPS in this manner will outweigh the costs and detrimental impacts of doing so. Those costs include lost development opportunities which would otherwise be completely consistent with the principle of sustainable management.

- 4.6 QICL also notes that the Land Use Capability Survey Handbook (Third edition) defines LUC 3 as follows:

“Class 3 land has moderate physical limitations to arable use. These limitations restrict the choice of crops and the intensity of cultivation, and/or make special soil conservation practices necessary. Class 3 land is suitable for cultivated crops, vineyards and berry fields, pasture, tree crops or production forestry.”

(Emphasis ours)

- 4.7 By definition, LUC 3 land is therefore *moderately* productive, not *highly* productive. In QICL’s view, it would accordingly be inappropriate for this to be identified as highly productive land on either an interim or permanent basis.
- 4.8 QICL appreciates the opportunity to provide feedback on the draft NPS and can address any of the issues raised in this submission in more detail, if that would assist.

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