



Proposed National Policy Statement for Highly Productive Land

Submission Template

We would like to hear your views on the proposed National Policy Statement for Highly Productive Land (NPS-HPL).

Please feel free to use this template to prepare your submission. Once complete please email to soils@mpi.govt.nz.

You can also make a submission using the online submission tool. A link to the online submission tool is available at www.mpi.govt.nz/HighlyProductiveLand.

Contact details

Name:

Shanon Grainger (on behalf of Horowhenua New Zealand Trust)

Postal address:

PO Box 403
Levin 5540
Horowhenua

Phone number:

[REDACTED]

Email address:

[REDACTED]

Are you submitting on behalf of an organisation? Yes [☒ y] No [☐]

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

Horowhenua New Zealand Trust

Submissions are public information

All or part of any written submission (including names of submitters) may be published on the Ministry for Primary Industries' website, or the Ministry for the Environment's website. Unless you clearly specify otherwise in your submission, the ministries will consider that you have agreed to have your submission and your name posted on their websites.



Contents of submissions may be released to the public under the Official Information Act 1982, if requested. Tell us if you do not want some or all of your submission released, stating which part(s) you consider should be withheld and the reason(s) for withholding the information.

Under the Privacy Act 1993, people have access to information held by agencies about them. Any personal information you send with your submission will only be used in relation to matters covered by this document. In your submission, indicate if you prefer that we do not include your name in the published summary of submissions.

Questions for submitters

The questions for submitters that are included throughout the discussion document are provided below. We encourage you to provide comments to support your answers to the questions below. You do not have to answer all questions for your submission to be considered.

The page numbers mentioned below indicate where further information about the question is located in the discussion document.

Section 2.3: Defining highly productive land [page 19]

What are the values and benefits associated with highly productive land?

Please see the attached submission.

What are the values and benefits associated with existing food growing hubs and how can these be maximised?



Section 3.1: Problem statement [page 23]

Does the RMA framework provide sufficient clarity and direction on how highly productive land should be managed? Why/why not?

Does the RMA framework provide sufficient clarity on how highly productive land should be considered alongside competing uses? Why/why not?

How are values and wider benefits of highly productive land being considered in planning and consenting processes?

Section 3.2: Urban expansion on to highly productive land [page 24]

How is highly productive land currently considered when providing urban expansion? Can you provide examples?

How should highly productive land be considered when planning for future urban expansion?



Section 3.3: Fragmentation of highly productive land [page 25]

How is highly productive land currently considered when providing for rural-lifestyle development? Can you provide examples?

How should highly productive land be considered when providing for rural-lifestyle development?

Section 3.4: Reverse sensitivity [page 26]

How should the tensions between primary production activities and potentially incompatible activities best be managed?

How can reverse sensitivity issues at the rural-urban interface best be managed?



Section 3.5: These issues are being seen throughout New Zealand [page 26]

Do you agree that there is a problem? Has it been accurately reflected in this document?

Are you aware of other problems facing highly productive land?

Section 4.5 Preferred option – a National Policy Statement [page 31]

Which option do you think would be the most effective to address the problems identified in Chapter Three? Why?

Are there other pros and cons of a National Policy Statement that should be considered?

Are there other options not identified in this chapter that could be more effective?



Section 5.2 Purpose of the proposed National Policy Statement [page 34]

Should the focus of the National Policy Statement be on versatile soils or highly productive land more broadly? Why/why not?

Should the focus of the National Policy Statement be on primary production generally or on certain types of food production activities? Why/why not?

Section 5.3 The scope of the proposal [page 35]

Do you support the scope of the proposal to focus on land use planning issues affecting highly productive land? Why/why not?

What matters, if any, should be added to or excluded from the scope of the National Policy Statement? Why?

Should future urban zones and future urban areas be excluded from the scope of the National Policy Statement? What are the potential benefits and costs?



Should the National Policy Statement apply nationally or target areas where the pressures on highly productive land are greater?

Section 5.4 The proposed National Policy Statement [page 37]

What would an ideal outcome be for the management of highly productive land for current and future generations?

Policy 1: Identification of highly productive land [page 41]

If highly productive land is to be identified, how should this be done and by whom?

Are the proposed criteria all relevant and important considerations for identifying highly productive land? Why/why not?

Policy 2: Maintaining highly productive land for primary production [page 42]

What are the pros and cons associated with prioritising highly productive land for primary production?



Alignment with the Urban Growth Agenda [page 43]

Do you think there are potential areas of tension or confusion between this proposed National Policy Statement and other national direction (either proposed or existing)?

How can the proposed National Policy Statement for Highly Productive Land and the proposed National Policy Statement on Urban Development best work alongside each other to achieve housing objectives and better management of the highly productive land resource?

Policy 3: New urban development on highly productive land [page 45]

How should highly productive land be considered when identifying areas for urban expansion?

Policy 4: Rural subdivision and fragmentation [page 46]

How should the National Policy Statement direct the management of rural subdivision and fragmentation on highly productive land?



Policy 5: Reverse sensitivity [page 47]

How should the National Policy Statement direct the management of reverse sensitivity effects on and adjacent to highly productive land?

Policies 6 and 7: Consideration of private plan changes and resource consent applications on highly productive land [page 49]

How should the National Policy Statement guide decision-making on private plan changes to rezone highly productive land for urban or rural lifestyle use?

How should the National Policy Statement guide decision-making on resource consent applications for subdivision and urban expansion on highly productive land?

Section 5.6 Implementation [page 52]

What guidance would be useful to support the implementation of the National Policy Statement?



Specific / technical questions

The questions below are included in the outline of the proposed NPS-HPL (Chapter Five of the discussion document) and may assist technical experts when providing a submission.

Specific questions

Section 5.3: The scope of the proposal [page 35]

How should the National Policy Statement best influence plan preparation and decision-making on resource consents and private plan changes?

Should the National Policy Statement include policies that must be inserted into policy statements and plans without going through the Schedule 1 process? What are the potential benefits and risks?

What areas of land, if any, should be excluded from the scope of the proposed National Policy Statement? Why?

Specific questions

Section 5.4: The proposed National Policy Statement [page 37]

What level of direction versus flexibility should the objectives provide to maintain the availability of highly productive land for primary production?



Should the objectives provide more or less guidance on what is “inappropriate subdivision, use and development” on highly productive land? Why/why not?

Specific questions

Policy 1: Identification of highly productive land [page 41]

What are the pros and cons of requiring highly productive land to be spatially identified?

Is the identification of highly productive land best done at the regional or district level? Why?

What are the likely costs and effort involved in identifying highly productive land in your region?

What guidance and technical assistance do you think will be beneficial to help councils identify highly productive land?



Specific questions

Appendix A: Criteria to identify highly productive land [page 41]

Should there be a default definition of highly productive land based on the LUC until councils identify this? Why/why not?

What are the key considerations to consider when identifying highly productive land? What factors should be mandatory or optional to consider?

What are the benefits and risks associated with allowing councils to consider the current and future availability of water when identifying highly productive land? How should this be aligned with Essential Freshwater Programme?

Should there be a tiered approach to identify and protect highly productive land based on the LUC class (e.g. higher levels of protection to LUC 1 and 2 land compared to LUC 3 land)? Why/why not?



Specific questions

Policy 3: New urban development on highly productive land [page 45]

How can this policy best encourage proactive and transparent consideration of highly productive land when identifying areas for new urban development and growth?

How can the proposed National Policy Statement for Highly Productive Land best align and complement the requirements of the proposed National Policy Statement on Urban Development?

Specific questions

Policy 4: Rural subdivision and fragmentation [page 46]

Should the National Policy Statement provide greater direction on how to manage subdivision on highly productive land (e.g. setting minimum lot size standards for subdivisions)? If so, how can this best be done?

Should the proposed National Policy Statement encourage incentives and mechanisms to increase the productive capacity of highly productive land (e.g. amalgamation of small titles)? Why/why not?

Specific questions



Policy 5: Reverse sensitivity [page 47]

How can the National Policy Statement best manage reverse sensitivity effects within and adjacent to highly productive land?

Specific questions

Policy 6 and Policy 7: Consideration of private plan changes and resource consent applications on highly productive land [page 49]

Should these policies be directly inserted into plans without going through the Schedule 1 process (i.e. as a transitional policy until each council gives effect to the National Policy Statement)? What are the potential benefits and risks?

How can these policies best assist decision-makers consider trade-offs, benefits, costs and alternatives when urban development and subdivision is proposed on highly productive land?

Should the policies extend beyond rural lifestyle subdivision and urban development to large scale rural industries operations on highly productive land? Why/why not?



Specific questions

Section 5.5: Interpretation

Do any of the draft definitions in the National Policy Statement need further clarification? If so, how?

Are there other key terms in the National Policy Statement that should be defined and, if so, how?

Should there be minimum threshold for highly productive land (i.e. as a percentage of site or minimum hectares)? Why/why not?

Specific questions

Section 5.6: Implementation [page 52]

Do you think a planning standard is needed to support the consistent implementation of some proposals in this document?

If yes, what specific provisions do you consider are effectively delivered via a planning standard tool?



Specific questions

Section 5.7: Timeframes [page 52]

What is the most appropriate and workable approach for highly productive land to be identified by council? Should this be sequenced as proposed?

What is an appropriate and workable timeframe to allow councils to identify highly productive land and amend their policy statements and plans to identify that land?



Please use the space below to provide any additional comments you may have.

Please see the attached submission.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

10 October 2019

National Policy Statement - Submission: Highly Productive Land (and the related NPS Urban Development (NPS UD) and Essential Freshwater Programme)

1. Introduction

- 1.1 The Horowhenua New Zealand Trust is a not-for-profit trust which was established in late 2018 to improve the wellbeing of the people of Horowhenua. Inaugural Trustees saw an opportunity to make a real difference - working independently and collaboratively to help our people, places and communities flourish.
- 1.2 The trust works in social, economic, environmental and cultural areas to facilitate, develop, fund, educate and promote workable and sustainable solutions to improve choices available to the community and its members.
- 1.3 More information may be found at <http://www.hnzt.org>.

2. Object of Submission

- 2.1 This submission is deliberately brief and focused. We do not see to re-draft clauses or tailor specific provisions but rather to identify key issues which should guide such drafting, avoid the more damaging risks being run, and to provide means for complementing what the community can bring to realise significant increases in efficiency (improved income, employment and growth opportunities) and significant increases in equity (better access to opportunity, lowered barriers to entry and higher productivity benefits) for the less well off.
- 2.2 A key measure of success would be to see the community benefit from social, environmental, economic and cultural policy working in tandem to reinforce one another, to ensure that there are as few inconsistencies as possible, and to exploit the best ways policies can work together in an integrated fashion to generate win-win solutions.
- 2.3 It is important to note that Development of the Horowhenua was based on production of food and its servicing. As a consequence towns and settlements in the area are clustered on and around class 1, 2 and 3 soils as well as being connected socially, economically, culturally and physically to waters and catchments. The separation of the NPS HPL, NPS UD, and government's Essential Freshwater programme ignores this interdependency and the opportunities thus created at great cost to the community, region and nation.
- 2.4 Given that the above policies are implicitly connected, the comments below can be applied both collectively and singly to the three related policy arenas.

3. One Zone to Rule Them All is Destructive

- 3.1 We do not rehearse the analytical flaws in simplistic centralised allocation by administrative rule. These are well known, well evidenced and fully explained elsewhere.
- 3.2 The significant elements in Horowhenua are:

Serious Threats to Economic Viability

Loss of business viability, associated income and employment opportunities. These fly in the face of national economic goals already articulated; but,

- a) In the Horowhenua they are of particular concern because the region is already well behind national performance across the relevant dimensions, and offsetting social assistance and like interventions have not, on the evidence, been able to substantially or sustainably address improvements in wellbeing outcomes.

The result is an exacerbation and continuation of lags and losses. This is not regarded as acceptable.

Simple Loss of Valuable Income and Employment Without Offsetting Benefits

- a) The locking up and freezing of capital potentially “caught” between largely inflexible regimes (such as detailed specifications of “how” to achieve better water quality) which prevent viable food production in key locations on the one hand; while,
- b) Preventing housing or non-food production activity by simple prohibition on the other.

- 3.3 The result is erosion of capital value and thus starvation of development and enterprise for production of either food or non-food-based value (i.e. housing). A generous interpretation would see this as a lose-lose outcome of unintended consequences.

Loss of Integrated Development Opportunities

- 3.4 Horowhenua groups in the community (Iwi, environmentalists, horticulture producers, and those seeking housing) see scope in development (on so called highly productive land) that deploys capital in wetland recovery and quality management, environmental clean-up, housing provision and food production, through integrated development driven locally (not through National Policy dictate); and,
- 3.5 The development of local (regulatory and privately contracted) frameworks and regimes which are sensitive to both the local geography and physical environment as to choice of use, as well as the social, cultural and economic environment. Blunt instruments create costly obstacles to such integrated outcomes, and opportunities for all are lost.

4. The Need to Consider Several Policy Dimensions

- 4.1 Prior to the introduction of any prohibitions or reduction or restriction of land uses as part of National Policy it is critical that any and every authority seeking to implement restrictions (whether at regional or local level) be required to examine the several dimensions of cost and benefit involved and demonstrate the net benefit (i.e. benefit available after and over and above) of the costs imposed.
- 4.2 Thus, if Regional Plans or District Plans or other like instruments are proposed to restrict land use, there should be a requirement and duty on such authorities to demonstrate their net merit across the affected dimensions.
- 4.3 At a national level the country already has significant social, economic, environmental, and cultural policy objectives. It is plain that no one of these policies should be unduly compromised by policies calling for land use restrictions. The following areas are important in the Horowhenua:

4.4 Economic

- a) Horowhenua's employment levels lag the national medians by a significant degree. Opportunities are lower than in other areas with prospects for growth being heavily dependent on horticultural and related production. Land use restrictions occasioned by inflexible regimes is likely to reduce these opportunities further. For example, the local horticultural grower's association anticipate job losses in the hundreds, and direct reductions in GDP output of +\$50m p.a.. This equates to a loss of more than 5% of local GDP and jobs.
- b) Income levels are related directly and indirectly (through servicing industries) to the above with the same effects as well as a reduction in equity within the community.

4.5 Social Objectives - Most Notably Housing

- a) Horowhenua suffers similar difficulties in the social area. Housing – where nationwide difficulties are severe is the most notable example. There is a lag between household formation and housing supply, decreasing availability of rental housing and rising costs. Alleviation of shortages is dependent on the further development of housing in urban and rural areas;
- b) Provision of broader social services most noticeably in health and education depend crucially on improved economic opportunities, attractions and improved incomes which facilitate the attraction of staff to the area.

4.6 Broad Environmental Goals – Ecosystems

- a) Communities in Horowhenua share with national level policy makers, concerns over generating improved environmental outcomes. A prime example is Lake Horowhenua. The possibility of integrated wetland recovery, lake ecosystem clean-up and addressing iwi concerns through horticultural sustainability and the increased production and wealth that can bring.
- b) Such integrated win-win solutions demand multi-dimensional approaches, flexible approaches to land use, a complete absence of "one size fits all" master plans and zoning rules, and instead, a comprehensive community-based approach which eschews crude restrictions.

4.7 Cultural

- a) Horowhenua communities are painfully aware of various historical injustices to iwi which mean that development in opportunities for economic and social advancement play a critical role in improving health, education, employment, housing and income advances for Maori in the district.
- b) The primary sector and wide-ranging use of the resources it offers is central to iwi development plans and processes. These require flexibility, opportunity for innovation and sensitivity to community driven design and development. Rigid rules executed either via NPS instruments or restrictive and costly regional and local authority administrative rules are generally unhelpful. For example, the co-location of horticulture, papakainga housing, and ecological stewardship, and the benefits that would accrue from such an initiative, should not be constrained or prohibited.

- c) There is also a strong awareness of the obligations the Crown has to Maori under the Treaty. Meeting such obligations is not seen as involving rules and schemes which effectively curtail Maori communities using their resources in ways most fitting to their tino rangatiratanga.

5. Impacts of Concern

- 5.1 In assessing both the principles of intervening through restrictions on land use, selection of preferred uses by centrally based administrators who do not stand to directly bear the costs of mistakes and the practice of regulators (central, regional and local) seeking compliance with rules, the following issues are of concern and provision to address these should be made:

5.2 Risk Prone Choices

- a) History has demonstrated amply that those bearing and facing the costs of their choices most directly are best placed to make decisions about those uses. New Zealand has an unfortunate history in the area of “picking winners” centrally. Making such choices centrally as opposed to having such choices made by those who invest, those who stand to lose funds, income and jobs, is risk prone and generates exposure to error.
- b) Moreover, where mistakes are made there is typically no means for those most affected to recover losses or to be compensated. There is no mechanism to recover, compensate or sanction those responsible in the case of the value and jobs which would be eroded and lost as illustrated above in the examples.
- c) Neither do administrative instruments such as NP statements contemplate or budget for transition costs in any systematic or comprehensive fashion.

5.3 Time and the Cost of the Administrative Pace of Execution

- a) It is a characteristic of administrative policy that it involves extended time periods in its operation. These are occasioned by the need for applications, objections, hearings and potentially more processes (various courts, appeals and so on).
- b) This is not necessarily the fault of any individual or group or administrative unit (e.g. Councils or their staff). It is instead inherent in the institutional arrangements. They are unable to meet the required due process, equitable treatment process, information provision and use of decision-making apparatus (panels, hearing committees etc.) with any great haste. Private decision-making is generally faster, adaptive (different processes for different decisions) and operates to a commercial timeframe.
- c) The result is that NPS style policies and the administrative burden they carry for implementation (detailed district plans, their change processes and their implementation) involve arduous and costly timeframes all of which are costly.

5.4 Information and Incentives

- a) In making choices to invest resource and funds, businesses face the ultimate sanction where they make mistakes. Error ridden decisions lead to losses – of credit, funds, jobs, and income. At the limit – simple bankruptcy. Thus, incentives to collect enough relevant, timely, detailed information are at their highest; but,

- b) Administrators do not face such sanctions. Providing they perform in good faith (which much of the time they do), the odd misjudgment, and, with inadequate knowledge, (especially local knowledge), inevitable mistakes, are regarded as “reasonable” and sanctions light-handed.
- c) Consequently, those designing and administering such schemes do not face ex ante (before the fact) incentives nor ex post (after the fact sanctions which serve as warnings) of the same magnitude as do private operators. Where bankruptcy is the likely cost of error, the incentive to collect relevant information is high.
- d) That is not the case where administrators are “merely enforcing the law”.

5.5 Cost

- a) A clear and simple result of administrative allocation and design as detailed above is the simple driving up of costs. Error in allocation, error in estimating demand, lengthy time frames for processing “applications” and the numerous other rule enforcing activities of regulatory authorities (along with the objection and appeal processes which they necessitate) all add to cost, drive down the value of what can or might be achieved and dilute positive results. The primary cause of such outcomes lies less with individuals than it does with the choice of centralised, bureaucratically based institutions of administration which seek to enforce input control; and,
- b) Such costs generate formidable barriers to entry because of their cost to administer, their funding demands (for advisors, planners, lawyers and experts) and the consequent “gate keeping” nature of the processes generated. The full cost of such an approach is never seen since “what might have been” remains unknown and undocumented, stillborn in the face of barriers to entry.

5.6 Equitable Access and the High Cost of Access

- a) An unfortunate concomitant of administrative instruments such as NP statements is that in implementation, subsequent interpretation and operation they typically demand high levels of input from advisors – typically planning advisors and lawyers.
- b) Typically where such policies are to be implemented via instruments such as district plans, operated by processes such as hearings and notified applications or change is sought through “plan changes” the process is a complex legal one which the “lay” applicant who owns the resource has little choice but to engage professionals to assist.
- c) No matter the skill of the drafters, the Courts wind up inevitably coming to be the institutions which create the definitions of key terms and concepts and their interpretation. Significant intellectual legal capital is built up, readily accessible only to lawyers, slow to change and that only through win-lose processes and costly to process, these barriers are formidable.
- d) The net effect in an area such as Horowhenua is to deny applicants, owners, employees and other stakeholders the benefits of simple decision-making and governance of their own resources. This reduces efficiency and equity. In a community such as the Horowhenua, existing low levels of wealth and opportunity are simply exacerbated.

5.7 Unintended (and uncosted) Consequences

- a) The generation of unintended consequences is a well-documented effect of instruments such as crude NPS instruments. The Horowhenua provides good examples.
- b) The most obvious in Horowhenua is the “trapping” of capital between the likely restricted use created by inflexible water quality and discharge regimes (by comparison with, say, cap and trade schemes) and the restriction on land uses (such as “no housing”) which means loss of capital, loss of alternatives and thus compromise of social and economic objectives.
- c) While it is unlikely that this consequence was either “foreseen” or “intended” the outcome is nonetheless the result of the instrument, is close to impossible to reverse and turns out to be costly in all senses of that term.

5.8 Opportunity Cost

- a) Each of the concerns cited aggregate (with others not mentioned) to generate the opportunity cost of the policies – the level of sacrifice which must be incurred in order to execute the policy. That opportunity cost is high, involving as it does the restriction of income and employment opportunity, the spinoff benefits of enhanced production, the foregoing of win-win schemes which potentially create environmental goods, social benefits and cultural advances.
- b) That cost – as shown in various out turns stretching back to the dissatisfaction with the Town and Country Planning Act 1977 (which led to two governments rejecting land use restrictions of this type in the Resource Management Act 1991) – is high.

6. Preferred Framework

6.1 Given some form of NPS a preferred form of regime would have the following characteristics:

- a) A commitment to recognising that there are different means to achieve the ends sought in water quality, land use impacts and urbanisation. While the desired standard might be set at a national level (the “end”) adaptive and flexible instruments and approaches (the “means”) are to be preferred over national, administrative dictate through statutory law.
- b) Community involvement in design and execution of any such regime is desirable because of their democratic basis, sensitivity to local needs, superior knowledge of decentralised decisionmakers and the simple fact that costs and risks are born by those in local areas. Centralised decisionmakers are by definition removed, suffer informational disadvantages and do not bear the costs of their decisions.
- c) The implementation of any NPS in the areas concerned should be mandated only with explicit consideration showing net benefit when considered in the light of other key social, economic and environmental policy.

6.2 High level outcomes

- a) National level statements should be strictly limited to the clear and simple specification of outcomes;
- b) There should be minimal dictation of inputs by central governments or their agencies; and,

- c) Such decisions as are made at central level should be subject to sanction where errors are made and subject to challenge, i.e. accountability should prevail.

6.3 Community autonomy

- a) Communities should be paramount in the design and execution of any NPS regardless of the form it might take (district plan, private treaty etc);
- b) Communities should not be seen as a “mere adjunct” to schemes designed to run by regional and local authorities through controlled administrative consultation;
- c) Instead communities should be central to choices of how to implement, input to timeframes and the holding of any government based “authority” to account.

6.4 Requirement to Consider Multiple Impacts, Costs and Policies

- a) Where instruments such as regional or district (or both) plans are used to implement NPS there should be a stringent requirement to consider explicitly and in good faith, the objectives of other social, economic, environmental and cultural policy;
- b) All impacts (for example those on housing, employment and the environment) should be made explicit and carry the same weight in considering any new NPS policy;
- c) Authorities seeking to use instruments such as regional or district (or both) plans should be accountable to the community through audit and the ability of the community to challenge their operation of any and all schemes developed in respect of any NPS.