



NEW ZEALAND WINE

P U R E D I S C O V E R Y

New Zealand Winegrowers submission to the Ministry for Primary Industries and Ministry for the Environment on the Proposed National Policy Statement – Highly Productive Land.

20 October 2019

Introduction

New Zealand Winegrowers (NZW) provides strategic leadership for the wine industry and represents the interests of all of New Zealand's 1,400 wineries and independent grape growers.

New Zealand producing vineyards cover 38,680 hectares of NZ soil and the winegrowing industry (grape growing and winemaking) generated premium goods exports of over \$1.8 billion in the year ended June 2019, making it New Zealand's sixth largest export good. It accounts for more than 7,300 direct jobs and generates more than 13,000 other jobs in support industries, mostly in the regions.

New Zealand viticulturists have a special relationship with their soil because of the strong influence it has on the style and character of resulting wine. Creating wines that taste intrinsically 'of our land' is a driving force for the industry as a whole. NZW welcomes the opportunity to comment on proposed National Policy Statement on Highly Productive Land (HPL)

Executive Summary

- Land is vital to New Zealand winegrowing, and soil is an integral part of the character that is associated with New Zealand Wine.
- NZW supports in principle developing a National Policy Statement - Highly Productive Land.
- The definition of Highly Productive Land should take into account more than the LUC classifications, and Councils (when implementing the NPS) should be required to consider an array of factors;
- Protection of HPL for winegrowing is part of ensuring that the industry can continue to grow and provide benefit to our communities, now and into the future.
- HPL landowners need to understand how other uses and activities can be undertaken on their HPL;
- Winegrowing in New Zealand encompasses activities other than just grape growing – ancillary activities that are an important part of winegrowing (such as cellar doors and associated tourism

facilities need to fall within the definition of 'Primary Production' and therefore be protected as HPL.

- Consistency is required between the NPS-HPL and a range of other national policy documents. (National Policy Statement on Urban Development and NPS and NES for Freshwater)

Why is the NPS on HPL important to winegrowers?

At present, New Zealand's land use planning and decision-making processes are inconsistent between regions as to how (or whether) they protect highly productive land, and often, inadequate consideration is given to productive land values.

The NPS on HPL proposes to provide high level guidance to councils on how to identify and manage highly productive land.

Under the proposed NPS, if land is classed as 'highly productive' it will be protected from 'inappropriate subdivision and use' and therefore it will be more difficult for that land to be developed for residential or commercial purposes. Any protections for vineyard land from the NPS will therefore depend on whether 'highly productive land' is defined in a way that adequately captures the value of growing grapes on different types of soils and land.

Traditional land classifications used in New Zealand (such as the Land Use Classification system – or LUC) have focussed on fertility of soils; however prime grape growing soils are typically less fertile soils, often falling into the higher bands of the LUC classification system.

It is important that any NPS provides enough flexibility and guidance around the clarification of land as 'highly productive', so that when councils are identifying HPL in the region they can consider the wide range of factors which make land highly productive for growing grapes, including water, climate, soil types, aspect and access to labour.

The classification of Highly Productive Land

Land is critical to the development and operation of a vineyard, and the production of wine. Protecting the ability to grow grapes in appropriate locations is important for the future of our industry.

In 2019 NZW had approximately 38,680 ha of producing vineyard area across New Zealand. The importance of place in the identity of New Zealand wine (often described as "terroir" or "turangawaewae"), and the unique characteristics that each region's soils give to their wine is part of the premium NZ product. For grape wines there are many other factors that determine productive capacity other than soil fertility. NZW supports the shift proposed in the NPS to a focus on productive "land", and the capability of that land to support any type of primary production and the suitability of the climate to support such production.

The NPS proposes to give Regional councils a three-year period in which to thoroughly survey land in their region and refine the initial highly productive land classification. This may include classifying

additional land as highly productive or removing the classification from some LUC 1, 2 or 3 land.

These decisions will be based on a range of factors including:

- the capability and versatility of the land to support primary production (based on the LUC classification);
- the suitability of the climate to support primary production, particularly crop production (e.g. a frost-free climate); and
- the size and cohesiveness of the land area to support primary production.

We generally support the government's approach to define highly productive land in a National Policy statement. We want to ensure that any definition captures land which is particularly productive for winegrowers. We consider the Land Use Classification System, as proposed by the Government, will be an appropriate default identification of HPL however, we think that Councils should be required to also take into account additional factors such as:

- a. the current or future 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 economic, social, environmental and cultural benefits it provides; and
- f. water quality issues or constraints that may limit the use of the land for primary production (particularly for more intensive forms of primary production).

Because many productive vineyards are on land with soil types that are higher than the LUC 3 classification we think that requiring Councils to take into account other factors is more likely to ensure that land that is highly productive for winegrowing will be protected under the NPS.

NZW believes that these regional decisions should be made in consultation with local industry, communities and land owners. This will ensure that any tensions between use and value are dealt with in a collaborative way.

Protection of Highly Productive Land

The NPS proposes to protect HPL from 'inappropriate subdivision, use and development'. What this likely means is that new urban development on HPL will only be able to occur when it is the **only** feasible option and alternative locations and options have been considered and are not appropriate. NZW supports this principle. Development on HPL should not be absolutely prohibited, but NZW consider it appropriate that HPL should be least favoured for new urban/residential development unless specific circumstances apply (there are no other feasible options).

If there is an application for new urban or residential development on HPL, then the NPS should ensure that Councils use the same factors that are used in assessing HPL, to decide whether it is appropriate to change that protection.

Reverse Sensitivity

Reverse sensitivity is the vulnerability of an existing activity to complaints from newly located activities in close proximity, that are sensitive or incompatible with that existing activity.¹ (e.g. new residential development adjacent to existing vineyard or rural sites). Urban expansion into traditionally rural areas can create tension between new activities and historic activities of the community. The NPS will identify typical activities and effects which should be tolerated within rural productive areas and require Councils to restrict 'sensitive or incompatible' activities on adjacent to HPL so they do not compromise the efficient operation of primary production in that area. NZW supports the NPS providing direction to Councils about how to manage reverse sensitivity issues on and adjacent to HPL.

Winegrowing and ancillary activities

The aim of the NPS is to protect primary production, which is defined to include land and buildings used for production and initial processing. This would allow for building a winery but the limitation to production and initial processing would likely exclude a range of the other ancillary activities which are integral to the business of winegrowing – like cellar doors, winery restaurants and cafes, vineyard tourism accommodation and facilities, etc. These tourism and hospitality elements are equally part of our industry's core business activities that are typically located on the vineyard land, and in most cases could not take place anywhere else other than on the vineyard land. These ancillary activities are increasingly important to the commercial success of vineyards and they are typically closely connected to the HPL that grows the grapes.

NZW strongly that no undue restriction should be placed on these connected activities and uses – which contribute to the productivity of vineyard land. NZW considers that the definition of 'primary production' include the range of ancillary activities which are integral to the business of winegrowing – like cellar doors, winery restaurants, cafes and tourism activities, which cannot readily be conducted anywhere else.

Consistency with Proposed NPS Urban Development and changes to Freshwater Management

NPS-UD proposes to provide direction to local authorities about when and how cities should plan for growth and how to do this well. It aims to remove unnecessary restrictions on development, to allow for growth 'up' and 'out' in locations that have good access to existing services and infrastructure. NZW considers that

NZW will submit on this consultation, to ensure a consistent approach to HPL. The NPS-UD will be of particular importance to regions that are experiencing significant growth, and likely reduced land supply. It will also be important for the NPS-UD to acknowledge the potential reverse sensitivity

¹ Valuing Highly Productive Land, A discussion document on a proposed national policy statement for highly productive land, MPI (August 2019)

issues at the rural urban boundary, and either provide guidance to councils to address this or cross-reference to the NPS-HPL.

Some of the objectives and principles in the proposed NPS HPL also intersect with a further recent government consultation document on Freshwater Management. NZW is making a separate submission on the Freshwater Management proposals. More information can be found on the NZW members' website [here](#).

NZW generally supports the NPS HPL, and considers that with the proposed changes as mentioned above will provide the necessary direction to territorial authorities to identify and protect HPL. NZW welcomes any opportunity to further discuss any of the points raised in this submission with MPI and MFE.

Attached as Appendix 1 to this submission is NZW responses to questions raised in the discussion document *'Valuing Highly Productive Land - a discussion document on a proposed national policy statement for highly productive land'*.

Yours Sincerely,

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General Counsel

New Zealand Winegrowers

18 October 2019

Appendix 1 – NZW response to questions raised in the discussion document *‘Valuing Highly Productive Land - a discussion document on a proposed national policy statement for highly productive land’*.

Section 2.3: Defining highly productive land [page 19]	
What are the values and benefits associated with highly productive land?	<p>The values and benefits of highly productive land include:</p> <ul style="list-style-type: none"> • Influences, or has characteristics that contribute to the uniqueness of a product grown on that land or in that region (soil type. Minerality, climate, access to sun, water). • The product grown/made on that land is able to do so sustainably. • Economic benefits – contributes to employment, regional development, export growth.
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?	<p>No, the RMA has provided limited direction to Councils on how to manage highly productive land.</p> <p>Highly productive soils is the terminology used in the RMA (s 5(2), 7(b) and 7 (g), but this has not specifically dealt with highly productive land, and it is not referred to as a matter of national importance (s 6). Because grapes grow well on less fertile soil, a ‘highly productive soil’ approach risks overlooking land that is productive for grapes.</p> <p>As the pressure on land supply for residential development has gained priority, Councils have not been given sufficient guidance to balance the competing interests, and in some cases inappropriate or ad hoc development has resulted. This has led to:</p> <ul style="list-style-type: none"> • Fragmentation of land holdings in traditionally rural areas • Reverse sensitivity issues with competing uses

	<p>This can be seen in cases, such as <i>Gock v Auckland</i> [2019] NZHC 276, where effects on highly productive land have been considered against competing factors, and outweighed by these considerations.</p>
<p>Does the RMA framework provide sufficient clarity on how highly productive land should be considered alongside competing uses? Why/why not?</p>	<p>As above, no. There is no guidance provided to councils on how to consider competing uses. This has resulted in inappropriate development, tension, and reverse sensitivity issues.</p> <p>Winegrowing operations and associated ancillary operations may involve some activities which have effects beyond the site boundaries that may not be able to be completely avoided or mitigated. While reverse sensitivity issues are not specific to the wine industry, the expansion of vineyard operations and rural-residential lifestyle blocks within the rural environment may increasingly result in conflict (eg, amenity standards expected by new rural-residential dwellers could place constraints on existing permitted rural activities such as winegrowing).</p>
<p>How are values and wider benefits of highly productive land being considered in planning and consenting process?</p>	<p>There is regional variance in how the values and benefits are being considered in planning and consenting processes. Some regional councils are at the stage where their Regional Policy Statements have identified productive or versatile or significant soils, but they haven't been reflected in a District Plan.</p> <p>Because of the lack of national direction, and the traditional focus on LUC classes of land – some vineyard land has not been earmarked as productive land – and does feel the pressure from competing uses. A definition of HPL that requires Councils to consider more than the LUC classes of soil – and look holistically at the value of land will provide a more accurate</p>

	mapping of productivity in a region, and better allow for appropriate protection for industry in these areas.
Section 3.2: Urban expansion on to highly productive land [page 24]	
How is hpl currently considered when providing urban expansion? Can you provide examples?	The term highly productive land is defined, or consistently used. Some territorial authorities use versatile soils, fertile soils or high value soils. Because of the inconsistency in definition, and also the competing interests even where territorial authorities have set out principles that look to provide some protection to productive or versatile soil/land – plan changes, and resource consent applications have chipped away at pockets of highly productive land.
How should highly productive land be considered when planning for future urban expansion?	<p>A consideration of the value of highly productive land in a potentially future urban area should be critical to deciding whether an area should be zoned/considered for future urban expansion.</p> <p>Once a piece of land is turned from primary production to urban or residential development, it is unlikely to return to its primary production purpose. The loss of this primary production capacity should be considered in the scheme of planning urban expansion.</p>
Section 3.3: Fragmentation of highly productive land [page 25]	
How is HPL currently considered when providing for rural-lifestyle development? Can you provide examples?	<p>Approaches vary across regions.</p> <p>Having an NPS would provide some guidance to users and Councils on how to manage these interests.</p>
How should highly productive land be considered when providing for rural-lifestyle development?	A consideration of the impact that rural-lifestyle development would have on or adjacent to highly productive land, and the value that could be lost should be critical when deciding 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?	At a Council level, through clear development of Policy around different zones, and expectations of use in particular areas. As these tensions appear at a community level, it is important that they are dealt with effectively by those same communities.
How can reverse sensitivity issues at the rural-urban interface best be managed?	With appropriate mitigation factors for any rural subdivision or development, for example: <ul style="list-style-type: none"> • Minimum lot sizes • requiring specific setback requirements for buildings on new allotments and specific buffering distances for urban development from a rural boundary
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?	Yes, we agree that there is a problem in identifying and protecting HPL.
Are you aware of other problems facing highly productive land?	Issues that Viticulture/Winegrowing use of highly productive land include <ul style="list-style-type: none"> - The effect of municipal water takes on a water supply, and their priority above primary industry/viticulture - Vertical Integration issues, and restrictions on activity and use on rural sites. <p>Winegrowing is supported by ancillary winemaking and retail operations, located on the same site. Additional ancillary operations can include cafes, restaurants, receptions, venues and accommodation. The ancillary operations associated with a vineyard are often more diverse than in other primary productions, and the additional tourism focus of winegrowing means people visit the places that make their wine. These ancillary activities are also key to the commercial viability of a winegrowing operation – so inexplicably tied to the productivity of a site.</p>

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 3? Why?	A National Policy Statement as it elevates the requirements on Councils to ensure that these matters are included in any Regional/District Plans.
Are there other pros and cons of a National Policy Statement that should be considered?	The length of time and resource that it may take Councils to implement.
Section 5.2 Purpose of the proposed National Policy Statement [page 34]	
Should the focus of the NPS be on versatile soils or highly productive land more broadly? Why/why not?	<p>As discussed throughout this document, highly productive land more accurately captures the value and versatility of soil in relation to winegrowing, then a narrower definition of versatile soil does.</p> <p>It allows a holistic view of the land, and the productive elements of the production to be considered.</p>
Should the focus of the NPS be on primary production generally or on certain types of food production activities? Why/why not?	The focus of the NPS should be on Primary Production generally, we understand that some Primary Production activities such as food growing hubs have been identified, but the focus should be on primary production generally.
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 HPL? Why/why not?	Yes. As discussed above, HPL is unclearly and inconsistently dealt with by different Councils (productive soils identified in some. Providing focus through a National Policy Statement is an effective way of addressing these land use planning issues.
What matters, if any should be added to or excluded from the scope of the NPS? Why?	The NPS should be specific about factors that Councils should consider before identifying highly productive land. The NPS should require councils to identify those values – or they could be set in the NPS to assist Councils to identify HPL.
Should future urban zones and future urban areas be excluded from the scope of the NPS? What are the potential benefits and costs?	In the interests of planning certainty, if something is already classified as Future Urban Zone then any change would need to happen by plan change.

	In this instance we consider that there should be a way (a specific streamlined process) that a person who has highly productive land, classed as a future urban zone, can re-evaluate this status to ensure that the land classification is most suitable
Should the NPS apply nationally or target areas where the pressures on HPL are greater?	The NPS should apply nationally, priority could be given to territorial authorities who have been identified as growth areas.
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?	That Councils, communities, industry, hapu and iwi are able to agree and identify that highly productive land should be given heightened protection because of its value to current and future generations, and the irreversible nature of its loss, once developed.
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?	This should be done by experts Territorial Authorities – in consultation with the local community, industry.
Are the proposed criteria all relevant and important considerations for identifying highly productive land? Why/why not?	<p>A component of identifying HPL is the considerations afforded on the LUC classifications, to this end, NZW considers the LUC a good place to start – but it should be mandatory to consider/take into account other factors such as:</p> <ul style="list-style-type: none"> a. the current or future 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 economic, social, environmental and cultural benefits it provides; and f. water quality issues or constraints that may limit the use of the land for primary production (particularly for more intensive forms of primary production).

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

<p>What are the pros and cons associated with prioritising highly productive land for primary production?</p>	<p>Pros:</p> <ul style="list-style-type: none"> • Future food source is protected • HPL is 'protected' from residential development that is unnecessary, or where other options are more feasible • Jobs, cultural protection, economic contribution to a region is given heightened protection. <p>Cons</p> <ul style="list-style-type: none"> • Changes in climate, environment (because of earthquakes, erosion) may change the 'productivity' of land – a private plan change would be required to rezone the land, and potentially undertake any further; • In some cases the value of HPL to the current landowner may drop, for example if urban-fringe land is highly sought after by developers, but giving that land HPL status precludes such development.
<p>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)?</p>	<p>Yes, specifically with regard to the NPS-UD (National Policy Statement – Urban Development) and the NPS and NES Freshwater.</p> <p>NZW would want to ensure that the NPS-UD and NPS HPL were complementary, and that Councils were able to identify Highly Productive Land, which could inform no-go areas for development – or setting appropriate circumstances where urban development would be considered on HPL.</p> <p>With regard to the NPS and NES on Freshwater NZW supports the principle of the Freshwater proposals but understands that in some areas where water quality is required to improve – this may mean that the future of primary production</p>

	in that area could be significantly impacted by nutrient limits. The NPS FW requirements need to be part of the assessment for HPL.
How can the proposed National Policy Statement for HPL and the proposed NPS on Urban Development (UD) work alongside each other to achieve housing objectives and better management of the hpl resource?	<p>Our understanding of the proposed NPS UD is that it is focussing on development for growth both up and out will alleviate the pressure on development in rural areas, the proposed NPS UD intends to identify where development should be avoided, which includes consideration of matters that signal that urban development should be avoided on sites of significance to Māori including wāhi tapu, highly productive land and areas of significant indigenous biodiversity.</p> <p>A more holistic approach to defining HPL will ensure that outcomes reflect the consensus of a community too. Which will assist Territorial Authorities with decisions made in plan changes and resource consent applications for development.</p>
Policy 3: New urban development on HPL [page 45]	
How should highly productive land be considered when identifying areas for urban expansion?	The NPS UD and HPL should both signal that if HPL land is identified then it should not be considered for urban expansion, unless the benefits to urban expansion outweigh the value of the land as productive.
Policy 4: Rural subdivision and fragmentation [page 46]	
How should the NPS direct the management of rural subdivision and fragmentation on HPL?	The policy as proposed aims to direct Councils to manage rural subdivision and avoid fragmentation by employing some specific requirements. NZW supports these measures.
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?	<p>Councils should be required to avoid or mitigate reverse sensitivity effects. The array of tools proposed in the NPS seem appropriate:</p> <ul style="list-style-type: none"> • Minimum lot sizes • Set back requirements • Buffer zones

Policies 6 and 7: Consideration of private plan changes and resource consent applications on HPL[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?	The NPS should set out a framework of matters/factors to consider when looking at changing HPL to a different use.
How should the National Policy Statement guide decision making on resource consent applications for subdivision and urban expansion on highly productive land?	As above the NPS should set a clear framework of factors to consider when a resource consent application is received. This includes how closely any resource consent application might support existing primary use of the HPL. This will be important when looking at ancillary activities related to primary production on that land – cafes, accommodation etc.
Section 5.5 Interpretation	
Do any of the draft definitions in the National Policy Statement need further clarification? If so, how?	For the definition of ‘primary production’, it would be essential that viticulture and its associated activities be included. Winegrowing is made up of many different types of activities and ancillary activities that go beyond ‘production and initial processing’ – but are fundamental to the winegrowing industry.
Should there be a minimum threshold for highly productive land (i.e a percentage of site or minimum hectares)? Why/why not?	No. It should be left to each Territorial authority and their communities to decide.
Section 5.6 Implementation	
What guidance would be useful to support the implementation of the NPS?	<p>Any information/guidance that supports the Council in defining and identifying Highly Productive Land. To include matters that have been raised throughout the submission period by affected people/industry.</p> <p>Information or guidance for HPL owners, or those that believe their land is HPL – and what it means for their rights in terms of use on their land, and potential change of use etc. This guidance could also set out the Plan change process as described above clearly.</p>