

# Submission on the Proposed National Policy Statement – Highly Productive Land

To: NPS - HPL Consultation Team [soils@mpi.govt.nz](mailto:soils@mpi.govt.nz)  
Ministry for Primary Industries Wellington

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CNIILML wishes to be heard in support of its submission.

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## Introduction

1. As part of the settlement of the historical claims of Iwi the Central North Island, CNI Forest Lands were vested in CNI Iwi Holdings Limited (CNIHHL) on 1 July 2009, to be held in Trust on behalf of all beneficiaries of the CNI Iwi Collective (in excess of 100,000 people), consisting of:
  - i. Ngāi Tuhoe; and
  - ii. Ngāti Manawa; and
  - iii. Ngāti Rangitihī; and
  - iv. Ngāti Tuwharetoa; and
  - v. Ngāti Whakaue; and
  - vi. Ngāti Whare; and
  - vii. Raukawa; and
  - viii. Te Pūmāutanga o Te Arawa
2. CNI Iwi Land Management Ltd (CNIILML) is a wholly owned subsidiary of CNIHHL. It manages the Lands on behalf of and to advance the objectives of CNIHHL, in accordance with the Deed of Settlement. The 176,000Ha of CNI Forest Land are presently subject to Crown Forest Licences (CFLs) or forestry rights. Parts of the CNIHHL land can remain subject to the Crown Forest Licences until 2043, but when harvested, some lands can be held back for alternate purposes.
3. A key role of CNIILML is to ensure that the economic potential of the CNI forests land is developed and optimised to the fullest extent possible but in a sustainable manner and having regard to the cultural and environmental features of the land

4. CNIILML is using LUC and other factors such as climatic suitability to assess versatility, to find highest and best use options for the land estate. This also allows CNIILML to investigate and suggest land uses that are consistent with the capability of the land.
5. CNIILML land ranges in capability from LUC class 2 to 8. A considerable amount of land is Class 4 or below. Climatic factors (degree days and frost free days) do limit to some extent what is suitable for horticulture, however there is about 5000Ha highly suitable for horticulture. The land is presently almost all being used for production forest.
6. CNIILML has the ability to consider possible alternative uses for some of the land. The purpose of alternative land uses is to diversify risk and meet a broader range of economic, cultural and social goals while also meeting kaitiaki principles.

## General Submissions on Proposed NPS HPL

7. CNIILML supports the decision to elevate the management of highly versatile productive land to a national consideration. This will strengthen consideration of its value when decisions that might otherwise impose serious constraints on its use for appropriate primary production are being made.
8. CNIILML supports the general intent and purpose of the proposed National Policy Statement – Highly Productive Land (NPS-HPL) to set the context for safeguarding the future of most versatile land for primary production. The NPS-HPL identifies urbanisation as a major risk to the permanent loss of access to highly versatile land. We note however that other significant risks have not been so clearly identified.
9. The proposed NPS-HPL and its discussion document appear to imply that the land would be used for crops. CNIILML considers that the NPS-HPL needs to provide protection of highly versatile land for a range of production activities and create the envelope for this to happen, independent of primary land use at present. The capacity for the land to be used for high value primary production is what must be preserved.
10. The term used to describe the land the NPS-HPL seeks to preserve is “highly productive”. CNIILML considers that this description needs to encompass land that is presently not being used for “highly productive” purposes. For example, because of historic constraints, the CNI land has a present use (plantation forest) that belies its underlying characteristics and versatility. In the Rotorua catchment there is approximately 250Ha of LUC 2-3. Its location, near a relatively large urban centre (Rotorua), also makes it attractive for urban development.
11. If the intent is to preserve the land that can be used for high value primary production purposes from urban sprawl, CNIILML consider that a term to describe this land that is “inherently versatile” may better fit the description of what the NPS-HPL is trying to achieve, rather than “highly productive”.
12. Land uses other than plantation forest require greater inputs of water<sup>1</sup> and nutrients. The NPS-FM and Essential Freshwater package<sup>2</sup> seek to lock in place existing land uses to “hold the line” for

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<sup>1</sup> Page 17 discussion document “The current or potential availability of water. Water availability is an important limiting factor for primary production, particularly horticulture. Water levels are monitored by councils and the use of water for primary production is restricted in many areas”.

<sup>2</sup> Essential Freshwater has these objectives

water quality purposes, for a period. It has been CNIILML’s experience in implementation of the NPS-FM in the Rotorua catchment to date that a “hold the line” approach sets in place land use expectations for N leach capability that are subsequently very difficult to modify. It is hard to see how the proposed NPS-HPL which seeks to preserve the capacity to use highly versatile land will work in conjunction with the NPS-FM in this regard. There appears to be no formal guidance for a council to reconcile these competing NPSs’ objectives, at the time they reset their district and regional plans to accommodate the direction from both. The NPS-HPL discussion document identifies these three issues:

- a. Urban expansion
- b. Fragmentation
- c. Reverse sensitivity

It does not identify contaminant leach allocation as a constraint to use of Class 1-3 land.

13. CNIILML seeks that the NPS-HPL identifies and adds this factor to the list of three above, as it significantly affects an ability to use highly versatile land or to maintain the availability of highly productive land for primary production for future generations. CNIILML seek that this constraint and responses to it are properly reflected in the construction and implementation of this policy statement.

14. CNIILML strongly supports land use being matched to land capability, as this supports the core values espoused by our constituent Iwi. The Bay of Plenty Natural Resources Regional Plan: Plan Change 10 considered how to allocate the “right” to discharge N leach. The core values in the table below, which relate to land use flexibility, were applied to the criteria used for the allocation process in a Cultural Impact Assessment<sup>3</sup>. Key values relevant to being able to use high value land are:

concepts or criteria	Core values these reflect
<ul style="list-style-type: none"> <li>• Equal opportunity to use/develop and within lands constraints</li> <li>• Preserve options for future flexibility</li> <li>• Internalising cost/polluter pays</li> <li>• Take into account non-consumptive benefits (ecosystems services)</li> <li>• Ability to develop land to its natural capital</li> <li>• Addressing past inequity</li> <li>• Ability to express social, cultural and economic goals</li> <li>• Integrated resources air/water/land</li> </ul>	<ul style="list-style-type: none"> <li>• Rangatiratanga</li> <li>• Whanaungatanga</li> <li>• Whakapapa</li> <li>• Utu/Muru</li> <li>• Mauri</li> <li>• Kaitiakitanga</li> <li>• Rangatiratanga</li> <li>• Kaitiakitanga</li> <li>• Kaitiakitanga – ki uta ki tai</li> </ul>

• **Stopping further degradation and loss** – taking a series of actions now to stop the state of our freshwater resources, waterways and ecosystems getting worse, and to start making immediate improvements so water quality is materially improving within five years.

• **Reversing past damage** – promoting restoration activity to bring our freshwater resources, waterways and ecosystems to a healthy state within a generation, including through a new National Policy Statement for Freshwater Management and other legal instruments.

• **Addressing water allocation issues** – working to achieve efficient and fair allocation of freshwater and nutrient discharges, having regard to all interests including Māori, and existing and potential new users. Councils will need to balance both the freshwater management and highly productive land objectives in deciding what and where activities can take place

<sup>3</sup> Cultural Impacts Assessment - A Statement of Cultural Values and a Comparison of the Allocation Methods for Nutrient Load Reduction to Lake Rotorua Catchment 26/10/2018. Available on request.

- intergenerational

- Whakapapa /  
whanaungatanga

25. CNIILML therefore seeks that the terms 'highly productive land' and 'productive land' are replaced with 'highly versatile land' and 'versatile land.'
26. Mapping required for the NPS-HPL needs to be done at spatial scales relevant to the likely use. For land in close proximity to urban areas, this requires refinement from the NZLRI national mapping system, to instead be at 1:10,000 or 1:5000

Provision	Position	Reasons	Relief Sought
General	Support in part	Highly productive land infers that it is already highly productive, however the intent of the policy is to preserve the capacity to use highly versatile land, whatever its present use might be. Therefore the potential of the land is as important as the actual present use.	Replace all references to 'highly productive land' with 'highly versatile land'
Interpretation			
Highly Productive Land	Support in part	Provide guidance to Councils to make clear that the definition applies to the land itself, regardless of the primary production activity the land is presently being used for.	Replace all references to 'highly productive land' with 'highly versatile land'
new - Highly Valuable Soils	Support	Although highly <i>versatile land</i> is the primary target of this policy statement, there are soils with niche characteristics that make them <i>highly valuable</i> for primary production e.g. the Gimblett Gravels and Red Metals of Hawkes Bay.	Add a definition to cover highly valuable niche soils that are not necessarily highly versatile or highly productive in the classic sense. E.g. a number of the NZ wine soils
Land Use Capability	Support	The NZLRI LUC is a well understood and empirical mapping system. Being empirical makes it less susceptible to assumptions and unconscious biases that can be present in land use models.	retain
Productive capacity	Support in part	Note that productive capacity cannot be realised without access to water or capacity to discharge some contaminants. These factors must form part of an assessment of productive capacity.	Productive capacity means, in relation to highly productive land, the physical qualities of the land to support primary production and generate the most economic output. This includes consideration of physical constraints on use of land for primary production (e.g. lot size, presence of structures and buildings <u>and access to water or contaminant discharge capacity</u> ) but does not include consideration of wider soil quality issues

Objectives			
<b>Objective 1</b>	Support in part	<p>Highest and best land uses on highly versatile land require greater inputs of water and nutrients than that required for a plantation forest. The NPS-FM and Essential Freshwater package seek to lock land uses to “hold the line” for water quality purposes, for a period. It has been CNIILML’s experience, in implementation of the NPS-FM in the Rotorua catchment, that a “hold the line” approach sets in place land use expectations for N leach capability that are subsequently very difficult to modify. It is hard to see how the proposed NPS-HPL - which seeks to preserve the capacity to use highly versatile land - will work in conjunction with the NPS-FM in this regard. There appears to be no formal guidance for a council to reconcile these competing objectives. The NPS-HPL discussion document problem statement identifies these three issues:</p> <ul style="list-style-type: none"> <li>a. Urban expansion</li> <li>b. Fragmentation</li> <li>c. Reverse sensitivity</li> </ul> <p>It does not identify contaminant leach allocation as a constraint to use of Class 1-3 land. CNIILML can advise that it poses a serious if not unsurmountable constraint.</p>	<p>Amend Objective 1 as follows:  <i>Recognising the benefits of highly <u>productive-versatile</u> land</i>  <i>To recognise and provide for the value and long term benefits of using highly <u>productive-versatile</u> land for primary production.</i></p> <p>CNIILML seeks that the NPS-HPL identifies a further factor to the three already identified: urban expansion; fragmentation and reverse sensitivity that also significantly affects an ability to use highly versatile land or to maintain the availability of highly productive land for primary production for future generations. The additional factor is the allocation of water and contaminant discharge capability. CNIILML seeks that this constraint is properly reflected in the construction and implementation of the NPS-HPL.</p>
<b>Objective 2</b>	Support in part	<p>If the intent of Objective 2 is to ensure access to highly productive land for primary production is maintained for future generations, then the hierarchy of the other national policy settings that conflict with this objective must be resolved. Direction is required on whether the NPS-FM - which</p>	<p>Amend Objective 2 as follows:  Objective 2: Maintaining the availability of highly <u>productive-versatile</u> land  To maintain the availability of highly <u>productive-versatile</u> land for primary production for future generations</p>

		<p>requires that water and contaminant discharges are allocated – is a superior or inferior consideration. If councils are to manage the highly productive land resource to ensure this can be used for primary production, then allocation of water and contaminant discharge capacity (in particular N leach capacity) must be considered.</p> <p>Urbanisation leads to the irreversible loss of highly productive land for primary production through destruction of the soil resource. Inappropriate allocation of water and contaminant discharge resources – particularly by grandparenting – will also prevent the use of highly versatile land, if it is not being used that way right now.</p>	
<b>Objective 3</b>	Support	<p>The amendments are to capture the circumstances where highly versatile or valuable land is not currently being used at its highest and best use, to keep the window open for that use in future. E.g. CNIHL LUC 2&amp;3 land is presently almost all in production forest. The settlement process and timing means that CNIILML is only now in a position to consider the possible alternative uses for this highly versatile land.</p>	<p>Amend Objective 3 as follows:  <i>Protecting from inappropriate subdivision, use, and development</i>  <i>To protect highly <del>productive</del>-versatile land from inappropriate subdivision, use, and development, including by:</i>  <i>Avoiding subdivision and land fragmentation that compromises the use of highly <del>productive</del>-versatile land for primary production;</i>  <i>Avoiding uncoordinated urban expansion on <del>highly-productive</del>-land used for primary production that has not been subject to a strategic planning process; and</i>  <i>Avoiding and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to <del>highly-productive</del> land <u>used for primary production</u></i></p>
<b>Policies</b>			
<b>Policy 1</b>	Support in part	<p>If these allocation constructs (a. and f. of the second criteria set) are optional it means that the NPS-HPL would defer to the NPS-FM, which at this point is</p>	<p>The discussion document described matters set out in the second set of criteria of factors (a-d) that <i>may</i> be considered as “factors that contribute to the productive value of land but are not always critical</p>

	<p>confirming allocation via grandparenting through its “hold the line” approach.</p> <p>CNIILML believes the proposed criteria inappropriately reinforces existing uses.</p> <p>Grandparenting allocation (as will happen under the NPS-FM) is an inefficient and inappropriate mechanism to allocate the right to use resources. Grandparenting locks in existing uses and creates a massive wealth transfer to those who presently have the water and pollution rights. This is inappropriate when such land uses are not efficient users of water and the right to pollute if they are compared to other uses, by measures such as GDP, labour, soil sustainability, or greenhouse gas production.</p> <p>Item f. in the list of factors a council <i>may</i> consider when identifying highly productive land provides for where water quality issues or constraints may limit the use of the land for primary production.</p> <p>The proposed provisions highlight tensions between the proposed NPS- HPL and the NPS-FM but appears to suggest that the NPS-HPL would defer to the NPS-FM, based on the discussion document statement: <i>“Clause f) recognises that highly productive land may be located in catchments with water quality issues, and constraints on the use of that land for primary production may be needed to maintain or improve water quality. This is important to align with the NPSFM and the Government’s Essential Freshwater Programme.”.</i></p>	<p>factors”. A test of criticality is whether the land can be used for highest and best use <i>without</i> access to these resources.</p> <p>For proposed items a. and f. the answer is no. Their absence would prevent HVL being used for [say] cropping purposes, thus they are critical.</p> <p>The compulsory criteria of Appendix A: items a. to c. are all physical factors that can be assessed impartially.</p> <p>The optional items a. and f. are allocation constructs which have to date served to embed existing land uses.</p> <p>CNIILML seeks that these are moved from the optional considerations to the compulsory ones.</p> <p>Amend Policy 1 Appendix A as follows:  Appendix A: Criteria to identify highly <del>productive</del> <u>versatile</u> land  In accordance with Policy 1, regional councils must use the following criteria to assess and identify areas of highly <del>productive</del> <u>versatile</u> land:</p> <ul style="list-style-type: none"> <li>a. the capability and versatility of the land to support primary production based on the Land Use Capability classification system;</li> <li>b. the suitability of the climate for primary production, particularly crop production; <del>and</del></li> <li>c. the size and cohesiveness of the area of land to support primary production;</li> <li><u>d. the natural availability of water; and</u></li> <li><u>e. water quality issues or constraints that may limit the use of the land for primary production.</u></li> </ul> <p>When identifying areas of highly productive land, local authorities may also consider the following factors:</p> <ul style="list-style-type: none"> <li><del>a. [the current or potential availability of water];</del></li> <li>b. access to transport routes;</li> </ul>
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<b>Policy 2</b>	Oppose in part	<p>The current wording appears to only protect land that is already being used for “highly productive” purposes. Some highly versatile land is not yet being used at “highest and best” use. This includes the CNI forested land because it has only recently been returned and still has forest leases to run. The current wording would therefore support a grandparenting approach which CNIILML opposes.</p>	<p>Amend Policy 2 as follows:  Policy 2: Maintaining highly productive land for primary production  Local authorities must maintain the availability and productive capacity of highly productive land for primary production by making changes to their regional policy statements and district plans to:  a. prioritise the use of highly productive land for primary production  <del>b. consider giving greater protection to areas of highly productive land that make a greater contribution to the economy and community;</del>  c. identify inappropriate subdivision, use and development of highly productive land; and  d. protect highly productive land from the identified inappropriate subdivision, use and development.</p>