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NPS-HPL Submission  
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## **Submission to the Proposed National Policy Statement for Highly Productive Land**

### *I Introduction*

The Waitemata Low Carbon Network (“WLCN”) and the Equal Justice Project (“EJP”) welcome the opportunity to make this Submission on the Ministry for The Environment’s ‘Proposed Priority Products and Guidelines. The WLCN is a diverse community of residents, groups and businesses passionate about making low carbon living, working and playing part of the distinct identity of central Auckland. The EJP is a non-partisan pro bono charity that applies law students’ legal training and knowledge to promote social equality, inclusivity, and access to justice in our local and wider community. It is entirely run and led by students from the University of Auckland’s Faculty of Law.

### *II Background*

The WLCN/EJP are supportive of the Government’s proposal to introduce a National Policy Statement for Highly Productive Land (NPS-HPL). It is said that 14% of land in New Zealand is considered “highly productive”.<sup>1</sup> The NPS-HPL would require local councils to better protect the country’s most productive land in any subsequent land-use plans. The issue of sustainable, long-term development would also be brought to the foreground which would benefit the country as a whole. The Intergovernmental Panel on

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<sup>1</sup> Jenee Tibshraney “Government proposes introducing National Policy Statement” (14 August 2019) Interest.co.nz <<https://www.interest.co.nz/property/101203/government-proposes-introducing-national-policy-statement-direct-local-councils>>.

Climate Change's (IPCC) report links the importance of land use to changes in climate.<sup>2</sup> The NPS-HPL is therefore, especially pertinent in light of various councils (including Auckland Council's) declaration of a climate emergency.

The proposed purpose of the NPS-HPL as set out by the Ministry for Primary Industries is to<sup>3</sup>:

1. Recognise the full range of values and benefits associated with its use for primary production.
2. Maintain its availability for primary production for future generations.
3. Protect it from inappropriate subdivision, use, and development.

### *III Benefits of Safeguarding Highly Productive Land*

Identifying and preserving HPL has many benefits. Aside from protecting and enriching New Zealand's primary industries, the NPS-HPL will also create incentives for "retention of local jobs in primary production, [providing] additional prosperity in associated support industries and spin-off effects for tourism".<sup>4</sup>

Protecting existing HPL also provides a safeguard against rapid urban development, and this additional support will ensure that the interests of future generations are taken into account. Specifically, their interests surrounding food production. While it is important to find a balance between affordable housing and sustainable growth, these goals do not necessarily have to be mutually exclusive. This proposal would merely require councils to more readily seek out alternatives to development plans where alternatives are available. The NPS-HPL therefore ought to apply to areas which have already been identified by councils as future urban areas. It would encourage councils to reconsider planning decisions in light of present and future sustainable outcomes. We all have a collective responsibility to act in favour of sustainable outcomes while we still have the opportunity to do so.

There have been suggestions of a "tired approach" in identifying HPL, so that where there was a higher the Land Use Classification score, more protection of that land would be afforded.<sup>5</sup> The NPS itself notes that its purpose "is not to provide absolute protection of highly productive land,"<sup>6</sup> but it is to engage in a more collaborative exercise of seeking sustainable alternatives.

It follows that development on HPL in population dense areas, where there are pressing issues regarding housing, may be regarded as appropriate in the circumstances. Nevertheless, the activity of identifying HPL is still a worthwhile one.

### *IV Potential Scope for Further Guidance*

Perhaps a more thorough consideration of what is regarded appropriate subdivision or inappropriate subdivision is needed. It may be found that subdividing HPL to use for another purpose could limit any possibility of adequate future production on that land, and should be considered inappropriate. However,

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<sup>2</sup> "Climate Change and Land" (7 August 2019) Intergovernmental Panel on Climate Change <[https://www.ipcc.ch/site/assets/uploads/2019/08/4-SPM\\_Approved\\_Microsite\\_FINAL.pdf](https://www.ipcc.ch/site/assets/uploads/2019/08/4-SPM_Approved_Microsite_FINAL.pdf)>.

<sup>3</sup> "Proposed National Policy Statement for Highly Productive Land" (27 September 2019) Ministry for Primary Resources <<https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/>>.

<sup>4</sup> "Waiheke Local Board Feedback on a proposed national policy statement (NPS) for highly productive land" (26 September 2019) Waiheke Local Board Agenda <[https://infocouncil.aucklandcouncil.govt.nz/Open/2019/09/WHK\\_20190926\\_AGN\\_7853\\_AT.PDF](https://infocouncil.aucklandcouncil.govt.nz/Open/2019/09/WHK_20190926_AGN_7853_AT.PDF)> at 335.

<sup>5</sup> "Feedback on the Proposed National Policy Statement on Highly Productive Land" (25 September 2019) Agenda of Papakura Local Board <[https://infocouncil.aucklandcouncil.govt.nz/Open/2019/09/PPK\\_20190925\\_AGN\\_7737\\_AT.PDF](https://infocouncil.aucklandcouncil.govt.nz/Open/2019/09/PPK_20190925_AGN_7737_AT.PDF)> at 179.

<sup>6</sup> "Valuing highly productive land: a summary" Ministry for Primary Industries <<https://www.mpi.govt.nz/dmsdocument/36621/direct>>.

such considerations only ought to be for the purpose of providing guidance. If urban development is to be redirected elsewhere, there ought to be consideration beyond mere identification of HPL. Perhaps the NPS-HPL could also include recommendatory provisions for Councils to adopt as to the types of investments that could instead be made in relation to the land. These could focus on things such as sustainable food production. The summary document notes that “while the conversion [of HPL to urban land] may not be strictly irreversible, higher land prices and smaller economic units mean that a return to primary production is generally very unlikely.”<sup>7</sup> There is therefore, much value in identifying and securing HPL where possible.

#### *IV NPS-HPL and Commitments to Domestic and Global Climate Change Goals*

Many UN Sustainable Development Goals would also be addressed through the introduction of an NPS-HPL. Namely, a focus on achieving food security, and promoting sustainable economic growth within sustainable cities and communities. The proposal would also promote responsible consumption and protect ecosystems within New Zealand, whilst simultaneously influencing sustainable development at a global level.

Our land is our collective taonga and the exercise of classifying land as highly productive according to the specified criteria and considering alternatives promotes kaitiakitanga. The NPS-HPL would therefore also give effect to the principles of the Treaty of Waitangi, including Tikanga Maori. Section 2 of the Resource Management Act 1991 refers to kaitiakitanga as the exercise of guardianship over natural and physical resources in accordance with tikanga Maori. The NPS-HPL would give effect to many New Zealand council’s existing sustainable development goals. By way of example, the key move 11 for Auckland Climate Action’s Framework is focused on growing a low-carbon resilient food system.<sup>8</sup>

#### *V Conclusion*

The Government’s proposal to introduce an NPS-HPL is welcomed. It requires councils to more rigorously take into account where exactly urban development is occurring, and whether the land used could be put to better use for all of our collective well-beings. We suggest the proposal could go further in setting out a framework of change by including recommendatory provisions around what could be done with the identified HPL. Preserving HPL provides significant value to the community and takes into account sustainable development and promotes opportunities for food production which preserves the interests of future generations.

On behalf of the WLCN/EJP

Dr Grant Hewison (WLCN)

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<sup>7</sup> Above, n 6.

<sup>8</sup> “The 11 key moves” (July 2019) Auckland’s Climate Action Framework <<https://www.aucklandcouncil.govt.nz/have-your-say/topics-you-can-have-your-say-on/auckland-climate-action-framework/Documents/aucklands-climate-action-framework.pdf>> at 52.