

10 October 2019

Draft National Policy Statement for Highly Productive Land – Submission for Fletcher Building Limited

Fletcher Building Limited (**Fletcher Building**) welcomes the opportunity to make a submission on the proposed National Policy Statement for Highly Productive Land Discussion Document (**NPS-HPL**) submitted for public consultation in August 2019.

1. Introduction

Fletcher Building is one of New Zealand's largest residential land development companies and is making a significant contribution to housing supply across the country.

Fletcher Building is generally supportive of the proposed NPS-HPL and acknowledges the need to protect highly productive land. Fletcher Building requests the following amendments are required to the NPS-HPL as summarised below:

- Delete the default definition of highly productive land that is solely based on LUC Class I - III soils
- Amend Appendix A to Policy 1 to ensure that the identification of highly productive land considers the benefits of urbanisation on land where there is, or intended to be, good access to jobs, and proximity to transport links or centres.
- Amend Appendix A to Policy 1 to ensure that the identification of highly productive land considers water quality and reverse sensitivity.
- Amend Appendix A to Policy 1 to ensure that all criteria is a mandatory consideration.

These are expanded on below.

2. General

2.1 Support

Fletcher Building supports the introduction of a National Policy Statement for providing national direction on highly productive land. Fletcher Building would strongly oppose any proposal for a National Environmental Standard for highly productive land for the reasons outlined.

2.2 Reasons

Fletcher Building is of the view that a National Policy Statement is the most appropriate mechanism for providing national guidance on the identification and management of highly productive land. A national policy statement provides councils with a clearer framework for managing the soil resource, while enabling an appropriate balance between protecting highly productive land and allowing flexibility for councils to decide how this should best occur within the context of their particular region/district.

A National Environmental Standard is not an effective way of providing national guidance on highly productive land as it introduces prescriptive provisions that do not provide councils with the flexibility required to tailor provisions to manage highly productive land to address the particular issues within their area.

Fletcher Building notes that the NPS is a Resource Management Act (**RMA**) tool but the direction proposed within the NPS HPL also needs to be considered at a growth planning and spatial planning level where the constraints around urban expansion and high-quality land are first considered. There is a clear opportunity to integrate urban growth and spatial planning into the NPS. Fletcher Building would support and recommend the need for nationally consistent direction at a spatial planning level. If the criteria for identifying productive land are expanded to assess trade-offs between urban development and the preservation of highly productive land, these criteria can be used to inform other non-RMA tools such as future spatial or structure planning exercises which precede plan reviews or plan changes.

3. NPS-HPL and NPS-UD

Concurrently with the NPS-HPL the Government is also consulting on the National Policy Statement for Urban Development (**NPS-UD**), which is intended to provide direction on urban growth and how and when cities should plan for growth. Fletcher Building considers that it will be important that the planning process under the NPS-HPL take into account and are consistent with the objectives of the NPS-UD. The need to protect highly productive land is important but needs to be balanced against urban development and the needs for affordable and accessible housing. The NPS-HPL Discussion Document states that Councils should undertake the identification of highly productive land, and the creation of future development strategies under the NPS-UD in conjunction to streamline the process, improve spatial planning frameworks and improve planning outcomes¹. However, Fletcher Building notes that the NPS-HPL does not include any requirement for Council's do this.

If the identification of highly productive land occurs before Council's complete their future development strategies under the NPS-UD, there is a risk that highly productive land, which may be appropriate for urban development, could be excluded from development at the outset, or that it will

¹ NPS-HPL Discussion Document, page 43.

be difficult for productive land to be used for urban development where it is deemed appropriate under the NPS-UD.

There is a concern with land areas being protected as a rule, where there is no apparent or specific need to protect. A blanket protection could lead to a restriction in supply of land for urban growth and as a result oversee an increase land prices, directly contradicting the government's housing affordability policy. Fletcher Building seeks more clarity and certainty as to how competing policy interests can better align and what trades offs are to be made between NPS-HPL and NPS-UD.

Fletcher Building seeks that the NPS-HPL includes policy direction linking it to the NPS-UD; this could include a requirement for Councils to undertake the identification of highly productive land under the NPS-HPL at the same time as developing future development strategies under the NPS-UD. This is necessary to ensuring that appropriate planning outcomes are achieved under these national direction mechanisms.

Relief Requested –

Proposed Policy 1 – Identification of highly productive land

1.1 Regional Councils must identify areas of highly productive land using the criteria set out in Appendix A and:

- Map each area of highly productive land; and
- Amend their regional policy statements to identify areas of highly productive land within the region.

1.2 Territorial authorities must amend their district plans to identify highly productive land identified by the relevant regional council under policy 1.1.

1.3 In identifying highly productive land, Councils must have regard to any future development strategy required under the NPS-UD.

4. Objective 3: Protecting from inappropriate subdivision, use and development

4.1 Oppose

Fletcher does not support proposed Objective 3 in the NPS-HPL which directs that highly productive land be protected from inappropriate subdivision, use and development, including by:

Avoiding subdivision and land fragmentation that compromises the use of highly productive land for primary production;

Avoiding uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process; and

Avoiding and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to highly productive land.

4.2 Reasons

This policy should explicitly link with the NPS-UD as it allows for urban expansion onto highly productive land in areas where there is a shortage of land for those activities, and it is demonstrated that this is the most appropriate option. The use of the term 'avoiding' throughout Objective 3 is very onerous, restrictive and directive. Fletcher Building considers the use of 'avoid' is inappropriate, when there may be circumstances where it is not practicable to do so. Fletcher Building suggests the wording of proposed Objective 3 is amended to qualify the circumstances in which effects or outcomes should be avoided e.g. "where practicable". Alternatively, different language such as

Relief Requested –

Objective 3: Protecting from inappropriate subdivision, use and development

To protect highly productive land from inappropriate subdivision, use and development, including by:

- *Avoiding where practicable, subdivision and land fragmentation that compromises the use of highly productive land for primary production;*
- *Avoiding where practicable, uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process; and*
- *Avoiding where practicable, and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to highly productive land.*

"avoid, remedy or mitigate" could more appropriately be used which would allow the mitigation of adverse effects where this can be effectively achieved by avoidance cannot. This suggested wording also more directly aligns with the matters set out in Part 2 of the RMA with appropriate linkages to other policies in the NPS-UD.

5. Default definition of highly productive land

5.1 Oppose

Fletcher Building opposes the default definition of highly productive land that is solely based on Classes I-III of the Land Use Capability classification system (LUC) that would apply in the interim period until councils have identified highly productive land.

5.2 Reasons

The default definition of highly productive land will result in protection of LUC Classes I-III soils for a period of three years post ratification of the NPS-HPL, with no wider consideration of the suitability of the land for productive purposes or the benefits of urbanisation. The suitability of land for productive purposes and the benefits of urbanising within a certain location, need to be balanced with the protection of LUC Classes I-III soils to achieve wider urban growth and rural production objectives. Fletcher Building are concerned that the emphasis on protecting areas of LUC Classes I-III soils within the default definition may set a precedent for the final identification of highly productive land, despite this only being only one matter which contributes to productivity.

Of further concern for Fletcher Building is that the default definition may impact land which is already zoned Future Urban. This will introduce further tests to urbanising land which has already been found suitable for urban development through the Schedule 1 process under the Resource Management Act 1991.

Fletcher Building request that the default definition of highly productive land be deleted so that land is identified as highly productive in accordance with the criteria set out in Appendix A that allow for a balanced consideration of the broader factors that contribute to productivity and the benefits of urbanisation. The removal of the default definition is low risk in the interim, given any development outside the FUZ will require a plan change and a full assessment of the costs and benefits, including the loss of productive land.

Relief Requested –

Delete the default definition of highly productive land.

6. Appendix A to Policy 1: Criteria for identifying highly productive land – Benefits of urbanisation

6.1 Oppose in part

Fletcher Building oppose the proposed criteria for identifying highly productive land on the basis that the benefits of urbanising rural land in certain circumstances are not adequately acknowledged. While Fletcher Building supports the exclusion of urban and future urban land from being classified as highly productive, Fletcher Building is of the view that criteria for identifying highly productive land needs to be expanded to allow a wider consideration of the benefits of urbanisation of greenfield land, not currently zoned for future urban use.

6.2 Reasons

The proposed National Policy Statement – Urban Development (NPS-UD) seeks to ensure that councils enable development capacity to meet demand not only in terms of total capacity, but also in terms of a diversity of locations, housing types and price ranges. It directs councils to undertake responsive planning if they cannot enable enough capacity. The proposed NPS–UD recognises that to deliver this capacity there will be a need for major urban centres to provide for future population growth within greenfields as well as through intensifying existing urban areas

In particular, the government’s aspirations for more affordable housing particularly for first home buyers can not simply be left to densifying existing urban areas as the densification option is proving more difficult to meet the price points to suit such buyers. Options to expand out as well as up must be made available to these typically first home buyers.

To achieve the outcomes sought within the NPS-UD it is important that the benefits of urbanising greenfield areas are recognised and balanced with the protection of highly productive land. This is particularly important with land where there is, or intended to be, good access to jobs, and proximity to transport links or centres. While the proposed NPS – HPL includes policies that guide the consideration of urban expansion onto highly productive land, these policies apply once the land has already been classified which is ineffective as it results in a reactive planning approach. To ensure that plans effectively guide land use around a major urban centre, the benefits to urbanisation should be considered when determining the extent and location of land to be set aside for productive purposes. The relief sought as shown below, is based on wording from proposed policy P6A from the NPS-UD.

Relief Requested –

Appendix A: Criteria to identify highly productive land

In accordance with Policy 1, regional councils must use the following criteria to assess and identify areas of highly productive land:

- e. The capability and versatility of the land to support primary production based on the Land Use Capability classification system.
- f. The suitability of the climate for primary production, particularly crop production; ~~and~~
- g. The size and cohesiveness of the area of land to support primary production; and
- h. The benefits of urbanisation in areas where there is:
 - III. Existing or planned access to employment opportunities, urban amenities, active or public transport networks and infrastructure to service growth; or
 - IV. High demand for residential, industrial or commercial activities.

~~When identifying areas of highly productive land, local authorities may also consider the following factors:~~

- ~~a. e.~~ The current or potential availability of water;
- ~~b. f.~~ Access to transport routes;
- ~~c. g.~~ Access to appropriate labour markets;
- ~~d. h.~~ Supporting rural processing facilities and infrastructure;
- ~~e. i.~~ The current land cover and use and the environmental, social and cultural benefits it provides; and
- ~~f. j.~~ Water quality issues or constraints that may limit the use of the land for primary production.

7. Appendix A to Policy 1: Criteria for identifying highly productive land – Mandatory and non-mandatory criteria

7.1 Oppose in part

Fletcher Building supports that the criteria for identifying highly productive land is based on a wider set of factors that contribute to productivity other than just the LUC classification of soils however, the two-tiered assessment regime proposed within in Appendix A to Policy 1 for identifying productive land is opposed.

7.2 Reasons

The criteria used for identifying highly productive land have a fundamental role in the success of the National Policy Statement. If the criteria do not adequately capture the factors that contribute to whether land can be used successfully for productive purposes this could undermine the effectiveness

of the intentions of the entire policy statement and potentially result in onerous restrictions for land owners.

The proposed criteria for identifying highly productive land are based on a broad set of factors that contribute to making land versatile and productive going beyond simply identifying land based solely on the LUC classification. Fletcher Building is of the view that the broader range of matters currently identified are appropriate however, additional criteria are required to address the benefits of urbanisation, together with water quality and reverse sensitivity.

Fletcher Building oppose the two-tiered assessment regime applied in Appendix A for identifying highly productive land. In particular, Fletcher Building does not support distinguishing between matters that are 'mandatory to consider' and matters that councils 'may consider' in identifying highly

Relief Requested –

Appendix A: Criteria to identify highly productive land

In accordance with Policy 1, regional councils must use the following criteria to assess and identify areas of highly productive land:

- a. The capability and versatility of the land to support primary production based on the Land Use Capability classification system.
- b. The suitability of the climate for primary production, particularly crop production; ~~and~~
- c. The size and cohesiveness of the area of land to support primary production; and
- d. The benefits of urbanisation in areas where there is:
 - I. Existing or planned access to employment opportunities, urban amenities, active or public transport networks and infrastructure to service growth; or
 - II. High demand for residential, industrial or commercial activities.

~~When identifying areas of highly productive land, local authorities may also consider the following factors:~~

- ~~a- e.~~ e. The current or potential availability of water;
- ~~b- f.~~ f. Access to transport routes;
- ~~c- g.~~ g. Access to appropriate labour markets;
- ~~d- h.~~ h. Supporting rural processing facilities and infrastructure;
- ~~e- i.~~ i. The current land cover and use and the environmental, social and cultural benefits it provides; and
- ~~f- j.~~ j. Water quality issues or constraints that may limit the use of the land for primary production.

productive land. All matters/criteria need to be a 'must consider' for Councils to ensure balanced, consistent and robust decision making. In addition, Fletcher Building considers that matters including water availability, which are currently proposed to be non-mandatory considerations, are critical to determining the productivity of land.

8. Policy 3: New urban development and growth on highly productive land

8.1 Support in Part

Fletcher Building supports the inclusion of a policy to guide the expansion of urban development onto land identified as highly productive. Having a suitable policy will assist good planning and regulatory outcomes.

8.2 Reasons

The inclusion of a policy that guides the expansion of urban development onto land identified as highly productive is supported as it enables a balancing of the outcomes sought in the proposed NPS-UD with the outcomes sought for highly productive land. As previously discussed however, Fletcher Building is of the view that the NPS-HPL should encourage councils to take a more strategic approach to allocating land for urban development and productive purposes. This is achieved through considering which areas are desirable for urbanisation when identifying highly productive land. Conversely, a non-selective or blanket approach which restricts council's ability to consider local needs through a strategic approach, is insufficient to develop a sustainable solution to complex spatial planning issues. Fletcher Building supports the approach taken in proposed Policy 3A assessing the shortage of development capacity in accordance with the NPS-UD which relies on feasible development capacity which is likely to be taken up to meet the demand for dwellings.

9. Policies 6 & 7: Consideration of plan change requests and resource consent applications

9.1 Support

Fletcher Building supports the inclusion of policies to guide plan change requests and resource consent applications that will result in urban expansion onto highly productive land.

9.2 Reasons

As growth pressures change in a particular locality it is important that there is flexibility to consider applications for urban expansion into rural areas and weigh up the costs and benefits of a particular proposal. Policies 6 and 7 provide for an assessment to take place while ensuring the impact on productivity is assessed and weighed up. The flexibility to respond to changing circumstances.

10. Conclusion

Fletcher Building thanks the Ministry for Primary Industries for the opportunity to submit on the proposed National Policy Statement for Highly Productive Land. Fletcher Building generally supports the proposed National Policy Statement subject to addressing the concerns outlined in this submission and amending the policy statement accordingly.

Yours Faithfully

Fletcher Building Limited