



**Submission to the  
Ministry of Primary Industry**

**Proposed National Policy Statement for  
Highly Productive Land**

October 2019

## Introduction

1. Tauranga City Council (TCC) welcomes the opportunity to submit on the Ministry of Primary Industry proposed national policy statement for highly productive land (NPS-HPL). We are happy to discuss our submission further with you or provide additional information and evidence that would be of assistance. Enquires should be directed to:

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2. Rather than responding to each of the questions in the discussion document, TCC has chosen to focus on our key issues and challenges. These are generally linked to one or more of the questions in the discussion document. We have also included an attachment with TCC's recommended amendments to the proposed NPS-HPL provisions in Appendix A. The appendix should therefore be read in conjunction with this submission.

## TCC supports in principle the intent of the proposed NPS-HPL

3. TCC supports the general intent of the proposed objectives and policies of the proposed NPS-HPL. We agree that local government has a responsibility to ensure there is sufficient highly productive land available for primary production now and in the future.
4. As with many communities around New Zealand, highly productive land provides significant economic and employment benefits to Tauranga City's economy. Enabling an appropriate balance to be struck between protecting land from inappropriate subdivision, use and development and enabling high growth areas to provide for growth and meet their requirements under the NPS-UDC and proposed NPS-UD is essential. Cities must grow both upwards and outwards and highly productive land is often the best and sometimes the only option to enable further outward growth.
5. We agree that there is currently a lack of clarity on how highly productive land should be managed under the Resource Management Act 1991 (RMA). TCC therefore welcomes a clearer framework that ensures this finite resource is maintained for the benefit of future New Zealand.
6. TCC encourages MPI to further develop the proposed NPS to provide additional clarity and certainty to local government in relation to competition and pressure between land for urban development and the need to retain highly productive land. TCC also strongly recommends that MPI reconsiders the scope of the NPS to ensure it does not undermine the substantial amount of spatial planning work already completed by councils, central government, iwi and other stakeholders in high growth areas.

## Context for TCC submission

7. The following background information on TCC's highly productive land, growth issues and challenges with land capacity are provided as context for this submission.

## Highly productive land in Western Bay of Plenty sub-region

8. As part of its work on the NPS-HPL, MPI had ME Spatial prepare a report titled Urban Expansion: Assessment of Potential Policy Impacts, October 2019. This document sets out an assessment of the 2016 SmartGrowth settlement pattern for the Western Bay of Plenty sub-region (TCC and WBOPDC) against LUC 1-3 land. It shows the limited impact urban growth will have on the HPS resource locally, concluding the following:

*The 2016 SmartGrowth settlement plan identifies a number of urban (residential and business) greenfield growth areas across the sub-region to help cater for medium and long-term growth. These areas have been made operative in the Bay of Plenty RPS but most remain rural zoned in the Tauranga City or Western Bay of Plenty District Plans. Overall, 37% of this greenfield growth area sits on HPS (LUC class 1-3) which accounts for 2.3% of total LUC class 1-3 land identified in the sub-region, and 0.8% identified in the total Bay of Plenty Region (not all of which is available for primary production).*

9. Primary production is a contributing driver for the Western Bay of Plenty economy. The kiwifruit industry is projected to grow significantly over the next decade, both in increased hectares and in revenue. The current 140 million trays of kiwifruit is expected to reach 190 million in 10 years, and GDP from kiwifruit is expected to increase to \$2.04 billion by 2030. While the kiwifruit industry has the highest level of projected growth, there is also rapid growth in avocados and other emerging horticulture crops such as blueberries.
10. A high proportion of the kiwifruit produced in the sub-region is by Māori owned business entities. It is estimated that Māori have investments in the industry totalling more than \$300 million, and there are at least 2,400 FTE of Māori employed in the industry. Revenue for Māori enterprises is estimated to increase from \$118 million to \$278 million by 2030, with total wages and salaries for Māori projected to increase from \$22 million to \$52 million.
11. For all these reasons, we acknowledge the importance of retaining highly productive land to support local communities and their social, economic and cultural wellbeing.
12. It is also worth noting that in recent years expansion of the kiwifruit industry has focused towards the east, away from the city. There is significant potential for further expansion in this area that would not compete for land with urban growth.

## Tauranga City Council is a high-growth Council

13. TCC is a 'high-growth' council. It is New Zealand's fifth-largest city and is growing fast. Currently, over 135,000 people call Tauranga home. Our city is projected to grow to almost 200,000 people by 2063. This is all occurring in a small harbour landscape with many physical constraints.
14. As a council, TCC experiences a number of key challenges and competing priorities. For example, significant urban development pressures, a lack of housing supply, natural hazard considerations and substantial transport issues to name a few. Such competing issues require careful consideration and balance throughout the planning process.
15. In 2004, SmartGrowth was established to address growth issues in the sub-region. With our partners, TCC started to plan for future growth in a sustainable and coordinated way. More

recently, the 'Urban Form and Transport Initiative' (UFTI)<sup>1</sup> builds on the successes of SmartGrowth to develop a vision and plan for the next 50 years. UFTI aims to develop a long-term, integrated masterplan for urban development and transport that aligns with the government's new transport policy statement and urban growth agenda.

### Challenge with development capacity

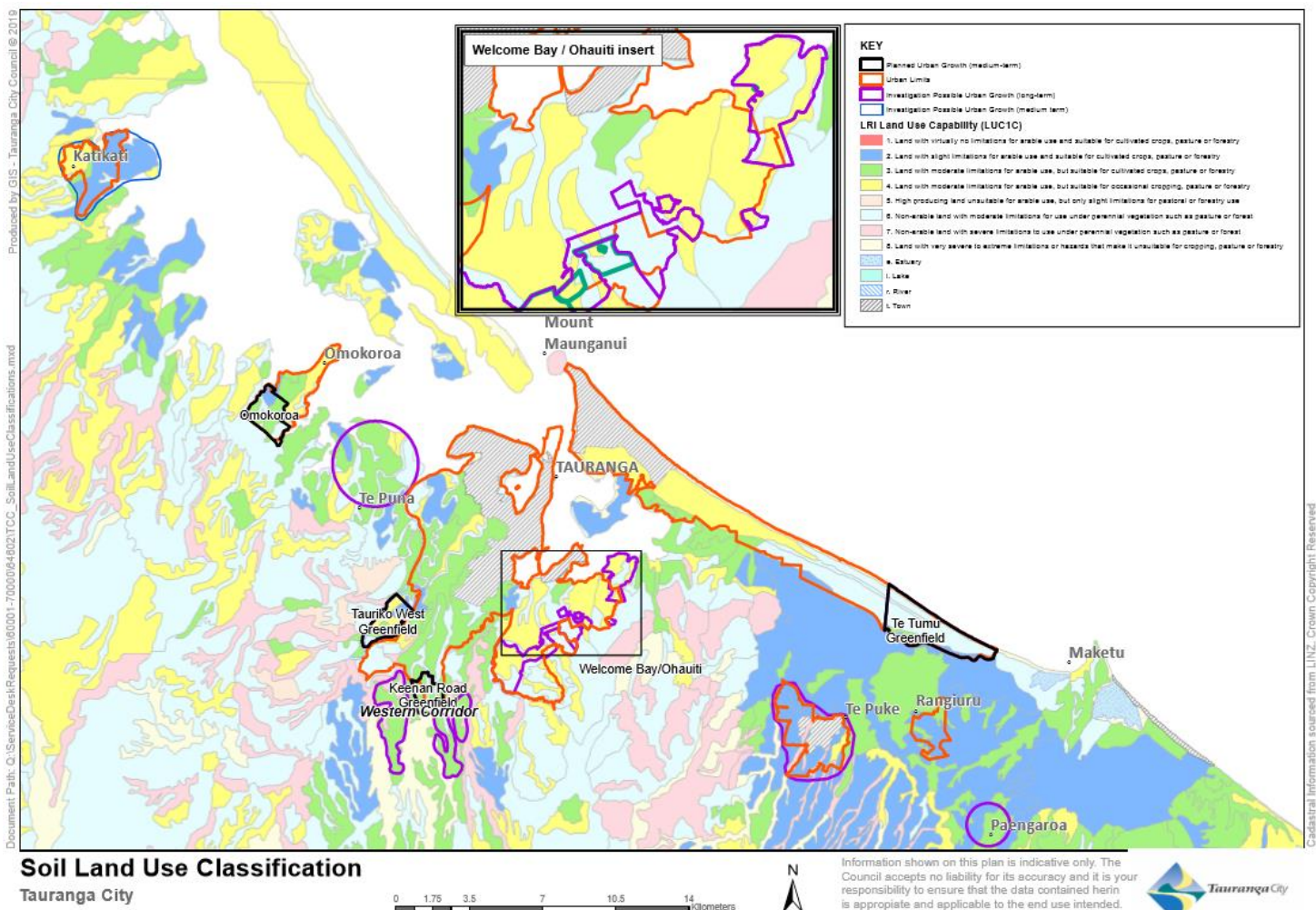
16. The supply of land and infrastructure to support growth is a high priority for our city.
17. During the next three years there will be an undersupply of around 1,000 homes. The development shortfall is expected to increase in later years – up to 6,000 homes in total over the next 10 years if more supply is not enabled. Several factors are contributing to this. They include natural hazard risks, RMA timeframes for zoning changes, dependence on landowners releasing land, dependence on state highway planning, funding and delivery and differing views amongst Maori land owners.
18. The issue is compounded by changes in legislation, such as the removal of Special Housing Areas. We have been working with central government and NZTA to develop responses to address these issues in a manner aligned with the government's urban growth agenda.
19. To help resolve these housing supply challenges, we are finalising structure plans on greenfield areas for the Te Tumu (7-8,000 homes) and Tauriko West (3,000 homes) new communities. Te Tumu is largely free of highly productive land but Tauriko West is approximately 1/3 LUC 2 and 3 soils. Te Tumu is facing substantial risks and delays outside of Council's control associated with Maori Land and Maori Land Court matters.
20. TCC has also been looking at ways to accommodate growth in existing areas through intensification to complement the planning of greenfield areas such as Te Tumu and Tauriko West. In this regard spatial planning and plan changes are underway to support terraced housing, apartments and other more intensive residential housing typologies across the city. However, there are real constraints in much of Tauranga to going 'up' such as:
  - a. Climate change, flooding and earthquake shaking risks across most of the coastal strip from the Mount to Papamoa
  - b. Private covenants on land titles that prevent further subdivision and intensification in most subdivisions built from the 1990's (approximately half of Tauranga's urban area)
  - c. The predominance of rear lot infill subdivision that has occurred over the older part of the city which has created highly fragmented land ownership and increased the value of capital improvements that need to be written off to enable redevelopment as well as increasing the complexity of assembling sufficient land area to enable development to occur at a reasonable scale
  - d. The lack of any large-scale brownfield sites available for redevelopment
  - e. Challenges around the current development economics from a funding and profitability perspective for the property development industry.

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<sup>1</sup> refer to <https://ufti.org.nz/> for further information about the Urban Form and Transport Initiative

21. For these reasons if Tauranga City is to continue to grow, accommodate our population projections and meet the requirements of the NPS-UDC (and the proposed NPS-UD) it must continue to grow outwards as well as upwards. However much of this outward growth will be in areas already zoned urban or future urban, or on soils that are not highly productive meaning the loss of additional highly productive soils to future urbanisation is anticipated to be largely immaterial in terms of the large scale of the highly productive soils resource in the Western Bay of Plenty.
22. As shown in Figure 1, other than Te Tumu and Welcome Bay, all other rural areas that have been identified as suitable for future urban growth are located on highly productive land with Class 2-3 soils.

**Figure 1: Map of Tauranga city showing land use capability classifications and planned and potential urban development areas**



### Identification of key issues with the NPS on highly productive land

23. We acknowledge that there will be a range of challenges for both growth and non-growth councils relating to the protection of highly productive land. This submission, however,



focuses on highly productive land issues relevant to Tauranga City. The key submission points are to:

- Improve the integration of various NPS and NES across highly productive soils, freshwater, indigenous biodiversity and urban development to provide clarity and certainty to local government on competing land use and environment priorities
- Reconsider the inclusion of future urban areas identified in non-statutory strategic documents in the scope of the NPS, especially areas that are required in the short and medium terms (0-3 and 3-10 year periods) to meet the NPS-UDC and proposed NPS-UD development capacity requirements noting that while these areas are not zoned urban or future urban, they have already been through a Schedule 1 RMA process for inclusion in the Regional Policy Statement urban limits
- Support for the stronger regulation against rural-lifestyle development on highly productive land as this typically delivers dwelling yields of 1-2 dwellings per hectare compared with urban development yields of 15-20+ dwellings / hectare
- Consider, in relation to urban growth, a lower level of protection for class 2 & 3 soils, including the potential removal of class 3 soils from the definition of highly productive land
- Consider additional provisions to ensure that papakainga housing on multiple owned Maori land is not negatively impacted
- Resource capacity and capability challenges in implementing the NPS.

#### Improve the integration of NPS and NES to clarify competing priorities

24. There is clear direction in the proposed NPS-HPL that new urban development should be avoided on highly productive land where other feasible options exist. In general, TCC supports the intent of this objective in principle.
25. However with the various proposed NPS and NES for highly productive land, urban development and freshwater there is the possibility of tensions between the three in practice. We suggest that further work is needed on the drafting of these proposals to clarify how all three sets of national direction, as well as existing national direction on other matters are to be integrated and implemented by local government. This has become more important due to recent RMA case law such as “King Salmon” and “Davidson”. These cases effectively reduced councils’ abilities to make broad balance judgements on competing matters through plan making and consenting processes, and also reduced councils’ ability to make appropriate trade-offs where directive language is used such as “avoid”.
26. Improving integration of the NPS/NES framework to provide increased clarity and certainty to local government on competing land use and environmental priorities would be highly valuable. Protecting highly productive land is one of many competing issues for TCC with regards to land use. Transport, urban growth pressures, natural hazards, and infrastructure provision amongst others are all contending factors. This is further heightened by Tauranga City’s small land area; topographic constraints; along with an escalating population – all putting pressure on our city networks and planning frameworks. Strengthening the NPS/NES framework to provide a mechanism for prioritisation of such issues and achieving broader balance amongst competing priorities would be beneficial for local government.
27. We note that there is a potential misalignment with the proposed NPS-HPL, the government’s urban growth agenda and the proposed NPS urban development (NPS-UD). The urban growth

agenda includes narrative of building cities both “up and out” and the proposed NPS-UD provisions enable consideration of greenfield development that is out of sequence or not envisaged by current urban limits or spatial plans. In practice, both proposed Policy 6 ‘Consideration of requests for plan changes’ and the definition of highly productive land classes 1-3 in the proposed NPS-HPL will largely stymie these provisions from achieving their intended outcomes. These conflicting provisions need to be reconciled to ensure central government provides a coherent planning framework for local government implementation and decision-making.

### **Recommendation**

28. We strongly suggest that Policies 3 and 6 of the proposed NPS-HPL and the NPS-UD proposal on providing for greenfield development need to be aligned to enable consideration of growth that may not be consistent with council’s statutory and non-statutory plans and policies for growth management and planning.
29. We strongly encourage MPI to further develop this framework in collaboration with MfE and MHUD.

### **Reconsider the inclusion of future urban areas identified in non-statutory strategic documents in the scope of the proposed NPS**

30. The discussion document outlines that when identifying highly productive land, existing urban areas are to be excluded. Appendix A to proposed Policy 1 addresses the identification of highly productive land and excludes future urban areas identified in district plans. However future urban areas that are identified in spatial plans or future development strategies that have yet to be zoned urban or future urban in district plans are not excluded from the definition of highly productive land. We understand it may be the intent to exclude these areas from further assessment of HPL if they have already been through a RMA Schedule 1 process, such as their inclusion in the urban limits of a Regional Policy Statement, but this is not how we read the proposed NPS-HPL.
31. Two reasons provided by MPI for capturing future unzoned urban areas identified in non-statutory documents are that it provides councils with flexibility to reconsider future urban areas in non-statutory documents in light of the proposed NPS. In addition, that this approach would also avoid risks associated with broad indicative future areas being excluded from the scope of the NPS-HPL provisions.
32. Under the proposed NPS, councils would need to carry out a full analysis of alternatives, benefits and costs when considering whether urban expansion should be located on highly productive land used for growing food and vegetables and for other primary production. Although we agree with this approach generally, given that TCC and its partners have made substantial progress in terms of spatial planning and structure planning, this poses a significant problem that may further constrain the supply of land for urban development and create significant delay and uncertainty in the provision of additional development capacity to meet NPS-UDC/UD requirements.

33. As discussed above, spatial planning for future urban growth in Tauranga City and the Western Bay has been approached collaboratively. TCC, Western Bay of Plenty Council, BOP Regional Council, local developers and central government partners (NZTA and Ministry of Housing and Urban Development) have all provided significant commitment and investment in planning for a sustainable urban future through SmartGrowth and UFTI.
34. We strongly submit that the approach contained in Proposed Policy 1 and Appendix A for classifying what is 'in and out of scope' of the NPS-HPL is too blunt an instrument. It will result in major implications for some councils. For TCC, this approach will seriously undermine the extensive and costly urban growth planning that has happened to date. It also fails to acknowledge the amount of time spatial planning at this magnitude takes to ensure benefits and desired community outcomes are to be realised.
35. Timing of the District Plan Review and District Plan Changes has meant that TCC's urban growth plans have not yet made it into the Operative Plan (2013), making them, as we read it, 'in-scope' under the proposed NPS-HPL and subject to the NPS-HPL provisions if identified as highly productive land. However, identification of future urban areas through strategic planning processes and future urban zones have been clearly signalled and developed alongside central government over the last 15+ years. One of the benefits of working closely with our central government partners was to ensure our growth agenda was aligned with national strategic directions, in particular NZTA and MOE, and more recently the Ministry of Housing and Urban Development.
36. TCC is currently in the position of having identified growth areas that are not yet zoned 'Future Urban Areas' in the District Plan. We have, however, substantially progressed growth areas through both Local Government Act 2002 (LGA) and Resource Management Act 1991 (RMA) processes. For example, the Tauriko West urban growth area which is critical to meeting short and medium term development capacity requirements and is about 1/3 LUC 2 and 3 soils has undergone the following processes so far:
- Identification in the SmartGrowth Strategy for urban development, including a resolution from all SmartGrowth Partners to progress the urban growth area;
  - Letter in support of the planning of urban development from NZTA.
  - Completed plan change by Bay of Plenty Regional Council to amend the urban limits line in the Regional Policy Statement (Plan Change 4) to enable the delivery of residential development. This process was done in accordance with the RMA streamline planning process direction from the Minister for the Environment (2018);
  - Boundary alteration led by the Local Government Commission underway between Western Bay of Plenty District Council and TCC to provide for development at Tauriko West, which is currently partly located within the Western Bay of Plenty and will allow TCC to provide future servicing and administration of the area;
  - Tauriko Network Connections business case led by NZTA based on an agreed future landuse scenario which included development of Tauriko West. NZTA have completed a programme business case and are part way through the next stage of the business case process;
  - Ministry of Education planning for future primary and secondary schooling requirements for Tauriko West and broader growth in the Pyes Pa/Tauriko area including collaborative



engagement with local councils and NZTA, schooling needs identification, identification and assessment of school site options and discussions with landowners;

- Significant investment in the structure planning process and preparation of a future Plan Change to rezone the area for urban development. This includes research, technical assessments, and modelling to develop a good understanding of what outcomes we want to achieve for the community and landowners in relation to land use, transport, three waters, integration, landscape character, tangata whenua, green spaces, protecting people (natural hazards), protection of the area (cultural, ecological, historical and amenity), community facilities, contamination, network utilities and a range of other matters;
- Funding allocated in the 2018-28 Long Term Plan for infrastructure (roads, water, wastewater, stormwater and social) for the future growth of this area.
- Recent completion of trunk infrastructure projects such as TCC's debt funded \$107m southern wastewater pipeline to accommodate growth in this area (and other areas). Debt for this project will be repaid through development contributions, including development contributions from Tauriko West for this project that exceed \$10m.

37. This example illustrates that planning progress is past a point that may be considered appropriate for reconsideration as suggested in the discussion document, particularly as growth pressures continue to intensify across the city with substantial residential capacity shortfalls expected in the short and medium term and given the lead times to plan and deliver alternative greenfield areas are some 5-10 years (which would also likely be located on highly productive soils). To reconsider Tauriko West would result in time delays, expense and potential substantial investment loss. In addition, as future urban growth areas have been clearly outlined and signalled to central government, the government itself may face some significant reputational risks if it were to change its position at this point or add further time, cost and risk to the project.

### **Recommendation**

38. To acknowledge the significant commitment, resource and investment that has already taken place, we therefore strongly recommend that Appendix A to Proposed Policy 1 and the definition for highly productive land is amended to reflect that in addition to areas already zoned urban or future urban:

- greenfield areas identified as being required to accommodate growth to meet the short (0-3 years) and medium terms (3-10 years) NPS-UDC/UD development capacity requirements at the time the NPS-HPL becomes operative are not defined as Highly Productive Land;
- greenfield areas identified in a future development strategy / spatial plan developed collaboratively between central and local government are not defined as Highly Productive Land.

### **Hierarchy of protection for class 1-3 land**

39. The LUC classification system for identifying highly productive land is a scaled system with class 1 land denoting the most versatile with the fewest limitations for use and class 8 the least versatile with the highest limitations for use. If the LUC system is to be used for defining highly productive land, it follows that it would also be appropriate to develop a hierarchy of

protection for that land defined as highly productive – class 1-3. For example, protection of class 1 and 2 from urban development and protecting classes 1 to 3 from rural lifestyle development to reflect this is a less efficient use of land.

#### **Recommendation**

40. TCC therefore suggests developing a hierarchy of protection for class 1 to 3 land is appropriate. In addition, TCC also suggests that class 3 be removed from the definition of highly productive land in respect of urban development but not lifestyle development.

#### **Stronger regulation for rural-lifestyle development compared to urban development**

41. TCC acknowledges that fragmentation of land into rural lifestyle properties is a key issue facing highly productive land. We generally support Proposed Policy 4 outlining that territorial authorities amend their district plans to manage rural subdivision to avoid fragmentation and maintain productive capacity of highly productive land.
42. We agree that rural lifestyle development needs to be strongly regulated through the NPS-HPL, particularly in high growth areas. Rural lifestyle lots have both negative impacts for both highly productive land and for providing for urban development. In effect, they do not deliver benefits for either - neither retaining productive capacity of land or providing for growth through intensification. Generally, where urban expansion occurs into rural areas, it is not possible to urbanise areas that have already been fragmented into lifestyle blocks and these areas need to be avoided or 'leap frogged'.
43. In addition, clarification is needed on the application of Proposed Policy 4, including what zones are captured by the policy i.e. rural residential, rural settlement and zoned rural residential areas and whether it captures areas that have already been zoned for lifestyle development but where that development has not yet occurred. We do not think it is appropriate or the intention to capture areas already zoned for lifestyle development but not yet developed but as worded the proposed NPS may currently capture these areas.

#### **Recommendation**

44. Clarification of Policy 4 (as well as consequential changes to Policy 1 and the definition of "Highly Productive Land") so that it is clear which zones this policy applies to i.e. rural residential, rural settlement, and/or rural residential that is yet to be developed.

#### **Consideration of papakāinga development on multiple owned Maori Land and aspirations for urban development of Maori land**

45. Papakāinga development in Tauranga City often occurs on multiple-owned Māori land, typically in rural areas and on highly productive land.
46. Ensuring that the proposed NPS-HPL does not act as a barrier or additional cost to Maori Land Trusts being able to utilise their whenua to provide affordable and sustainable housing solutions for their shareholders and beneficiaries needs further consideration. In a Growth City, this becomes even more important as housing affordability is a major issue with house price to income ratios being some of the highest in the country.

47. Proposed Policy 7 relates to the consideration of resource consent applications for subdivision and urban expansion on highly productive land. It sets out that when considering an application for subdivision or urban expansion on highly productive land, consent authorities must have regard to five different factors.
48. Although it may be relatively easy for Māori to demonstrate the practical and functional need for the subdivision to occur at that location (Policy 7(c)) – as traditionally papakāinga is Māori housing in a Marae setting and limited to multiple-owned Maori land – it is likely to be more difficult for Māori resource consent applicants to illustrate how they meet the remaining clauses. In particular, applicants may find it difficult to illustrate the extent to which the development will impact on the existing and future use of the land for primary production (Policy 7(b)). Also, the potential reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities (Policy 7(d)) may also be challenging given that the primary reverse sensitivity issue in Tauranga City relates to spray issues resulting from kiwifruit activities.
49. In addition, the inclusion of a site-specific Land Use Capability Assessment prepared by a suitably qualified expert adds another cost, risk and barrier to what is already a complex, onerous and time-consuming process for Māori looking to develop papakāinga. Considering that this appears to be a duplication of the mapping of highly productive land by regional councils, we therefore suggest that further clarification of its purpose is needed for resource consent applicants with the view that this requirement could be removed from the NPS-HPL.
50. Some Maori Land Trusts and Post Settlement Treaty entities also have aspirations for the urban development of Maori land through zoning to residential and business zones. Careful thought needs to be given to this issue in the context of the NPS-HPL as much of this Maori land will be highly productive rural land.

### **Recommendation**

51. Further consideration of Proposed Policy 7 is needed in relation to:
  - the potential implications for papakāinga development on multiple owned Maori land.
  - the need for site-specific Land Use Capability Assessments prepared by a suitably qualified expert.
52. Policies 3 and 7 may also need to be considered in the context of rezoning Maori-owned rural land for papakainga development or urban development to ensure they don't create unnecessary burden on Maori landowners. Alternatively, Policy 1 and the definition of Highly Productive Land could be amended to exclude Maori Land.

### **Resource capacity and capability issues for implementation of the NPS**

53. Resource capacity is an issue that may require further consideration. This is particularly relevant with regards to regional council's role in identifying highly productive land within three years of the NPS-HPL being gazetted. The identification of highly productive land will require considerable effort and a defined skill set. This is not assisted by the vague and subjective nature of some of the proposed criteria for defining HPL may make it difficult to reach agreement in terms of which land should be designated HPL and which should not.

54. Whilst the intent of proposed Policy 7 is supported, the requirements to understand the practical and functional needs for urban expansion to occur in any one location can be complex and should take into consideration a range of funding and infrastructure servicing considerations. Equally, the policy in practice places an onus on the authority to be able to understand the long-term benefits that would occur from the continued or 'potential' use of land for primary production. This is a high bar for many consenting planners in local authorities and will require outsourced expertise from agricultural valuers and technical primary industry consultants.
55. It is noted that there is a proposal for site-specific Land Use Capability Assessments prepared by a suitably qualified expert, but experiences with the current NPS-UDC in terms of economic and feasibility assessments shows that such experts are hard to acquire and much like feasibility assessments, there are varying methodologies to reconcile. There therefore needs to be clear guidance and support in this area from the Ministry for Primary Industries and the Ministry for the Environment.

### **Recommendation**

56. TCC supports that central government provides guidance and technical assistance to councils that are experiencing the greatest pressures on highly productive land in the first instance.
57. The Government should also consider whether it could procure the baseline LUC mapping across NZ to ensure consistency. Regional Councils could then undertake the refinement of this at a local scale, adding and removing areas as appropriate in accordance with Policy 1 and Appendix A.

## Appendix A – Tauranga City Council suggested revisions to the proposed NPS-HPL

TCC suggested changes shown via underline and ~~strikeout~~

TCC comments shown in [square brackets]

### **Objective 1: Recognising the benefits of highly productive land**

To recognise and provide for the value and long-term benefits of using highly productive land for primary production.

### **Objective 2: Maintaining the availability of highly productive land**

To maintain the availability of highly productive land for primary production for future generations.

### **Objective 3: Protecting from inappropriate subdivision, use and development**

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

- avoiding inappropriate 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.

### **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.

[We think that amendments to District Plans should be able to occur without a schedule 1 process as it will occur after changes to Regional Policy Statements which will occur through a Schedule 1 process providing for community participation.]

### **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.

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

[Territorial Authorities are required to amend their District Plans to identify highly productive land identified in a Regional Policy Statement. As such regional councils rather than territorial authorities should undertake the full assessment of highly productive land as inconsistency in the identification of highly productive land between a regional policy statement and a district plan is not permitted by this Policy and would not be a desirable outcome].

- a. [the current or potential availability of water – see question below];
- 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 environmental, economic, social, and cultural benefits it provides; and
- f. water quality issues or constraints that may limit the use of the land for primary production.

Highly productive land excludes:

- a. urban areas; and
- b. areas that have been identified as future urban zones in district plans or have been identified within urban limits in a Regional Policy Statement; and
- c. areas that are zoned for lifestyle development in district plans; and
- d. areas identified as being required to accommodate urban growth in the short (0-3 years) and medium terms (3-10 years) to meet the development capacity requirements of the NPS-UDC/UD at the time the NPS-HPL became operative; and
- e. areas identified in a future development strategy or spatial plan developed collaboratively between central government, local government and iwi; and
- f. [Potential exclusion for Maori land]

#### Proposed 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
- b. consider giving greater protection to areas of highly productive land that make a greater contribution to the economy and community;
- 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.

#### Proposed Policy 3: New urban development and growth on highly productive land

Urban expansion must not be located on highly productive land unless:

- a. there is a shortage of development capacity to meet demand (in accordance with the NPS-UDC methodologies and definitions); and



- b. it is demonstrated that this is the most appropriate option based on a consideration of:
- a cost-benefit or multi-criteria analysis that explicitly considers the long-term costs associated with the irreversible loss of highly productive land for primary production;
  - whether the benefits (environmental, economic, social and cultural) from allowing urban expansion on highly productive land outweigh the benefits of the continued use of that land for primary production; and
  - the feasibility and appropriateness of alternative locations and options to provide for the required demand, including intensification of existing urban areas.

#### Proposed Policy 4: Rural subdivision and fragmentation

Territorial authorities must amend their district plans to manage rural subdivision to avoid fragmentation and maintain the productive capacity of highly productive land, including by:

- a. setting minimum lot size standards for subdivision located on highly productive land to retain the productive capacity of that land;
- b. incentives and restrictions on subdivisions to help retain and increase the productive capacity of highly productive land; and
- c. directing new zoning for rural lifestyle development away from areas of highly productive land.

#### Proposed Policy 5: Reverse sensitivity

Territorial authorities must recognise the potential for sensitive and incompatible activities within and adjacent to areas of highly productive land to result in reverse sensitivity effects and amend their district plans to:

- a. identify the typical activities and effects associated with primary production activities on highly productive land that should be anticipated and tolerated in rural areas;
- b. restrict new sensitive and potentially incompatible activities on highly productive land to ensure these do not compromise the efficient operation of primary production activities;
- c. establish methods to avoid or mitigate reverse sensitivity effects including such as through setbacks and the design of developments; and
- d. establish methods to avoid or mitigate reverse sensitivity effects at the interface between areas of highly productive land and adjacent residential and rural lifestyle zones.

#### Proposed Policy 6: Consideration of requests for plan changes

When considering a request for a private plan change for urban expansion on highly productive land, or to rezone an area of highly productive land to rural lifestyle use, local

authorities must have regard to:

- a. The alignment of the request with relevant local authority statutory and non-statutory plans and policies relating to urban growth and highly productive land;
- b. The benefits (environmental, economic, social and cultural) from the proposed use of land compared to benefits from the continued use of that land for primary production; and
- c. Whether there are alternative options for the proposed use on land that has less value for primary production.

[We note that Policy 3 already addresses requests for private plan changes for urban expansion on highly productive land hence duplication through Policy 6 does not seem to be necessary].

[We also note that if this policy is not redrafted to exclude urban expansion, that point a. above should be reconciled with the provisions of the proposed NPS-UD which enable consideration of greenfield development that is not aligned with local authority statutory and non-statutory plans and policies. As currently drafted these two sets of provisions are in direct conflict and do not create a coherent planning framework for local government implementation and decision-making].

#### Proposed Policy 7: Consideration of resource consent applications for subdivision and urban expansion on highly productive land

When considering an application for subdivision or urban expansion on highly productive land, consent authorities must have regard to:

- a. The alignment of the application with relevant local authority statutory and non-statutory plans and policies relating to urban growth and highly productive land;
- b. The extent to which the subdivision or development will impact on the existing and future use of the land for primary production;
- c. The practical and functional need for the subdivision or urban expansion to occur at that location;
- d. The potential for reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities; and
- e. The benefits (environmental, economic, social and cultural) from the proposed activity compared to the long-term benefits that would occur from the continued or potential use of the land for primary production.

Resource consent applications must include a site-specific Land Use Capability Assessment prepared by a suitably qualified expert.

[We question the need for a site specific land use capability assessment in any resource consent process if the mapping required by Policy 1 has been completed. It seems that it would duplicate this information at additional cost without any obvious additional benefit].

[We also note that providing for papakāinga development on Maori Land may need to be specifically provided for in this Policy].

## Interpretation

### Highly productive land means:

- a. land that has been identified as highly productive by a local authority in accordance with Policy 1 and Appendix A of this national policy statement; or
- b. where a local authority has not identified highly productive land in accordance with Policy 1 and Appendix A, a land parcel in a rural area that contains at least 50% or 4 hectares of land (whichever is the lesser) defined as Land Use Capability 1 **and**, 2 **(and, in relation to rural lifestyle development, 3)** as mapped by the New Zealand Land Resource Inventory or by more detailed site mapping; but
- c. does not include:
  - urban areas or areas that have been identified as a future urban zone in a district plan or proposed district plan or have been identified within urban limits in a Regional Policy Statement; and
  - areas that are zoned for lifestyle development in a district plan or proposed district plan; and
  - areas identified as being required to accommodate urban growth in the short (0-3 years) and medium terms (3-10 years) to meet the development capacity requirements of the NPS-UDC/UD at the time the NPS-HPL became operative; and
  - areas identified in a future development strategy or spatial plan developed collaboratively between central government, local government and iwi; and
  - [Potential exclusion for Maori land]

### Primary production means:

- a. any agricultural, pastoral, horticultural, or
- b. forestry activities; and
- c. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); and
- d. includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but
- e. excludes further processing of those
- f. commodities into a different product.

**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) but does not include consideration of wider soil quality issues.

**Sensitive activity** means an education facility, community facility, residential activity, visitor accommodation, retirement village, health facility or hospital, marae.

**Rural area** means an area identified in a district plan or proposed district plan as a general rural zone or rural production zone, but does not include an area identified as a rural lifestyle zone (however described).

**Rural lifestyle development** means subdivision and development where the primary purpose is rural- residential or rural lifestyle use within a rural area with a lot smaller than those of the General Rural and Rural Production zones, typically in the range of 0.2-8 hectares.

**Urban area** means:

- a. an area identified in a district plan or proposed district plan as being primarily zoned for residential, industrial, or commercial activities, together with adjoining special-purpose and open-space zones, however described; but
- b. does not include an area zoned primarily for rural or rural-lifestyle activities, however described.

**Urban expansion** means a rezoning or development proposal that would result in land use change from a primarily rural use to a primarily urban use (residential, industrial or commercial).

**General rural zone** means areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

**Residential activity** means the use of land and building(s) for people's living accommodation.

**Rural lifestyle zone** means areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.

**Rural production zone** means areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

### Timeframes

The proposed NPS would set out timeframes for giving effect to certain policies, with other policies having immediate effect from the date the proposed NPS is gazetted. The proposed timeframes are as follows:

- **Proposed Policy 1.1 and 2** – regional councils must identify highly productive land no later than three years after the NPS is gazetted; and
- **Proposed Policies 1.2, 2, 4 and 5** – territorial authorities must implement these policies no later than two years after the relevant regional council identifies highly productive land in accordance with proposed Policy 1.1, or no later than

five years after the NPS is gazetted.

The objectives and remaining policies in the proposed NPS would have immediate effect from the date the NPS is gazetted and would have to be implemented as soon