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Dear Sir/Madam

**Waikato Regional Council Submission to Proposed National Policy Statement on Highly Productive Land**

Thank you for the opportunity to submit on the Proposed National Policy Statement on Highly Productive Land. Please find attached the Waikato Regional Council's submission regarding these documents. The submission was formally endorsed by the Council's Strategy and Policy Committee on 10 September 2019.

Should you have any queries regarding the content of this document please contact Miffy Foley, Senior Policy Advisor, Policy Implementation Team directly [REDACTED]

Regards

A handwritten signature in black ink, appearing to read "Tracey May".

Tracey May  
**Director Science and Strategy**

## **Submission from Waikato Regional Council on the Proposed National Policy Statement on Highly Productive Land**

### **Introduction**

1. We appreciate the opportunity to make a submission on the Proposed National Policy Statement on Highly Productive Land.
2. Waikato Regional Council (the Council) recognises the importance of protecting highly productive soils and land from the irreversible effects of uncontrolled urban expansion. The Waikato has a rich supply of high class soils and has experienced considerable loss of highly productive land. Between 2001 and 2017, the area of total residential use on versatile land approximately doubled, an area equivalent to more than 540 hectares (more than four average-sized dairy farms) per year in the Waikato region.
3. The council supports the approach of a National Policy Statement which provides a robust, clear framework for managing highly productive land that provides adequate protection for this nationally significant taonga. Clear, directive policies are critical for enabling decision makers to give appropriate consideration to competing land use values.
4. The council acknowledges the issue is broader than just protecting productive soils it is about the effective and efficient use of soils and productivity as a whole. The national direction should also consider focusing on enabling the productive use of high class soils, not just protecting these soils through land use controls, with some level of flexibility. As there is diversity of soils and urban development/rural lifestyle pressures throughout New Zealand, any national direction should provide a strong direction for the protection of highly productive soils and associated productive capacity.
5. WRC evidence supports the belief that the current planning framework is insufficient for the protection of highly productive land resources.
6. The council submits that the proposed national direction must be informed by robust evidence and a more detailed spatial understanding of the pressures and planning approaches that are resulting in the loss of productive soils across New Zealand.
7. The NPSHPL will require an additional and extensive piece of work to better understand HPL resources in order to be able to carry out a spatial planning exercise. Council submits this could be conducted at a national level and informed by individual regions, rather than undertaken region-by-region.
8. Clarity on the roles of district versus regional councils is requested. Council requests that any devolution of responsibilities to local authorities is accompanied by substantial resourcing and consideration of inter-regional coordination issues.
9. This submission aligns with the format of the discussion document with responses provided to the questions posed within the discussion document.

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### **What are the values and benefits associated with highly productive land?**

10. The council is supportive of the approach to define highly productive soils (HPS) as land use capability (LUC) classes 1-3 from the Land Resource Inventory (LRI) dataset. Highly productive land (HPL) as defined in the NPS–HPL has a broader meaning that may relate to a smaller or larger area than the LUC 1-3 area and is something that needs to be defined within a local context as indicated in the NPS. Within this document, the terms HPS and HPL appear to be used interchangeably, which may lead to confusion.
11. The values of ‘highly productive land’ includes economic values such as the production/provision of food and fibre (particularly in proximity to local markets), income/wealth generation, employment, tourism (landscape amenity), diversity and self-sufficiency, and other associated economic activity and growth; social values such as supporting the viability and vibrancy of rural communities and their way of life; cultural values such as maintaining and sustaining spiritual and ancestral connections between people, their land and its use (enabling a sense of belonging for current and future generations); and the value of other *ecosystem services* such as (for example) carbon sequestration, attenuation of water flow through the landscape, nutrient attenuation, and biological diversity.

### **What are the values and benefits associated with existing food growing hubs and how can these be maximised?**

12. The values and benefits associated with existing food growing hubs include established economic production near consumer and labour markets which is supported by existing processing and transport infrastructure, and well-established knowledge that the soils and climate are suitable to support the food production. These values and benefits can be maximised by careful sustainable management of existing uses and by protecting these areas from rural subdivision and urban expansion.

### **Does the RMA framework provide sufficient clarity and direction on how highly productive land should be managed? Why/why not?**

13. The importance of highly productive land is not specifically recognised by the RMA. Evidence in the Waikato would also confirm the current planning framework does not provide sufficient direction or clarity for managing highly productive land. Our [Waikato Progress Indicator ‘Residential Expansion onto versatile land’](#) shows that:
  - a. Residential expansion onto versatile land has been increasing over the four time steps noted in the discussion paper. Between 2001 and 2017, the area of total residential use on versatile land approximately doubled, with an average increase of 542 ha per year – an area equivalent to more than four average-sized (123 ha) dairy farms in the Waikato region.
  - b. Between 2001 and 2017, rural residential expansion accounted for most of the total residential expansion onto versatile land, with the rate of rural residential expansion (average increase of 407 ha per year) considerably greater than the rate of urban residential expansion (average increase of 135 ha per year).
  - c. Between 2001 and 2017, residential expansion onto versatile land accounted for the majority (more than 80%) of all residential expansion in the region, and more than half of this expansion was onto the most versatile land (Land Use Capability classes 1-2).
  - d. In decreasing order, residential expansion onto versatile land has occurred most rapidly in the Waikato district, Waipa district, Hamilton City, and Matamata-Piako district. Lower rates of change were observed for the Hauraki, Taupo, Thames-Coromandel, Otorohanga, South Waikato, and Waitomo districts.

**Does the RMA framework provide sufficient clarity on how highly productive land should be considered alongside competing uses? Why/why not?**

14. As outlined in response to Q3, the current planning framework does not provide sufficient clarity to decision makers which has resulted in suboptimal outcomes for versatile land.

**How are values and wider benefits of highly productive land being considered in planning and consenting processes?**

15. Implementation of the current planning framework has been observed to be hindered by the lack of clear directive guidance from central government. Conflicts between regional councils and territorial authorities has been observed. Territorial authorities are under pressure to allow development of greenfield land to accommodate growth. In addition, when pockets of land have been allowed to be developed for urban uses that are not contiguous to existing urban areas, the land in between is almost invariably subject to fragmentation for urban or rural lifestyle uses, over time, squeezing out rural production activities. Currently there is no efficient mechanism which regional councils might employ to avoid this pattern of growth on highly productive land. The council supports amending the current framework to provide unambiguous direction to consent decision-makers to avoid these cumulative effects.

**How is highly productive land currently considered when providing urban expansion? Can you provide examples?**

16. Use of highly productive land for urban expansion has been seen as a more acceptable compromise than for other constraints to development such as indigenous biodiversity or natural hazards in the absence of any directive policies around its value. Often highly productive land presents fewer challenges to develop, being flat or rolling, cleared land and is therefore less costly to develop and service.
17. In the Waikato Region, a number of towns are located on highly productive land so any expansion of those towns will impact on this land. Figure 1 is an extract from the council's Land Resource Inventory map for Matamata which shows that the town is surrounded by LUC 1 and 2 land. Council considers that where there are no alternative lower class soil options available, absolute avoidance of development on high class soils is problematic.

LUC 1

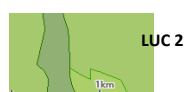


Figure 1: Matamata Land Resource Inventory Map

**How should highly productive land be considered when planning for future urban expansion?**

18. Improved spatial planning together with national level direction on the importance of protecting highly productive land will assist in the future management of highly productive soils.

**How is highly productive land currently considered when providing for rural-lifestyle development? Can you provide examples?**

19. Evidence suggests that if the objective is to maintain the productive potential of highly productive land, this is not given adequate weight in planning decisions (see response to question 3).
20. While a number of district plans do provide for this as a matter of consideration, it is often very site-centric and does not account for the cumulative effects of land fragmentation and reverse sensitivity.

**How should highly productive land be considered when providing for rural-lifestyle development?**

21. Rural-lifestyle development should be directed to non-highly productive land. Highly productive land is a valuable non-renewable resource, if following a strategic planning process is to be used for a purpose other than rural production, it should be used efficiently.
22. In some localities fragmentation has already occurred to the extent that the land has very little productive capacity. There are several examples of this within the Waikato region, such as Tamahere on the south eastern side of Hamilton, and around Cambridge. The council submits that these areas that may be considered highly productive but are already subject to a degree of fragmentation may be one of few examples where rural-lifestyle development may be appropriate, but this should be confirmed through spatial planning processes, rather than be allowed to continue through ad-hoc rural subdivision.

**How should the tensions between primary production activities and potentially incompatible activities best be managed?**

23. Within rural areas, activities that have a functional need for a rural location because they form an integral part of rural production systems should be provided for, but incompatible activities such as residential, community and other sensitive activities should be avoided.
24. While this is the general direction provided by many third generation RMA plans, the intention is often not upheld in response to resource consent applications, where it is difficult to adequately give weight to the cumulative effects of individual proposals. Further direction to give weight in resource consent decisions to the potential for cumulative effects to arise, undermining the ability for rural production systems to continue to operate efficiently and effectively, may be useful in this respect.
25. In some other countries, such as in the state of NSW in Australia, governments have a 'right to farm' policy which is intended to support the right of farmers to undertake lawful agricultural practices without conflict or interference arising from complaints from neighbours and other land uses.

**How can reverse sensitivity issues at the rural-urban interface best be managed?**

26. Rural lifestyle activities can provide a buffer between urban land uses and rural land use, as can other non-residential urban uses and public open space. The council proposes that the rural – urban interface is managed through spatially defined buffer zones.

**Do you agree that there is a problem? Has it been accurately reflected in this document?**

27. Yes, regional authorities and the wider soil science community have recognised the loss of highly productive land as a problem for more than 20 years now. The problem has been well described in the consultation document. It is clear that the approach to the management of highly productive land varies between regions and districts.

**Are you aware of other problems facing highly productive land?**

28. Yes, the Waikato Regional Policy Statement identifies issues that can arise which include:

- Declining soil quality (e.g. loss of organic carbon and compaction/structural degradation) under intensive use
- Nutrient and/or sediment loss from soils under more intensive primary production
- The accumulation of diffuse contaminants (e.g. trace elements like cadmium) in soils under intensive use.

29. Within the current planning framework, the benefits to the wider community of maintaining land for growing food and fibre are often not quantified, meaning that these considerations do not often carry weight when weighed against other, more readily quantifiable costs and benefits of land use and development proposals.

**Which option do you think would be the most effective to address the problems identified in Chapter Three? Why?**

30. The council supports the proposed national policy statement for highly productive land as the preferred option for addressing the problems identified in Chapter Three.

31. However, wider reforms should also be considered, such as establishing, or charging an existing national agency, with responsibility for the identification and monitoring of land use on highly productive land (see response to question 23).

**Are there other pros and cons of a National Policy Statement that should be considered?**

32. No further specific response.

**Should the focus of the National Policy Statement be on versatile soils or highly productive land more broadly? Why/why not?**

33. Soils are a critical, non-renewable, irreplaceable attribute of a rural production systems and strong weight needs to be given to the identification and protection of 'versatile land' defined on the basis of inherent characteristics of the soil and land. Notwithstanding this, other factors also need to be taken into account, in particular the degree of existing land fragmentation (see response to question 24) – there should be caution in broadening the factors to be considered too far as this will lead to considerable dispute, uncertainty and costs.

34. We note that the proposed policy 3 (see response to question 29) does provide a 'pressure release valve' that provides some flexibility to allow alternative use of highly productive land where a council needs to meet a long-term shortage of feasible development capacity.

**Should the focus of the National Policy Statement be on primary production generally or on certain types of food production activities? Why/why not?**

35. Whilst the council does not regard any land use inherently more important than another, it is appropriate that the focus of the NPS is on primary production. This is because highly productive land other than that already under certain types food production are also worthy of protection from residential expansion or rural fragmentation as that land could be used for more intensive food production in the future.

**Do you support the scope of the proposal to focus on land use planning issues affecting highly productive land? Why/why not?**

36. Yes, because better land use planning is needed to achieve greater protection of HPL going forward.

**What matters, if any, should be added to or excluded from the scope of the National Policy Statement?**

**Why?**

37. The council supports the inclusion of guidance for resolving potential conflict between national level policies which sit at the same level. In the event of unforeseen conflict between the national policy statement for urban development and the national policy statement for highly productive land, it would be preferable for national policy to provide direction to manage such conflicts, such as a weighting exercise.

**Should future urban zones and future urban areas be excluded from the scope of the National Policy Statement? What are the potential benefits and costs?**

38. The council agrees that land already zoned as urban in a district plan should be excluded from the scope of the NPS and that land not already zoned as urban in a district plan (i.e. future urban areas) should be included in the scope (i.e. be subject to protection under the NPS).

**Should the National Policy Statement apply nationally or target areas where the pressures on highly productive land are greater?**

39. The NPS should apply nationally because this is a national issue and, the areas of high pressure at the present time may change or expand in the future. However, the NPS should allow regions the flexibility to focus on specific high-pressure areas for more detailed mapping of HPL (if required).

**What would an ideal outcome be for the management of highly productive land for current and future generations?**

40. The ideal outcome would be that highly productive land is protected from urban expansion and rural fragmentation as much as possible and is preserved for primary production uses into the future.

**Policy 1: Identification of highly productive land. If highly productive land is to be identified, how should this be done and by whom?**

41. As this is a national issue, the council supports a central government led, nationally consistent approach to highly productive land identification and mapping.
42. There is a lack of information held throughout the country, which could be addressed through a national-level agency. This agency should be informed by qualified soil scientists with the input of universities, crown research institutes and local government representatives. This national level agency should be resourced to define, identify, and map HPL at the appropriate scales across New Zealand.
43. Regional-scale maps could be produced using available national and regional datasets. If the intent is to generate information as a scale of less than 1:50,000 this would likely require new, 'on the ground' mapping of LUC and other characteristics. This would ensure a level of national consistency, while also allowing for important regional differences to be accommodated. An ongoing funding commitment from central government would also be needed to maintain and periodically update the 'National HPL layer'. Periodic updates would be required because some of the proposed criteria for the definition of HPL will likely change over time.
44. If it is intended that this responsibility is to be devolved to local authorities then there are substantial resourcing and inter-regional coordination issues that will need to be investigated further.



**Are the proposed criteria all relevant and important considerations for identifying highly productive land? Why/why not?**

45. The criterion around the capability and versatility of the land to support primary production (based on the LUC) is relevant and important for identifying HPL because this speaks to the inherent biophysical productive potential of the land and is relatively unchanging (i.e. it is an objective and stable criteria that is well defined). The criterion around the size and cohesiveness of the area to support primary production is also relevant and important as a minimum size threshold needs to be applied for practical implementation purposes (again, this criterion is objective and well defined).
46. All other proposed criteria are more problematic as they are less well-defined, more subjective in their implementation, and are likely to change over human time scales. For instance, it is unclear how the climate related criterion would be applied as the climatic characteristics important for crop growth will be specific to a type of crop. Also, climatic limitations are already considered within the LUC classification to some extent.
47. Regional differences in the interpretation and application of the proposed criteria could result in significant cross-boundary issues (i.e. HPL polygons at regional boundaries not aligning with those on the other side of the boundary).
48. The proposed NPS would require regions to undertake the definition and identification of HPL in consultation with their communities. 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.

**Policy 2: Maintaining highly productive land for primary production.**

49. The council requests that Policy 2 be amended to clarify the responsibilities of territorial authorities and regional councils.
50. It is noted that c) and d) are noted to be subjective and open to interpretation. We submit that there should be a clear separation of responsibilities borne by regional councils and territorial authorities. Overlaps, or duplication of functions between regional councils and territorial authorities should be avoided.

**What are the pro's and con's associated with prioritising highly productive land for primary production?**

51. We consider the following:
  - a) Pros: clarity for delineation of primary production land use. Adopting a precautionary approach to managing highly productive land will ensure the longevity and create certainty for productive industries.
  - b) Cons: locking-out other potentially also 'highly productive' (economically) land uses (e.g. retail, business, industrial, residential). Given the future of food (from meat to plant-based, from pasture to laboratory and hydroponically grown produce) land for primary production may become less scarce.

**Do you think there are potential areas of tension or confusion between this proposed National Policy Statement and other national direction (either proposed or existing)?**

52. The draft NPS comes at a time of heightened uncertainty with a number of other national policy proposals being consulted on in parallel, and along with wider Resource Management Act reform.

53. We also note a potential tension between this proposal and the Zero Carbon Bill. In particular, there is a need to allow for carbon farming on peat lands – not just primary production, and to factor in that peat swamps may end up being a significant carbon sink if reinstated as a swamp and removed from primary production. We need to consider how this would affect the supply of highly productive land if the value of significant areas of peat land for carbon farming exceeded its value for food production and was retired from primary production.

**How can the proposed National Policy Statement for Highly Productive Land and the proposed National Policy Statement on Urban Development best work alongside each other to achieve housing objectives and better management of the highly productive land resource?**

54. Consideration should be given to combining these documents due to the number of overlaps and the requirement for strategic spatial planning region-wide for urban development and highly productive or versatile land.

**Policy 3: New urban development and growth on highly productive land. How should highly productive land be considered when identifying areas for urban development?**

55. The council supports an amendment to proposed Policy 3 (a) to refer to 'long term' shortage of development capacity.
56. Policy 3 (a) should be amended to refer to a 'long term' shortage of development capacity so that development on highly productive land is not enabled when there is a short term shortage that is able to be resolved in the longer term as for example, development infrastructure is put in places.
57. In the Waikato many urban centres are experiencing growth pressures, leaving few options for lateral urban expansion without encroaching on highly productive land. The council is of the view that the ability to develop on highly productive land where a long-term supply shortage is demonstrated reflects an appropriate balance of these two considerations.

**Policy 4: Rural subdivision and fragmentation. How should the National Policy Statement direct the management of rural subdivision and fragmentation on highly productive land?**

58. The council supports an amendment to proposed Policy 4 whereby a nationally consistent minimum lot size is set, in lieu of a more detailed understanding of 'highly productive land'.
59. This should not limit the ability of district councils to set larger minimum lot sizes where they have already done so.
60. This proposed policy is intended to encourage territorial authorities to manage rural resource in a more strategic and considered manner. Whilst it is acknowledged that there are local considerations which should inform land development policy, in lieu of more detailed LUC classification and criteria for land release, a nationally consistent approach to further fragmentation of highly productive land should take precedence. A national approach should also allow for transferable development rights and encourage amalgamation opportunities.
61. An alternative approach may be to disestablish the right to build a dwelling on an individual land parcel and create an alternative framework for dwelling entitlements within rural areas. This would provide a disincentive to subdivide and further fragment land as dwelling rights would be separated from the creation of a new lot.
62. A further alternative could be the setting of a minimum lot size for a rural dwelling to encourage amalgamation of existing smaller parcels to create lots that meet the minimum lot size.

**Policy 5: Reverse sensitivity. How should the National Policy Statement direct the management of reverse sensitivity effects on and adjacent to highly productive land?**

63. See response to questions 10 and 11.

**Policies 6 and 7: Consideration of private plan changes and resource consent applications on highly productive land**

64. The council would prefer that policies three and four are relied upon, rather than policies six and seven which reduces the clarity provided by the proposed Regional Policy Statement.

**Should the policies extend beyond rural lifestyle subdivision and urban development to large scale rural industries operations on highly productive land? Why/why not?**

65. The council submits that if the policy extends to large scale rural industries operations on highly productive land, the impact on versatile soils should be minimised and that these activities should be subjected to a strict functional need test, akin to what is required for activities locating in the coastal marine area.

66. This is important to avoid the establishment of activities that would be equally able to locate in a general industrial zone in an urban location, and that are better serviced by transport and other infrastructure, but are seeking to benefit from the generally lower land prices that a rural location offers.