

8 October 2019

NPS-HPL Submission
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Christchurch City Council submission on the discussion document on a *National Policy Statement for Highly Productive Land*

Overall Submission Points

1. Christchurch City Council (the Council) thanks the Ministry for the opportunity to provide comment on the discussion document on a *National Policy Statement for Highly Productive Land*. We again express our concerns about the timeframe for submissions being so close to the local body elections.
2. The Council supports a NPS being prepared that provides policy direction on the protection of highly productive land under the Resource Management Act (RMA). It supports ensuring that the primary production potential of such land is protected for primary production in preference to other potential uses, particularly urban growth and rural lifestyle development. It supports the protection of land with versatile soils and notes the significance of versatile soils for local food production, to reduce emissions and mitigate climate change.
3. It is acknowledged that the draft NPS forms part of a discussion document that seeks feedback on a number of issues that have not been resolved. However, the Council is concerned that the NPS, in its current form, provides limited clear direction and contains uncertainty and internal inconsistency. This has the potential to involve Councils and communities in significant planning assessment work in a more complicated and less certain statutory environment, with increased legal debate, compared to dealing with the issues under the RMA without the NPS. It is also likely to result in variations in approach across the country, rather than a nationally consistent approach where circumstances are similar.

4. In particular, the Council seeks changes to the NPS to:
 - (i) clearly identify what is to be protected and why;
 - (ii) clearly identify what it is to be protected from and to what degree, through clear policy direction; and
 - (iii) ensure consistency with other National Policy Statements, particularly the NPS – Urban Development.
5. The following are the principal submission points of the Council, with more detailed submission points and the reasons for the submissions in the attached documents.

The purpose of the NPS and the land that should be protected

6. The principal objective of the NPS should be to protect the productive potential of land that is suitable for a wide range of primary production activities, where that range includes those forms of primary production that require land with attributes that are scarce. In particular, it should seek to protect the production potential of land with highly versatile soils suitable for a wide range of primary production activities (LUC Classes 1-3).
7. This would maintain the productive potential that is most critical for maintaining the future ability of NZ to produce a wide range of food and other forms of primary production. It is the land with more versatile soils that more clearly justifies a high bar on its use for other activities that are likely to reduce or remove primary productive potential, such as urban development. This land is also reasonably readily able to be identified now, so that the NPS can provide clear direction on what is to be protected.
8. There is other land that is important in terms of economic returns and wider related benefits, e.g. land suitable for viticulture. However, it is submitted that the NPS need not protect that land. The justification for protecting land on the basis of suitability for particular crops or other particular forms of primary production is less clear and does not appear to have been progressed in the formulation of the NPS at this time. Protection of such land can still be achieved, where justified, through normal RMA plan and regional policy statement preparation and assessment/section 32 processes.
9. The NPS needs to be clear that it is not the intention to require the degree of protection proposed for all land that has some primary production potential. Where land has limited primary production potential, it should not be necessary to justify that there is no other better alternative location or method of providing for urban growth, or to avoid its use for rural lifestyle development.
10. The Council supports the proposed provisions to allow LUC Class 1-3 land to be subject to later review as to whether they should all be identified as “highly productive land”, where there are constraints to the achievement of that productive

potential or the land has other significant values that outweigh its use for primary production. However, the matters that can be considered should not be limited to those currently listed, but should include all relevant considerations.

Protection of highly productive land from some forms of primary production

11. There are forms of primary production that could also reduce the availability, at least for long periods, of highly productive land for those forms of primary production that more particularly require the higher quality soils and other attributes of highly productive land. The NPS should provide explicit direction restricting some forms, or characteristics, of primary production in order to maintain the availability of the productive capacity of highly productive land.

Urban development and consistency with the NPS – Urban Development Capacity

12. The objectives indicate that subdivision of highly productive land should be avoided, whereas the policies indicate that urban development of highly productive land should be avoided only if it is not the most appropriate option for providing any shortfall in urban development capacity. The Council supports the latter direction and seeks that the objective be amended to reflect this.
13. The Council also considers that it would be inappropriate for the NPS to seek the maintenance of the productive potential of highly productive land where the use of that land for urban development accords with a Future Development Strategy produced in accordance with the NPS – Urban Development. Amendments to the objectives and the definition of “highly productive land” are necessary to achieve this.
14. The NPS currently limits the policies that are to be implemented by regional councils. However, regional councils have a role in terms of many of the matters covered in the other policies, particularly through urban growth strategies in regional policy statements. For example, the identification of future urban growth areas and rural lifestyle areas. All the policies should apply to regional councils, where potentially relevant.

Separate policy direction for private plan changes and resource consent applications

15. The NPS contains specific policy direction as what matters must be had regard to when making decisions on private plan changes and resource consent applications. This is proposed to ensure that highly productive land is protected from such applications immediately, rather than only when the regional policy statements and district plans have been amended to reflect the NPS. This is not necessary as the RMA already requires that any decision on such applications must have regard to, or give effect to, any relevant NPS.

16. Further, the plan change and resource consent policies cover the same issues as the earlier objectives and policies of the NPS, but with slightly different wording in some cases. This creates potential for confusion and uncertainty and leaves the provisions open to the suggestion that different outcomes are intended. There is no clear basis for different policy direction for such applications compared to that for plans and policy statements. The specific policies for these applications do not provide any useful additional policy direction. As such, these specific policies should be deleted and the same policy direction should apply equally to private plan changes and resource consent applications as applies to the content of district plans and regional planning documents, where relevant.

Other matters

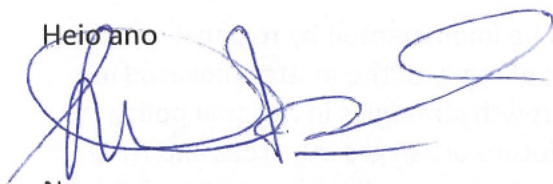
17. The policy direction on the fragmentation/subdivision of highly productive land, and the protection of the productive potential of such land from reverse sensitivity effects, is inconsistent and requires clearer direction.

Conclusion

18. The Council looks forward to working with Government in achieving the appropriate protection of highly productive land. We thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Peter Eman, Principal Advisor Planning, at [REDACTED]

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Hon. Lianne Dalziel

Mayor of Christchurch

Christchurch City Council submissions on the proposed National Policy Statement for Highly Productive Land

i. Overview

- The purpose of National Policy Statements is to provide policy direction on how specific resource issues covered by the Resource Management Act (RMA) are to be managed. The proposed National Policy Statement for Highly Productive Land (NPS - HPL) seeks to improve how “highly productive land” (HPL) is managed under the RMA by Regional and District Councils. In particular, to ensure the primary production potential of such land is protected for primary production compared to other potential uses, particularly urban growth and rural lifestyle development.
- The draft NPS - HPL contains limited clear direction, partly because fundamental issues on what it is trying to achieve, its scope and appropriate direction are yet to be resolved. This is reflected in the questions asked in the discussion document, which include whether the focus of the NPS should be on versatile soils (Class 1-3 soils identified under the Land Use Capability classification system) or more broadly on “highly productive land”. The latter term is poorly defined and potentially includes any land that has potential for any type of primary production.
- The direction that is clear is largely limited to the starting point that land with versatile soils Class 1-3 will initially be immediately protected until a review by regional councils. But the uncertainty, internal inconsistency, and lack of direction that is in the rest of the draft NPS raises questions as to its value. It has the potential to involve Councils and communities in significant planning assessment work in a more complicated and less certain statutory environment, with increased legal debate, compared to dealing with the issues under the RMA without any NPS. However, a modified NPS that is more appropriately focused has the potential to provide more useful direction, provide greater certainty and reduce potential litigation.
- The discussion document indicates that the intent of the NPS is to ensure that the economic argument that HPL is worth more if used for urban development, does not prevail over the irreversible loss of its primary production potential. It also indicates an intention that urban development should be consistent with future development strategies under the NPS – Urban Development. However, none of the objectives or policies include clear policy direction to this effect. Rather the existing direction requires a balancing of the benefits and costs of the options for the future use of HPL.

Submissions

- a. The concept of a NPS for Highly Productive Land is supported. However, the NPS needs to be amended to be more appropriately focused, provide more useful direction, and provide greater certainty.

ii. The purpose of the NPS and the land that should be protected

- The NPS seeks to improve the weight given to, and the protection of, HPL in regional RMA documents, district plans and resource consent applications. In particular it seeks to avoid the use of such land for urban development (except possibly when there is no other more appropriate alternative), avoid using such land for rural lifestyle activities, and ensure new sensitive activities do not pose reverse sensitivity risks for the use of such land for primary production. However, the NPS is not certain or clear what "highly productive land" is, due to the definition and Policy 1 that it relies on.
- The protection directed by the NPS is initially just Class 1-3 soils, but it is proposed that regional councils will have 3 years to review the land identified as HPL. This may include removing land with Class 1-3 soils if their productive potential is constrained after consideration of listed factors, e.g. lack of water for irrigation. That review will also enable land with other less versatile classifications to be identified as HPL having considered the listed factors.
- However, the listed factors are just issues for consideration. They contain no criteria or measures, or specific direction, as to when land should, or should not, be identified as HPL. In essence, any land that has any potential for any form of primary production potentially should or could be identified as HPL. Councils and their communities will in effect have to go through the full normal RMA assessment and statutory processes, without any clear direction from the NPS, to resolve which land should be identified as highly productive land.
- If anything, the uncertainty and internal inconsistency in the current form of the NPS is likely to make the assessment and identification of HPL more convoluted and difficult, with greater potential for legal debate, than if the NPS did not exist. It is also likely to result in variations in approach across the country, rather than a nationally consistent approach. These difficulties are particularly likely to arise considering the significant restrictions proposed to be imposed on the use of HPL and the consequences of that for landowners and the wider community.
- Some land with primary production potential would not seem to justify the level of protection proposed by the NPS. For example, land which only has primary production potential for factory farming, hydroponics, or other primary production that does not rely on the production potential of the soil. Probably also where the land has limited primary production potential, such as that only suitable for sheep grazing or plantation forestry.
- The protection proposed in the NPS should focus on land that can be used for a wide range of primary production and particularly on land that has the scarce versatile soils. That would best maintain the future ability of NZ to produce a wide range of food and other forms of primary

production. There is also a relatively good degree of certainty as to which land is to be protected.

- In terms of the factors in the draft NPS that can be considered when deciding whether land should be identified as HPL, this is currently limited to those listed. However, there are other factors that may influence the primary production potential of land or whether it is appropriate to protect it for primary production. For example, whether the land is at potential risk from natural hazards, where there is potential for reverse sensitivity effects arising from existing sensitive activities in the area, and where the land has significant landscape or indigenous fauna values.

Submissions

- a. The focus of the NPS and the protection it affords, should be focused on the protection of land with highly versatile soils suitable for a wide range of primary production activities (LUC 1-3), and the protection of that production potential. However, it should include, as proposed, the ability for Councils to exclude such land where other factors significantly detract from that potential of the soils. This would clearly define the land that must be considered for protection. Other land that is valued for its potential primary production purposes, such as viticulture, could still be protected through normal RMA plan preparation processes and s.32 assessment. Importantly, it would remove the implication that all land that has some capability for primary production is to be potentially covered by the NPS obligations and restrictions.
- b. The factors listed in Appendix A of Policy 1 for determining whether land should be identified as HPL should not exclude any other relevant matters. The list should specifically include potential risk to primary production from natural hazards, potential for reverse sensitivity arising from existing activities in the area, and significant landscape or ecological values.

iii. Use of highly productive land for urban development and inconsistency between the NPS - HPL and the NPS - UD

- Draft Objective 3 seeks that the subdivision of HPL be avoided. However, Policy 3 only requires avoidance of the use of HPL for urban development where there is no more appropriate alternative to provide for any shortfall in urban development capacity. The direction in the policy is appropriate and the objectives should be amended to reflect that. This is particularly important in Greater Christchurch where there are few options for providing for greenfield development, in accordance with the NPS - Urban Development, without using highly productive land.
- Draft Objective 3 also seeks to avoid urban development on highly productive land that has not been subject to "a strategic planning process". The objectives should clarify the reference to "a strategic planning

process" by amending it to where the urban development of the land is not in accordance with the Future Development Strategy produced in accordance with the National Policy Statement – Urban Development (NPS – UD).

- It is noted that the draft NPS - UD proposes to require that plan changes that enable urban development must be permitted to provide for that urban development, irrespective of whether it is on highly productive land and even if it is not in accordance with the Future Development Strategy produced in accordance with the National Policy Statement – Urban Development. It will be important that the NPS - HPL and NPS - UD are consistent in both respects and avoid urban development of HPL where there is a more appropriate alternative and where not in accordance with a Future Development Strategy.
- The definition of highly productive land excludes urban areas or areas identified as a future urban zone in a district plan or proposed district plan". This raises two issues. At the time this NPS comes in to effect, any Future Development Strategy that has already been produced would need to be reviewed in accordance with the NPS – HPS, if it included HPL land for urban development that had not yet also been included in the district plan or a proposed plan. This would be necessary even if that strategy and the particular future urban land had been incorporated into the RPS in accordance with the NPS – UD. It would be more appropriate to also exclude highly productive land that has already been identified for future urban use in a future development strategy produced under the NPS - UD.
- Secondly, it is unclear whether the term " identified as a future urban zone in a district plan" means only where land has been zoned "Future Urban Zone", or where land is identified in some other way in the district plan as a future urban area that has not been zoned, and/or land not currently used for urban activities but has a zoning with another name that will allow urban activities. The latter would seem to be appropriate. Note that if the intention was to be consistent with the National Planning Standards 2019, which specifies a “future urban zone”, such zone names do not need to be included in district plans for at least 5 years – 7 years in the case of Christchurch City and a number of other Councils.
- It is proposed that regional councils only have to implement draft Policies 1.1 and 2. However, in Canterbury and other regions of NZ, Regional Policy Statements also contain provisions relating to the matters covered in the remaining draft policies, particularly as part of their urban growth strategy. For example, they identify future urban growth areas and include provisions relating to land fragmentation, including provisions relating to rural lifestyle development. It would be more appropriate to require regional councils to implement all relevant aspects of the NPS.

Submissions

- a. Amend the objectives to require avoidance of the use of HPL for urban development only where there is no more appropriate alternative and is in

accord with any Future Development Strategy. The latter amendment should also be included to Policy 3. Similar amendments should be made to the NPS – UD.

- b. Amend the definition of “highly productive land” to also exclude highly productive land that has already been identified for future urban use in a future development strategy produced under the NPS – UD. Also amend the definition so the term “identified as a future urban zone in a district plan” is replaced with “zoned to provide for urban activities”.
- c. Require regional councils to implement all relevant objectives and policies of the NPS.

iv. Protection from some forms of primary production

- Draft Policy 2 seeks to protect the availability and productive capacity of highly productive land for primary production and protect it from inappropriate use. It is not clear whether it is the intention to also limit the use of highly productive land from forms of primary production that can reduce availability, at least for long periods, for those forms of primary production that more particularly require the higher quality soils and other attributes of the land. Examples of forms of primary production that may lock up the productive potential of the land include forestry, factory farming and other primary production that does not rely on the soil, particularly where buildings have concrete floors. It would seem to be appropriate to limit such forms of primary production to maintain the availability of the productive capacity of the land, as indicated in the policy.
- This may be what was intended by sub-clause b. of the policy which seeks “greater protection of highly productive land that make a greater contribution to the economy”. The intent of that wording is far from clear on a number of counts, but it seems to be referring to land that can sustain more valuable forms of primary production. Certainly the reference at the start of the policy to protecting productive capacity (defined as the qualities of the land to “generate the most economic output”) seem to support a differentiation between different forms of primary production.
- If it is the intention to limit such forms of primary production, this needs to be much more explicit and direction should be given as to the forms of primary production that should be restricted. Otherwise Councils and communities will face a significant task in identifying the form of primary production that generates “the most economic output” or “make the greater contribution to the economy” for each area of land, and in trying to justify which forms of primary production should be restricted, taking into account all the attributes of the land that may affect its productive potential. At the very least the two terms just mentioned, that refer to economic output or contribution, need significant clarification as their meaning.

- The direction in sub-class b. to consider greater protection for areas of HPL that "make the greater contribution to the economy" suggests that the greatest focus should be on land that has the potential to be used for those forms of primary production that generate the greatest economic return. However, as indicated earlier, it would be more appropriate to give priority to the protection of land with the greatest potential to maintain the future ability of NZ to produce a wide range of food and other forms of primary production. That may not necessarily include suitability for the particular form of primary production that currently makes the greatest contribution to the economy.

Submissions

- a. At the very least clarify the meaning of the terms "the most economic output" and "make the greater contribution to the economy".
- b. If the focus of the NPS is amended to protect land with the most versatile soils, as sought earlier in this submission, sub-class b. should be deleted.
- c. Provide explicit direction as to the forms or characteristics of primary production that should be restricted to maintain the availability of the productive capacity of the land.

v. Subdivision and rural lifestyle development

- Draft Policy 4 seeks to avoid the fragmentation of highly productive land and maintain productive capacity by imposing minimum lot sizes, including incentives and restrictions on subdivisions in district plans to help retain and increase the productive capacity, and avoid rural lifestyle development on such land. It seems almost inevitable that subdivision will reduce the productive potential of land, at least for those primary production activities that require larger areas of land to be economically viable. So the direction to provide for subdivision through the specification minimum lot sizes contradicts the direction to avoid fragmentation.
- The discussion document recognises that incentives and restrictions, other than minimum lot sizes, may not be appropriate in all circumstances. As such these should not be mandatory.

Submissions

- a. If no loss of primary production potential is acceptable, the policy direction should be to avoid any subdivision and not have minimum lot sizes. If that is not the intention, it will be necessary to clarify what reduction in primary production potential is acceptable.
- b. Amend Policy 4 so that other restrictions or incentives are not mandatory.

vi. Reverse sensitivity

- The Council supports the protection of highly productive land from the reverse sensitivity effects that may arise if new sensitive activities create pressure to limit rural activities from making use of the productive potential of such land. This includes the use of buffers, with clear direction that the obligation to provide the buffer applies to the proposal for new sensitive activities.
- Draft Policy 5 is internally inconsistent and inconsistent with other objectives and policies, in that in some cases it allows reverse sensitivity effects on primary production activities to only be mitigated, while other directions suggest they should be avoided.
- Providing the option of mitigating reverse sensitivity effects provides virtually no policy direction, as just a very slightly reduction in reverse sensitivity effects would be sufficient to meet such a policy.

Submissions

- a. Clarify in Policy 5 the reverse sensitivity effects that must be avoided and the degree to which other reverse sensitivity effects must be reduced.

vii. Separate policy direction for private plan changes and resource consent applications

- Draft Policies 6 and 7 contain specific policy direction as what matters must be had regard to when making decisions on private plan changes and resource consent applications. This is proposed to ensure that HPL is protected immediately from such applications immediately, rather than only when the regional policy statements and district plans have been amended to reflect the NPS. This is not necessary as the RMA already requires that any decision on such applications must have regard to, or give effect to, any relevant NPS.
- In addition, these policies cover some of the same issues as covered in the earlier objectives and policies of the NPS, but with slightly different wording in some cases. The earlier objectives and policies in the NPS should apply equally to private plan change and resource consent applications, where relevant. There is no clear basis for the issues covered in the earlier objectives and policies to apply differently to such applications. Providing differently worded policy direction for such applications, even where the wording varies only slightly, has the potential to result in confusion and uncertainty and leave the provisions open to the suggestion that different outcomes are intended.
- They do not add any useful additional direction that would not already be apparent from the earlier objectives and policies. The discussion document states that the intent of these policies is to ensure that the economic argument that HPL is worth more if used for urban activities, does not prevail over the irreversible loss of its primary production potential. However, neither these policies, nor the earlier objectives and policies, include clear policy direction to this effect. Rather the existing

direction requires a balancing of the benefits and costs of the options for the future use of HPL. They also do not contain, as is indicated as being the intention, clear policy direction that has the effect of requiring that such applications must be aligned with future development strategies under the NPS – UD.

Submissions

- a. Delete Policies 6 and 7 and amend all objectives and other policies to ensure they apply equally to resource consent applications and requests for plan changes where relevant.

viii. Other amendments

- Draft Policy 1 requires both Regional Councils and District Councils to identify HPL. There is no point in district plans showing HPL. The NPS requires the regional council to identify the HPL and the regional council will set the regional policy direction for how it must be managed in the district plans. The RMA already requires that the zoning and provisions of the district plans give effect to such regional policy direction. This is the normal approach for resource management issues that are of relevance to both regional and district councils, e.g. the identification of future urban development areas. The second sentence of the definition of “highly productive land” should also be amended to reflect this.
- Other detailed amendments are included in the attached copy of the objectives and policies that are particularly intended to clarify and simplify the direction in the NPS, in addition to amendments that incorporate the submissions above where that could be readily achieved within the draft provisions. Comments are included to explain the reasons for these where not obvious.

Submissions

- a. Delete the requirement in Policy 1 for district plans to identify HPL and amend the second sentence of definition of “highly productive land” to read “Where highly productive land has not been identified in accordance with Policy 1 ...”.
- b. The amendments in the attached version of the objectives and policies should be included in the NPS, or amendments with similar effect.

Appendix 1: NPS Highly Productive Soils draft objectives and policies – submission amendments and comments

Table 2: Proposed wording for NPS

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 primary production potential of highly productive land
To maintain the availability primary production potential of highly productive land for primary production for future generations except where necessary to provide for urban development where no more appropriate option exists or it is in accordance with any Future Development Strategy produced in accordance with the National Policy Statement – Urban Development.
Objective 3: Protecting from inappropriate subdivision, use and development
To protect highly productive land from inappropriate subdivision, use and development, including by:
<ul style="list-style-type: none"> 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.

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.

Appendix A: Criteria to identify highly productive land

In accordance with Policy 1, regional councils must use the following criteria to assess and Land shall be identified as highly productive land if classified as Land Use Capability Classes 1, 2 and 3 by the New Zealand Land Resource Inventory unless there are factors of such significance to make such identification inappropriate, including those relating to:

- the capability and versatility of the land to support primary production based on the Land Use Capability classification system;
- the suitability of the climate for limitations on primary production capacity of the land, particularly for crop food production; and
- limitations on primary production capacity arising from the size and cohesiveness of the area of land to support primary production.

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

- limitations on primary production capacity due to the current or potential availability of water for irrigation – see question below;
- limitations on primary production capacity due to insufficient access to transport routes;
- limitations on primary production capacity due to insufficient access to appropriate labour markets;

Commented [A1]: This objective is unnecessary as it is implicit in Objective 2. It is not an RMA objective in the sense of identifying the intended environmental outcome. That is covered in Objective 2.

Commented [A2]: This is unnecessary as Objective 2 requires the protection of the value.

Commented [A3]: The addition of this exception to the objective is necessary to allow for the policy direction contained in Policy 3.

Commented [A4]: It is not clear what “uncoordinated means”. Does this mean well integrated into the surrounding are, in accord with any Future Development Strategy, or something else?

Commented [A5]: Objective 3 is unnecessary and confusing. It is a set of policies addressing how the objective of maintaining primary production potential of highly productive land is to be maintained. But these matters are covered by the specific policies that follow and are covered more fully. For example, it is clear from Policy 3, that subdivision of highly productive land does not always have to be avoided, as it provides for urban development in certain circumstances.

Commented [A6]: These are not criteria, but just a list of considerations, as there is no indication of what must be achieved in respect of each of the considerations. As per the main CCC submission, much clearer direction should be included as to what is highly productive land and what forms of primary production are relevant and justify the NPS obligations and restrictions on urban development, etc.

Commented [A7]: District Plans should not have to identify highly productive land. The RMA already requires that they give effect to the contents of RPSs. Any RPS provisions, including the identification of highly productive land and the regional policy direction applying to such land to reflect this NPL would be reflected in the zoning and provisions of the district plan. In the same way future urba ...

Commented [A8]: This Appendix does not list criteria as they contain no measurable criteria or specific directions that enable it to be determined whether any piece of land should or should not be identified as highly productive soi ...

Commented [A9]: Appendix A expands the requirements of Policy 1 by specifying how highly productive land is to be identified – it is part of Policy 1.

Commented [A10]: The list that follows are not criteria as they contain no measurable criteria or specific directions that enable it to be determined whether they apply to any piece of land. Rather they are a list of considerations.

Commented [A11]: No longer required with the preceding amendments

Commented [A12]: “Crop” could include forestry and less valuable primary production, which would not be appropriate.

Commented [A13]: The matters that may be relevant could include matters not included in this list and will vary from location to location, so this should not be an exclusive list of what may be considered.

- d. ~~limitations on primary production capacity due to insufficient access to~~ supporting rural processing facilities and infrastructure;
- e. ~~the current land cover and use and the~~ environmental, economic, social, and cultural ~~benefits values of it the land, including landscape and indigenous biodiversity provides; and~~
- f. ~~water quality issues or constraints that may limit the use of the land for primary production~~
- g. ~~the potential for reverse sensitivity arising from existing activities in the area; and~~
- h. ~~risks to primary production from natural hazards.~~

Highly productive land shall exclude:

- a. urban areas; ~~and~~
- b. areas that have been identified as future urban zones in district plans, ~~and~~
- c. areas identified in an future development strategy produced in accordance with the NPS – Urban Development.

Commented [A14]: These values should not just be limited to the existing cover and use of the land, but should include existing fauna and landscape values.

Commented [A15]: Not needed as already covered above.

Commented [A16]: This is unnecessary and the policy direction should apply to everyone, including applicants for resource consents and private plan changes.

Commented [A17]: It is not clear if this means we need to protect the land from primary production activities that may reduce the availability for other primary production with higher economic outputs? If so, this needs to be made more explicit and there should be much more direction in the policy as to what forms of primary production should be restricted.

Commented [A18]: This is unnecessary and the policy direction should apply to everyone, including applicants for resource consents and private plan changes.

Commented [A19]: Unnecessary, repeats what is required by the preceding lines of the policy.

Commented [A20]: It is not clear if this is intended to lead to restrictions on the use of the land for less valuable forms of primary production, and/or primary production activities that may reduce the availability of the land/soils for other primary production? If so, this should be made more explicit. There should be much more direction in the policy as to what forms of primary production should be restricted.

Land does not make a contribution to the economy, rather it is the use of land that does.

The term “greater contribution to the economy” needs clarification – is it greatest profits, does it include the amount of employment it generates, or is what is really sought simply greater protection for land that has the potential for the greatest range of primary production activities, i.e the most versatile land?

Proposed Policy 2: Maintaining highly productive land for primary production

~~Local authorities must maintain~~ 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.

*Note the draft definition for productive capacity is: “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”.

Commented [A21]: Not needed, see next sub-clause which, even as amended, inherently requires identification of inappropriate subdivision, etc. in order to protect highly productive land.

Commented [A22]: It is not clear what this means. Is it the form of primary production that generates the greatest profit, the greatest contribution to the NZ economy giving ...

Commented [A23]: Should apply to all urban development, irrespective of whether it is an expansion of an existing urban area or an isolated site within a rural area.

Commented [A24]: Unnecessary as it repeats the requirements of the following bullet point

Commented [A25]: It is possible for many alternative locations to be feasible, but the critical issue would seem to be whether any of them are more appropriate than the use of highly productive land.

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

~~Urban~~ Avoid urban expansion development ~~must not be located~~ on highly productive land unless:

- a. it is in accordance with any Future Development Strategy produced in accordance with the National Policy Statement – Urban Development; or
- b. there is a shortage of development capacity to meet demand (in accordance with the NPS-UDC methodologies and definitions); and it is demonstrated that this is the most appropriate option based on a consideration of:
 - ~~a cost benefit analysis that explicitly considers the long terms costs associated with the irreversible loss of highly productive land for primary production;~~
 - whether the costs and benefits (environmental, economic, social and cultural) ~~from of~~ allowing urban expansion development on highly productive land outweigh ~~the~~ benefits ~~those~~ of the continued use of that land for primary production; and
 - ~~the feasibility of in comparison with~~ 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 subdivision and fragmentation and maintain that reduces~~ the productive capacity of highly productive land, including by:

- a. setting minimum lot size standards ~~in the district plan~~ 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 providing for~~ new rural lifestyle development ~~away from~~ only on sites that do not contain areas of highly productive land.

Commented [A26]: The policy should apply not just to the contents of district plans, but also to applications for resource consents and private plan changes.

Commented [A27]: It seems almost inevitable that any subdivision will reduce production potential to at least some degree.

Commented [A28]: This policy requires district plans to include incentives and restrictions, presumably in addition to the requirement to set minimum lot sizes. However, the discussion document recognises that such tools may not be appropriate in all circumstances. As such these should not be mandatory.

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 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.

Commented [A29]: The policy should apply not just to the contents of district plans, but also to applications for resource consents and private plan changes.

Commented [A30]: Including the option in these sub-clauses to only mitigate reverse sensitivity effects, rather than avoid, is inconsistent with the direction in sub-clause b. (which is effectively to avoid such effects) and with the objectives and Policy 2 to "maintain" productive capacity. This inconsistency needs to be clarified.

Providing the option of mitigating reverse sensitivity effects provides virtually no policy direction, as just very slightly reducing reverse sensitivity effects would be sufficient to meet such a policy.

~~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.~~

~~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;~~

~~6. The practical and functional need for the subdivision or urban expansion to occur at that location;~~
~~Resource consent applications must include a site-specific Land Use Capability Assessment prepared by a suitably qualified expert.~~