

Office of the Mayor



8 October 2019

Ministry for Primary Industries
PO Box 2526
Wellington 6140

Via email: soils@mpi.govt.nz

Dear Sir/Madam

SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT ON HIGHLY PRODUCTIVE LAND

Introduction

1. The Dunedin City Council (DCC) commends the Ministry for Primary Industry and the Ministry for the Environment on the development of the proposed National Policy Statement for Highly Productive Land and appreciates the opportunity to provide feedback.
2. This submission outlines the DCC's roles and responsibilities in relation to highly productive land in the Dunedin district and provides feedback and recommendations in relation to specific questions raised in the discussion document.

DCC roles and responsibilities

3. Dunedin has a large rural area within its city limits at around 314,822 hectares or approximately 96% of the total land area of the city, dominated by pastoral farming. There is also approximately 35,073 ha of land classified as land use capability (LUC) 1-3 within the district.
4. The proposed Second Generation Dunedin City District Plan (2GP) was notified on 26 September 2015. Decisions on the 2GP were notified on 7 November 2018 with the appeals period closing on the 19th December 2019.
5. The 2GP takes a proactive approach in safeguarding the productive capacity of Dunedin's productive land resource through:

- Recognising the importance of highly productive land at a strategic level through policies protecting food production areas and productive rural land, minimising the potential for reverse sensitivity, along with policies restricting urban or rural residential expansion on highly productive land
 - Identifying and mapping areas of high class soils within the Dunedin district on the 2GP map (rural and rural residential zones only)
 - Rules that prevent the removal of topsoil or subsoil that is located within the high class soils mapped area from the site where it is located
 - Minimum site size rules for residential activity and subdivision in rural zones designed to reduce further fragmentation of the rural land resource
 - Policies supporting the maintenance or enhancement of rural productivity
 - Policies and rules minimising the potential for reverse sensitivity, while providing for activities that may support productive rural activities
 - Including the location of highly productive land as a consideration in consent applications for activities other than farming.
6. The 2GP's high class soils mapped area includes soils that were originally identified and mapped by Landcare Research, which investigated high class soils in Otago for the Otago Regional Council. The criteria included water availability, adequate drainage, climate and slope, along with physical soil properties.
 7. Alongside the high class soils mapped area, in response to concerns from submitters, the 2GP now includes wider consideration of highly productive land in policies and assessment rules relating to the assessment of non-farming activities in rural areas.
 8. Highly productive land is defined in the 2GP as "Land that has the ability to sustain the production of a wide variety of plants including horticultural crops, through a combination of land, soil and climate attributes". It is intended that both LUC 1-3 and land identified as high class soils will be considered as 'highly productive land', along with any other evidence related to the identification of highly productive land.
 9. While Dunedin recognises and provides for the protection of its productive land resource, the city has also experienced recent growth in population and pressure to open up areas of rural land for residential or rural residential development. The DCC has also made a submission on the National Policy Statement for Urban Development and considers that coordinated national guidance being provided for both issues will result in good resource management outcomes at a local level.
 10. In the context of its responsibilities and functions, the DCC will have a strong role in contributing to the implementation of the National Policy Statement for Highly Productive Land.

Key points

11. The DCC agrees that the maintenance and enhancement of New Zealand's most versatile soils and productive land resource is of vital importance for economic productivity, social and cultural wellbeing and environmental sustainability.

12. The DCC supports the introduction of the National Policy Statement for Highly Productive Land and agrees that it is important to have consistent national level direction to facilitate council policy and rule-making and to assist in good decision-making when dealing with plan changes and resource consent applications.
13. The DCC notes that adding the maintenance and enhancement of highly productive land as a matter of national importance under s6 of the RMA was also considered but was not a key option at this point, although it could be considered for later resource management reform. The DCC submits that there should be consideration given to the inclusion of highly productive land within s6 in future RMA reform.
14. The DCC submits that it is important to retain a holistic and regionally-flexible view of what is highly productive land, rather than be too prescriptive in predetermining this based on soil types or certain types of activity. This is necessary to allow for flexibility to adapt to future environmental and socio-economic conditions and provide for areas that are not currently food growing hubs but one day may be. To this end, the DCC considers that it will be important that there is appropriate guidance and technical support offered to all councils in identifying highly productive land, reflecting the importance of this issue nationally.
15. The DCC supports the general intent of each of the proposed policies but is concerned with the 'must amend their district plan' language used as this does not take into account instances where district councils already achieve the intent of the policy through their plans. The DCC submits that it should not be a mandatory requirement for district councils to amend their plans to meet the requirements of the proposed policies where the plans already have relevant provisions, and that the proposed policies should be amended to reflect this.
16. Further to the point made in paragraph 12 regarding the need to provide for areas that are not currently food growing hubs, the DCC submits that the proposed policies should also be amended to provide for potential future, as well as current, productive capacity of land based on the way rural land is being used now.
17. In addition to these general points, responses to the questions in the discussion document including specific comments on proposed policies are provided in the attached Appendix (Appendix A).

Conclusion

18. The DCC is committed to safeguarding Dunedin's highly productive land resource and looks forward to working with central and local government on the implementation of the National Policy Statement for Highly Productive Land.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dave Cull', written in a cursive style.

Dave Cull
Mayor of Dunedin

Attachment: Appendix 1 – Dunedin City Council submission in detail on the proposed NPS-HPL.

Appendix 1: Dunedin City Council Submission in detail (specific comments based on discussion document questions)

Note: questions have been grouped and numbered in the order they appear in the discussion document and have been paraphrased for brevity. The answers provided contain key points that the DCC wishes to make on the topic or proposed policy. More detailed responses to specific questions asked may be expanded upon through communication relayed directly by DCC staff to MPI/MfE.

1. Values and benefits associated with highly productive land and existing food growing hubs

The DCC considers that highly productive land is of vital importance for economic productivity, social and cultural wellbeing and environmental sustainability. In particular, the DCC would like to emphasise the importance of retaining areas of highly productive land for growing produce as this aligns with the strategic direction of Dunedin's Second Generation District Plan (2GP), the Dunedin 'Towards 2050' Spatial Plan as well as the DCC Energy Plan and Good Food Dunedin, a DCC-led initiative aimed at transforming Dunedin into a sustainable food city.

The DCC also wishes to emphasise the need to take a future as well as current view of land use and defining highly productive land for areas that do not currently have food growing hubs but could in future. This aspect should be reflected in the policies of the NPS and specific suggestions are made below for policy amendments.

The DCC notes the current definition of primary production includes forestry and potentially other fibres production. The DCC submits that those activities need to be individually assessed to understand the degree they rely on particular soil/environmental conditions and should, in general, not take up land that is important for food production where areas of lesser soil quality value may be more appropriate. Commercial forestry can have a detrimental impact on soil quality in the long term and can also substantially change local hydrology.

2. RMA framework and consideration of HPL in planning and consenting processes

The DCC agrees that the RMA framework currently does not provide enough clarity around how highly productive land should be considered alongside competing land uses, in particular urban growth pressures, or pressure to maximise economic returns via a metric of land value based on highest and best use (which often equates to use for residential or non-rural commercial activities).

In the Dunedin 2GP, 'highly productive land' (which includes LUC 1-3) is a consideration in resource consents for subdivisions and change in land use away from farming. There is also a high class soils mapped area which triggers an earthworks rule to prevent the removal of these elite soils from sites.

3. How is HPL currently considered/should it be considered when providing for urban expansion?

The DCC agrees that the location of highly productive land should be a key consideration when providing for urban expansion. In the 2GP, the location of highly productive land is one of the considerations in identifying how appropriate areas are for new residential zoning.

The DCC agrees that, while loss of highly productive land should be discouraged, the overall direction between the NPS-HPL and NPS-UD should not result in a blanket prohibition on urban

expansion onto productive land if this results in the best overall outcome, considering alternatives and balancing the range of strategic objectives in a Plan.

4. How is HPL currently considered/should it be considered in providing for rural-lifestyle development?

The DCC agrees that the location of highly productive land should be a key consideration when providing for rural-lifestyle development. The location of LUC 1-3 land was a consideration in zoning new rural residential areas in the 2GP and the location of highly productive land is one of the considerations in identifying how appropriate areas are for new rural residential zoning.

Rural-lifestyle development is a particular threat to highly productive land that, unlike urban expansion, does not have the same benefits for providing for housing capacity in a way that uses land efficiently nor does it tend to lead to affordable housing.

5. Reverse sensitivity – managing tensions between activities and issues at rural-urban interface

The tensions between primary production activities and sensitive activities need to be managed in terms of both managing adverse effects and reverse sensitivity. To this end, Dunedin's 2GP includes policies and rules aimed at minimising reverse sensitivity, such as setbacks for residential buildings in rural areas as well as policies and rules requiring new non-residential buildings (including those housing animals) to be set back from site boundaries.

6. Is there a problem/is problem accurately reflected in document?

The DCC considers that the discussion document generally provides a useful summary of key issues around the retention of highly productive land. The document does not, however, cover the potential tensions between pressure for increased land for forestry to respond to climate change mitigation needs versus the loss of land for food production.

7. Is an NPS the best option?

The DCC considers an NPS to be the best option in terms of providing consistent policy guidance and backing for local authorities in managing the highly productive land resource, while allowing for local flexibility. As discussed in the covering letter it is also submitted that amending section 6 of the RMA to include the protection of highly productive land should be considered as an additional option.

8. Should the focus be on versatile soils or HPL, on primary production more generally or on certain types of food production activities?

The DCC considers that it is appropriate that the NPS applies to highly productive land as opposed to soil types alone but considers that it should primarily focus on use of land for productive activities focused on food production. It should also take a multi-generational and precautionary lens to include how this may change, for example based on changes to the cost of long distance transportation or based on changing climatic conditions, which may change what types of farming can occur including through changes to water availability.

9. Scope of NPS

The DCC generally agrees with the scope of the proposal to focus on three key issues – urban expansion on to HPL, fragmentation of HPL and reverse sensitivity. There is also agreement that future urban areas identified in district plans should be excluded from the scope of the NPS, but not other potential areas identified in other non-statutory strategic documents at this stage. It is not clear, however, how future development strategies developed under the LGA to meet requirements of the NPS-UD will be treated and this needs to be clarified. The DCC notes its earlier comments about potential tensions if forestry is included as a productive activity.

The DCC submits that the NPS should apply nationally rather than being targeted to areas that are currently assessed as being under the greatest pressure, as new rural areas could in future come under greater pressure of urban development, and local food supplies are important to the resilience of communities to shocks. The productive potential of areas may also vary due to changing socio-economic and environmental conditions including the effects of climate change. Existing areas that are uneconomic for production may become more economic due to population growth, urban development displacing other productive areas, or increasing costs of importing food due to climate or economic shocks.

The DCC submits that the NPS should not state that land parcels under a certain threshold are excluded from the NPS as some smaller sites can be highly productive and flexibility should be provided for territorial authorities to manage smaller land units within the local context where evidence supports this.

10. Objectives and Outcome of NPS and level of direction

The DCC supports the intent of the three proposed objectives and submits that the ideal outcome of the NPS will be maintaining the productive capacity of areas of highly productive land and increasing capacity for local food production.

In terms of the level of direction provided versus flexibility of the objectives, the DCC generally considers that the three ways outlined to protect land from “inappropriate subdivision, use and development” included in Objective 3 provide an appropriate level of direction.

11. Policy 1 – identification of highly productive land

The DCC supports the general intent of this policy and agrees that regional councils should identify and have an overview of the highly productive land resource in their regions. Regional councils could also work with individual district councils on refining local areas of HPL. However, the DCC does not agree that it should be mandatory for district councils to amend their plans to identify highly productive land as identified by the regional council.

Instead it may be appropriate for those mapped areas to be used for regional councils to set up a policy framework that:

- (1) Includes policy direction for regionally significant areas of highly productive land, and
- (2) Includes policy direction to support the NPS direction for district plans to include objectives, policies and rules for highly productive land based on local direction/decisions about how

and where to protect highly productive land, including how to balance its protection with providing of urban development capacity, as long as regional bottom lines are met.

The DCC does not support the use of the default definition provided in the interim. Territorial authorities should not be required to replace local provisions for identifying and defining highly productive land where they already exist and align with the criteria in the NPS. As noted in the covering letter, the Dunedin 2GP includes a definition for highly productive land that it believes better aligns with the policy direction of the NPS and is a more appropriate interim definition until areas can be mapped more accurately beyond the LUC 1-3 classes. The 2GP definition of highly productive land is “land that has the ability to sustain the production of a wide variety of plants including horticultural crops, through a combination of land, soil and climate attributes”. The accompanying assessment guidance indicates that both LUC 1-3 and the HCS mapped area are considered to be highly productive land, along with any other evidence, which allows for additional factors to be considered such as those proposed in NPS Policy 1.

The DCC also generally agrees with the criteria for identifying highly productive land and the inclusion of capability and versatility of the land and climate factors as compulsory criteria. However, the DCC submits that size and cohesiveness should be an optional factor in identifying highly productive land recognising that smaller sites may also be evaluated to be important to protect as highly productive land in a local context.

Further, the DCC does not consider that there should be a mandatory tiered approach taken to protecting LUC 1. Depending on other factors, a LUC 3 area might have more productive capacity than a LUC 1 or 2 and excluding them could risk more loss of productive land, so it is submitted that this is a decision better made by individual councils taking into account local context.

Overall, the view is the hierarchy of plans including the NPS and RPS/ Regional Plans should set bottom lines rather than dictate the maximum level of protection.

12. Policy 2 Maintaining HPL for primary production

The DCC agrees with the general intent of this policy but submits that it needs more of a potential or future focus. This could be done by amending clause b. to read “consider giving greater protection to areas of highly productive land that make or have the potential to make a greater contribution to the economy and community”.

It is noted that the draft definition for productive capacity excludes wider soil quality issues and it is queried as to why this is.

13. Alignment with the Urban Growth Agenda

The DCC supports the proposed national direction on both highly productive land and urban development and submits that the NPS-HPL needs to provide clear direction for territorial authorities in making decisions about urban growth.

14. Policy 3 New urban development on highly productive land

The DCC questions the reference to the NPS-UDC when a new replacement NPS-UD is being proposed.

The DCC agrees with the intent of this policy but notes that there needs to be recognition of potential future use, perhaps through changing clause b. to read: "whether the benefits...from allowing urban expansion on highly productive land outweigh the benefits of the continued or potential future use of that land..."

The DCC also submits that the cost-benefit analysis required for any proposed urban expansion should generally reflect the broad statutory direction and supporting guidance on s32 assessments being tailored to the size of the proposal, with smaller or less significant proposals not requiring the level of detail that a larger proposal would.

This could be done by rephrasing b. to say "an appropriate level of s32 analysis is undertaken and published, reflecting the scale of the proposal, which specifically considers:....."

15. Policy 4 Rural Subdivision and fragmentation

The DCC agrees with the intent of the policy. It notes that the initial view of staff is that the Dunedin 2GP already gives effect to this policy, therefore, the wording of the policy should be amended to make the requirement to amend district plans optional, as it may not always be necessary

With respect to the questions asked, the DCC would possibly support some general guidance on methodologies that may be useful for setting minimum site sizes (noting that the DCC considers the methodology used in the 2GP to be a robust model) but not the introduction of standard minimum site sizes nationally.

It is important to note that rural productivity is only one of the issues that needs to be managed in a rural context: landscape values, biodiversity values, natural coastal character values and wāhi tupuna values are also important to setting appropriate subdivision and development standards.

With respect to setting up incentives for amalgamation during subdivision, while supported in principle, these types of provisions can be challenging to draft and administer and may only be necessary in some areas. Overall, the DCC considers that flexibility needs to be preserved for territorial authorities in terms of managing subdivision appropriate to the local context.

16. Policy 5 Reverse sensitivity

The DCC agrees with the intent of the policy. It notes that the initial view of staff is that the Dunedin 2GP already gives effect to this policy, therefore, the wording of the policy should be amended to make the requirement to amend district plans optional, as it may not always be necessary

In addition, it is also submitted that the policy should be amended to incorporate a future element in clause b: "...to ensure these ~~do not~~ will not compromise the efficient operation".

17. Policies 6 and 7 Consideration of private plan changes and resource consent applications

The DCC supports the direction given in Policy 6. It submits that clause b should be amended to read "from the continued or potential future use of that land..." noting that future use is picked up in Policy 7.e

The DCC also supports the intent of Policy 7 but suggests that perhaps this policy could also discourage the overall change of land use (function of land) between rural and urban functions through consent processes. It is noted that the Dunedin 2GP includes a strategic direction, Policy 2.6.2.5 which states "Encourage any proposal for the creation or expansion of a centre to be considered through a plan change process unless it represents a minor extension to a centre in accordance with Policy 15.2.1.5."

With regard to the question about whether the policies should extend to large scale rural industries located on HPL, the DCC submits that this is an issue that is covered under Policy 2 and it may distract from the main focus of the NPS with respect to managing subdivision and urban expansion on highly productive land.

With regard to the question around how these policies can assist decision-makers and whether these policies should be inserted into plans without going through the schedule 1 process until each council gives effects to the NPS, the view of the DCC is this is not necessary as the policy being included in the NPS is enough, as it should be considered under s104(1)(b) for resource consents and s75(3) for plan changes. Furthermore, the wording of the policies may not be appropriate as a verbatim direct insert into local plans and may need to be modified to fit the drafting protocol used in the Plan.

18. Interpretation

The DCC notes the points raised earlier with respect to the inclusion of forestry within the policy framework.

The DCC submits that the definitions around rural lifestyle development and rural lifestyle zone are broader than those used in the 2GP and encompass what in the 2GP are two fundamentally different zone types. In the 2GP rural residential zones have a minimum site size of 2 hectares but range up to around 8 hectares and are focused on enabling hobby farming, including non-commercial scale horticultural activities and the keeping of livestock, such as horses, alpacas or small numbers of sheep or cows. The 2GP also has 'large lot' zones, which are generally discouraged except where a standard residential zone type is not appropriate, but which provide some opportunities for people who want a large section for more domestic open spaces (lawns, gardens). These are in the 0.2-0.4 hectare range. The 2GP discourages subdivision or zoning to a site size in between these ranges in order to maintain the distinction between the different purposes of the zones. The proposed NPS-HPL definitions may unintentionally undermine this strategic spatial planning approach, which the DCC sees as appropriate and necessary to achieve the NPS-UD and NPS-HPL.

DCC staff may provide additional more detailed feedback on the draft definitions directly to MfE/MPI.

19. Implementation

As discussed earlier in this submission, the DCC considers that it is important that there is appropriate guidance and technical support offered to councils in identifying and protecting highly productive land. This should include areas of highly productive land that may not have the greatest pressures currently.

20. Timeframes

The DCC submits that:

1. Timeframes need to reflect the points made above, that district plans may already include provisions which implement the NPS-HPL and so the sequencing may not be as linear as assumed
2. Timeframes and prioritisation should reflect both areas that may have land that is most important for NZ food production but also the degree to which existing provisions are considered inadequate or under threat. This may require more detailed consultation with local authorities to determine.
3. Timeframes must also consider the availability of appropriately skilled staff within New Zealand. This may require further consultation with service providers.