

10 October 2019



Ministry for Primary Industries
Ministry for the Environment

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Tēnā koe

Bay of Plenty Regional Council's submission to Proposed National Policy Statement on Highly Productive Land

Thank you for the opportunity to comment on the Proposed National Policy Statement on Highly Productive Land. Bay of Plenty Regional Council's submission supports the overall purpose of the Proposed NPS HPL.

The Bay of Plenty Regional Policy Statement recognises the importance of protecting versatile land as a regionally significant urban and rural growth management issue. The RPS regionally significant resource management issues include fragmentation of versatile land and the impacts unplanned growth and inefficient land use can have on the ability to use versatile land for a range of rural production uses.

Versatile land is a valuable finite resource which rural production activities rely on. Rural production activities contribute significantly to the Bay of Plenty's social and economic wellbeing and are dependent on continued access to and use of versatile land which needs to be protected from further loss and constraints introduced by incompatible or sensitive activities.

The NPS HPL will help elevate the importance placed on the protection and management of HPL in RMA decision making processes. Stronger NPS direction will help complement existing RPS versatile land policies to promote better protection and management of HPL in the Bay of Plenty region.

The NPSs for Highly Productive Land, Urban Development and Freshwater Management have varying overlaps and interrelationships. To aid integrated resource management we ask that the various Ministries work closely together to achieve consistency and alignment including ensuring they all have legal effect from the same gazettal date.

For matters relating to this submission, please contact Nassah Steed, Principal Advisor, by email [REDACTED] or on 0800 boprc.govt.nz or [REDACTED]

Nāku noa, nā

Namouta Poutasi
General Manager Strategy & Science

Objective ID: A3381111

Bay Of Plenty Regional Council comments on Proposed National Policy Statement for Highly Productive Land (Page numbers and Sections are from the Discussion Document 'Valuing highly productive land')

Acronyms used:

RMA: Resource Management Act 1991
BOPRC: Bay of Plenty Regional Council
NPS HPL: Proposed National Policy Statement on Highly Productive Land
HPL: Highly productive land
RPS: Regional Policy Statement
LUC: Land Use Capability Classification System
NPS UDC: National Policy Statement on Urban Development Capacity
NES: National Environmental Standard
NPS FM: National Policy Statement Freshwater Management

1 Specific provisions that submission relates to:		2 Nature of submission		3 Bay of Plenty Regional Council seeks the following decisions
Page No.	Section Heading and Reference	Support/Oppose or seek Amendment	Reason / Comment	
	General	Support for the NPS HPL	<p>Bay of Plenty Regional Council (BOPRC) supports the Proposed National Policy Statement for Highly Productive Land (NPS HPL) which provides a clear framework for managing and protecting highly productive land. BOPRC supports the purpose of improving how HPL is managed under the RMA particularly protecting it from inappropriate subdivision, use and development and maintaining its availability for primary production for future generations.</p> <p>The Bay of Plenty Regional Policy Statement (RPS) recognises productive rural land (in particular versatile land) is a valuable finite resource on which rural production activities rely and accordingly has planning provisions to protect versatile land and rural production activities from further fragmentation and incompatible or sensitive activities. The NPS HPL is largely complementary to the RPS rural growth management policies relating to versatile land.</p> <p>The RPS defines versatile land categorised as Classes 1, 2 and 3 under the Land Use Capability (LUC) Classification System. This aligns with the NPS default definition of HPL.</p> <p>A desk top analysis estimates our region has experienced a 35% increase in 'settlements'¹ on LUC 1-3 land between 1990 and 2016. This is not spread evenly across the region and high concentrations of urban growth on HPL have occurred around Tauranga and much of this growth initiated the need for our RPS provisions.</p>	Retain the Proposed NPS HPL subject to amendments requested in this submission. BOPRC considers the NPS HPL is preferable to other options including combining with policy on the NPS UDC or a separate NES for HPL.

¹ 'Settlements' are based on satellite imagery and captures existing land uses such as roads. Likewise, this figure may not include lifestyle blocks, which are a contributing factor to fragmentation of HPL.

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40	Policy 1	Support subject to amendment	<p>Support exclusion of HPL in areas that have been identified as future urban zones in district plans. Furthermore, seek to include HPL identified within the RPS urban limits which are also earmarked for future urban growth and development.</p> <p>The Bay of Plenty Regional Policy Statement (RPS) identifies urban limits in the western Bay of Plenty sub-region to provide for urban development and population growth out to 2051. Considerable areas of versatile land are earmarked for future urban development in the urban limits particularly around Te Puke, Waihi Beach, Katikati, Tauranga city and Ōmokoroa. Many of these urban limit areas are still not zoned urban in the Tauranga City Plan and the Western Bay of Plenty District Plan and consequently would not be able to be excluded from the definition of HPL under Policy 1. Considerable long term planning and investment has occurred to identify these areas for future servicing and urban development and it is inevitable district plans will be amended to rezone these areas urban. Consequently the exclusions in the NPS HPL should be expanded to also include highly productive land identified as future urban growth areas in an RPS.</p>	Expand NPS HPL exclusions to include HPL land identified within RPS as urban limits or other future urban growth areas

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40	Policy 1.1	Seek amendments and seek further guidance	<p>Policy 1.1 requires regional councils to identify and map highly productive land in the RPS which, under Policy 1.2 will be subsequently included in district plans.</p> <p>This HPL identification requirement is an added resourcing and costing demand on BOPRC for the RPS in addition to the myriad of other RPS and regional plan change requirements stemming from the National Planning Standards, NPS FM and NPS UD and Treaty Settlement Claims Acts.</p> <p>BOPRC is already reconsidering and reprioritising its RPS and Plan Change programme to determine how it is able to meet these legislative requirements.</p> <p>BOPRC recommends HPL is assessed and identified at a national scale. This would be more efficient and more cost effective than putting the onus on regional councils to identify the land. This approach would promote national consistency and is appropriate given mandatory identification criteria in Policy 1, Appendix A.</p>	<p>Amend Policy 1.1 to require central government to identify and map HPL.</p> <p>If Regional Councils are required to identify and map HPL, provide guidance on Policy 1 implementation to make LUC assessments as objective as possible (practical).</p> <p>BOPRC supports the current LUC layer being used as default interim setting, noting inaccuracies, which should incentivise re-mapping at a regional scale.</p>

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40	Policy 1 Appendix A	Suggest additions	<p>Suggest further criteria regional councils should consider when assessing and identifying HPL, being:</p> <ul style="list-style-type: none"> Climate change effects <p>Climate change is becoming more urgent and becoming a fundamental part of all future planning decisions. It has been a factor in resource consent applications where applicants have argued the sustainability of highly productive land will be compromised by sea level rise and rising ground water levels making land more prone to inundation and salinization. Particularly areas of existing HPL which are subject to man-made interventions (e.g. flood protection schemes and drainage pumps) to maintain their viability as rural productive units.</p> <ul style="list-style-type: none"> Whenua Māori <p>Ability to recognise tangata whenua land use aspirations other than primary production activities on whenua Māori (e.g. Papakainga surrounding existing marae in rural areas). The RPS identifies the difficulties developing Māori land as an issue of resource management significance to iwi authorities (2.6.10.5). Considerable areas of currently undeveloped Māori land are identified as versatile land (i.e. LUC 1 – 3) and we are fully aware many of the affected land trusts have long term development aspirations to provide social housing for their beneficiaries. Identifying these land holdings as HPL will add another layer of difficulty to achieving these long term social and cultural outcomes for Māori.</p> <ul style="list-style-type: none"> Reverse sensitivity <p>Reverse sensitivity needs to relate to all productive rural land. Only addressing this to HPL risks losses in production on other productive land. This is likely to be a particular issue because under this NPS, urban and rural lifestyle development will take place in non- HPL areas, potentially increasing reverse sensitivity issues for non-HPL productive land uses.</p>	Add climate change effects, whenua Māori and reverse sensitivity effects to the list of criteria for assessing and identifying areas of HPL in Appendix A to Policy 1.

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40	Policy 1 Appendix A Factor F	Support and Seek clarification	<p>Support provision for Council to consider availability of freshwater and effects on water quality when identifying HPL. This provision allows Council to at least express constraints associated with any mapped HPL and signals that mapped HPL does not equate to “production of any type without constraint”.</p> <p>Under the current and the new draft NPSFM councils need to consider the values associated with freshwater. If there is highly productive land in the catchment that may have irrigation needs, this value would need to be considered alongside other values during the setting of objectives, limits and methods. This could foreseeably take into consideration water quality risks as well as water use needs and limitations.</p> <p>If an area of HPL is highly susceptible to contaminant leaching and the catchment is very sensitive to effects of additional nutrients, should we forgo water quality expectations to enable production, or should HPL be subject to strict water quality requirements which may limit the potential land uses on that land?</p>	<p>Although it is appropriate for regional councils to address matters in their region, clarity is required on prioritisation between:</p> <ul style="list-style-type: none"> • Different values and how they are weighed against each other <p>BOPRC seeks clarity about how various values being recognised nationally should be weighted. For example, under the new NPSFM, objectives, target attribute states, and limits would be set for both water quality and quantity to ensure firstly that ecological health within a river is provided for, then to ensure essential human health needs are provided for. Providing for social, economic and cultural wellbeing is subject to providing for the first two. So, this might suggest that domestic and municipal water supply (essential health need) might have higher priority than water use for highly productive land. Does water supply to support urban development capacity (assumedly on less productive land) come before water for highly productive land? Does water for renewable energy generation have greater priority than for highly productive land?</p> <ul style="list-style-type: none"> • Different planning instruments <p>BOPRC seeks 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</p>

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				<p>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.</p> <p>If it is clearly defensible that productive land use will only be possible if water is available for irrigation, should the process of considering values within Freshwater Management Units under the NPSFM prevail, or should the NPS HPL dictate that priority is given to that land to make it highly productive.</p>
44	Policy 3 New urban development and growth on highly productive land	Support	Policy 3 provides appropriate direction that new urban development should avoid HPL unless it can be evidentially substantiated there is a shortage of residential development capacity to cater for population growth as required under the NPS UDC. In the western Bay of Plenty sub-region considerable areas of HPL are included in the RPS urban limits while other HPL on the existing fringes of the urban limits are already under pressure for residential development. Priority should be placed on protecting HPL on the RPS urban limits fringes for continued rural production activities unless it can be proven there is a urgent demand for additional residential capacity that would justify overriding its protection.	Retain Policy 3

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45	Policy 4 rural subdivision and fragmentation	Support	<p>Policy 4 is consistent with the following RPS Rural Growth Management policies:</p> <p>Policy UG 18B: Managing rural development and protecting versatile land</p> <p>The productive rural land resource shall be protected for rural production activities by ensuring that to the extent practicable subdivision, use and development in rural areas does not result in versatile land being used for non-productive purposes outside existing and planned urban-zoned areas, or outside the urban limits for the western Bay of Plenty shown in Appendix E, unless it is for regionally significant infrastructure which has a functional, technical or locational need to be located there.</p> <p>Particular regard shall be given to whether the proposal will result in a loss of productivity of the rural area, including loss of versatile land, and cumulative impacts that would reduce the potential for food or other primary production.</p> <p>Policy UG 19B: Providing for rural lifestyle activities – western Bay of Plenty sub-region</p> <p>Require that the productive potential of versatile land is not compromised when providing for rural lifestyle activities outside the urban limits for the western Bay of Plenty shown on Maps 5 to 15 (Appendix E).</p>	Retain Policy 4

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46	Policy 5 Reverse Sensitivity	Support	<p>During the recent process for our next generation air plan, reverse sensitivity has emerged as a significant issue for both industry and primary production. BOPRC received submissions on this issue and have also received (and are still processing) appeals on this matter.</p> <p>BOPRC's stance is that reverse sensitivity is best managed by territorial authorities, and that any provision in a regional air plan will have little effect and is not the most efficient way to achieve goals.</p> <p>This is consistent with RPS Policies UG 20B and AQ 1A. RPS Policy UG 20B <i>Managing reverse sensitivity effects on rural production activities and infrastructure in rural areas</i> states: <i>'Require that subdivision, use and development of rural areas does not compromise or result in reverse sensitivity effects on:</i></p> <ul style="list-style-type: none"> (a) <i>rural production activities; and</i> (b) <i>the operation of infrastructure</i> <p><i>located beyond the urban limits or existing and planned urban zone areas.'</i></p> <p>RPS Policy AQ 1A discourages <i>'reverse sensitivity associated with odours, chemicals and particulates'</i>. The implementation of these policies and associated methods is directed at territorial authorities through district plans and resource consents. This is because they are the best organisation to address reverse sensitivity in an effective and efficient manner.</p>	Retain Policy 5: Reverse Sensitivity as it correctly identifies territorial authorities as the authority most responsible for ensuring that highly productive land is not affected by issues caused by reverse sensitivity.

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49	Policy 6(a) and Policy 7(a)	Seek amendment	<p>The intent of Policy 6 and Policy 7(a) to provide additional direction on how to consider private plan changes and resource consents is supported. It is important these processes are integrated and aligned with existing plans, strategies and evidence that support urban development rather than being developed and driven in isolation.</p> <p>Both policies should also provide for tangata whenua land use aspirations other than primary production activities on whenua Māori (e.g. Papakāinga surrounding existing marae in rural areas). The RPS identifies the difficulties developing Māori land as an issue of resource management significance to iwi authorities (2.6.10.5). Considerable areas of currently undeveloped Māori land are identified as versatile land (i.e. LUC 1 – 3) and many affected land trusts have long term development aspirations to provide social housing for their beneficiaries. Identifying these land holdings as HPL will add another layer of difficulty to achieving these long term social and cultural outcomes for Māori.</p> <p>BOPRC suggest alternative wording amendments to Policy 6(a) and Policy 7(a) to enable the development of Māori land.</p>	<p>Amend Policies 6(a) and 7(a) to provide for the consideration of Māori land development aspirations of tangata whenua by amending to read:</p> <p>Policy 6(a). The alignment of the request with relevant local authority statutory and non-statutory plans and policies relating to urban growth, <u>Māori land</u> and highly productive land;</p> <p>Policy 7(a). a. The alignment of the application with relevant local authority statutory and non-statutory plans and policies relating to urban growth, <u>Māori land</u> and highly productive land;</p>

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49	Policy 6 (c)	Seek amendment	<p>The intent of Policy 6 to provide additional direction on how to consider private plan changes is supported. It is important that private plan changes are integrated and aligned with existing plans, strategies and evidence that support urban development rather than being developed and driven in isolation. Policy 6 will enable Councils to decline applications outside of carefully planned urban growth areas or where the costs of infrastructure servicing outweigh the benefits.</p> <p>BOPRC suggest alternative wording amendments to Policy 6(c) would provide clearer and more consistent interpretation and implementation.</p>	Support subject to amending wording of Policy 6(c) to read: Whether there are alternative options for the proposed use on land <u>use can be carried out on land</u> that has less value for primary production.
49	Policy 7 (e)	Seek amendment	<p>As worded Policy 7(e) requires that consent authorities must have regard to benefits of the proposed activity compared to the long term benefits that would occur from the continued or potential use of the land for primary production.</p> <p>As worded this policy could enable business-as-usual. The economic benefits to an individual of developing the HPL today, plus the social benefits of new housing, are almost invariably going to be higher than the long term benefits of continued rural production.</p> <p>It appears little consideration is given to future generations: As in the CBA by MPI for this NPS, where a discount rate of 8% is typically applied to projects, thereby giving short term benefits a high weight, and long term benefits (past 10 years) little or no weight.</p>	Suggest consideration be given to providing greater weighting for benefits to future generations.