

To Ministry for the Environment & Ministry for Primary Industries

Submission from Selwyn District Council

In the matter of the proposed National Policy Statement on Highly Productive Land

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Selwyn District Council submission on the National Policy Statement on Highly Productive Land

Introduction

The Selwyn District Council (the Council) is broadly in support of the concept and direction the National Policy Statement on Highly Productive Land (NPS-HPL). However the Council has a number of concerns outlined and discussed below.

Submission period

1. The release of the Discussion Document for public consultation and submissions could not have come at a worse time. The document was released on 14th August 2019 with a close of submissions on 10th October 2019. This period is in the lead up to the local body elections on 12th October 2019. This is an extremely difficult time to canvass elected members views on such an important issue and is fraught with difficulty in terms of placing submissions before Council for endorsement and lodgement with Central Government.

It is disingenuous that Central Government would consult on significant National Direction at such a difficult time for all Regional and Local Authorities.

Lack of certainty

2. The NPS-HPL seeks to provide clear direction and improve how Highly Productive Land (HPL) is managed by regional and territorial authorities. Defining what is identified as HPL has a clear starting point of initially protecting Land Use Capability (LUC) 1-3 but there is a lack of clarity and certainty in the rest of the NPS-HPL that undermines the initial approach. The temporary nature of the definition (until regional councils define it further) has the potential to give rise to increased planning assessment and debate, which could have significant cost and resource issues that become redundant as regional councils define what is HPL. This is further exacerbated by the fact that the Canterbury Regional Council already identified “versatile soils” as those with LUC 1 and 2, from which district strategic growth planning and zoning has considered against. The NPS-HPL needs to be more focussed on exactly what it is seeking to protect and provide greater certainty in this regard to avoid unnecessary litigation.

Definition of HPL

3. The NPS-HPL seeks to also be consistent with the NPS-UD however there is not clear link to this in the objectives and policies of the NPS-HPL. The proposed definition of HPL exempts urban areas or Future Urban Zones in district plans. Both terms, “urban areas” and “Future Urban Zones” would indicate that there has to be “zone” in the district plan to be exempt. This does not take account of more strategic planning processes, which the NPS-HPL Objective 3 actually provides for. Future Development Strategies (FDS) or township spatial/structure plans, that in the process of being developed have considered and balanced the impacts on HPL with urban growth, should be exempt from the definition of HPL.
4. On this point any exemption of a strategic planning processes should not be limited to FDS as defined in the NPS-UD as not all areas are subject to requirements to produce and FDS. Having the appropriate links to the NPS-UD (vice versa) and exempting Strategic

Development Plans in the definition HPL provides certainty that HPL will be factored and balanced into future urban growth plans while then also providing the certainty to progress those plans if they are exempt from the NPS-HPL. This would avoid re-litigation of the appropriateness of urban growth areas at a district plan zoning stage.

Mapping HPL

5. The NPS-HPL acknowledges the limitations of the of the existing mapping of LUC areas, which are not at sufficient resolution to be accurate at a parcel level to provide for quality evidence based planning (particularly when restricting development due to impacts on HPL). Leaving the requirement to further refine and identify HPL area will require a substantial effort, time and cost to local authorities. Central government should take lead in this area to provide consistency in approach and reduce resource and cost to local authorities and their communities.

Horticultural vs Primary Production

6. The use of LUC and the focus on soil classifications of 1-3 seems to suggest that the emphasis is on horticultural production rather than all primary production. The NPS-HPL does not direct that the use of the land is for production that will benefit from it, rather it is not used for urban development. The NPS-HPL could focus on identifying primary production activities that require scarce land within the region and seek protection of land for these certain activities rather than protecting all HPL for the broad definition of primary production (which in itself could include activities that may underutilise or reduce the availability of the productivity potential of HPL).

Measuring Costs and benefits

7. The NPS provides direction for councils in requiring an assessment of the loss of HPL when considering development. However councils are not provided a way of assessing the potential cost both in the short and long term to evaluate with the benefits of development. A tool should be developed by MfE in order to assist this evaluation.

Rural residential

8. The definition of rural lifestyle development is not considered part of the rural area or the urban area. It is unclear what the NPS-HPL considers it to be. The definition of rural lifestyle should not include any reference to minimum site sizes. Lifestyle site sizes vary across the country and some on the smaller end of the spectrum are potentially urban-sized for small towns.

Objectives and Policies

9. The objectives of the NPS-HPL direct avoidance of subdivisions of HPL. However the policies direct that urban development must not be on HPL unless there is a shortage of development capacity and it can be demonstrated that this is the most appropriate option based on consideration of criteria. The wording of the policy is supported, notwithstanding the discussion in points 2 and 3 above, and the objective should be amended to reflect the policy wording.

10. Objective 2 uses the word “maintain” though the discussion on page 33 states that it ‘does not imply there should be no net loss’. The objective needs to be refined, as ‘maintain’ infers ‘no net loss’ whereas the discussion recognises that this is ‘not practical due to population growth pressures and other constraints’. Reliance on a preamble or guidance for interpretation is not good practice and the objective wording needs to reflect the intent.
11. There appears no immediate need for Policy 5. The consideration of reverse sensitivity effects and protecting the production, character and amenity of the rural environment is a matter of course when considering urban growth into the rural are and with other incompatible activities. This occurs regardless of whether the land adjoining is HPL.

Relief Sought:

- a. Further consultation on the proposed NPS before gazettal.
- b. Exempt future urban areas identified in Strategic development Plans (e.g FDS, spatial plans, structure plans) from the definition of HPL.
- c. Provide a stronger link from the NPS-HPL to the NPS-UD in the objectives and policies to avoid inconsistencies and one undermining the other.
- d. Central government to define and map HPL resources to the required level.
- e. MfE develop a tool for assessing the benefits of highly productive land for assessment.
- f. Improve the definition of rural lifestyle by removing minimum site sizes.
- g. Clarify language in policies to identify the aim and what it relates to