



# Valuing highly productive land

A proposed National Policy Statement for Highly Productive Land  
SUMMARY OF SUBMISSIONS

Ministry for Primary Industries  
Manatū Ahu Matua



Ministry for the  
**Environment**  
Manatū Mō Te Taiao

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# Part A: Introduction

This report provides a summary of submissions on the proposed National Policy Statement for Highly Productive Land (**NPS-HPL**). This report is in two parts:

Part A (this part) provides:

- context and background to the proposed NPS-HPL
- information on
  - the process for developing a national policy statement
  - how we consulted on the proposed NPS-HPL
  - how to read this document
- an overview of written submissions received through public consultation.

Part B provides a summary of key issues raised in submissions and groups these submissions into main topics and provides:

- an introduction to the topic
- an overview of written submissions received on the topic.

## 1 CONTEXT FOR THE PROPOSED NPS-HPL

Our productive land is a precious taonga – a finite and irreplaceable resource that New Zealand's people and economy rely on. Highly productive land (**HPL**) provides important economic benefits, including employment to surrounding communities, and collectively adds significant value to New Zealand's primary sector. However, New Zealand's productive land is being lost and there is a need to protect this valuable resource for current and future generations.

The *Our Land 2018* and *Environment Aotearoa 2019* reports highlighted that many of our productive areas have already been lost and there are two key pressures facing HPL:

- urban expansion and the accompanying loss of New Zealand's most versatile and productive land
- an increase in rural lifestyle developments, particularly on the fringes of urban areas.

The proposed NPS-HPL focuses on land that is highly productive for primary production, which could be identified using the Land-use Capability (**LUC**) classification system, as well as other factors.

The LUC system classifies land into eight classes. Land that has a Class 1 rating under the LUC system is the most versatile and has the fewest limitations for its use, while Class 8 is the least versatile with the highest number of limitations on its use.<sup>1</sup>

The Resource Management Act 1991 (**RMA**) provides the regulatory framework to manage the use of land, soil, freshwater and the coastal marine area. The ongoing, incremental loss of HPL is driven by the lack of clarity on how this resource should be managed under the RMA (discussed further in [section 6 – problem statement](#)). This lack of clarity means New Zealand's most productive land

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<sup>1</sup> More information on the basis of the LUC system is available at: <https://soils.landcareresearch.co.nz/soil-data/nzlri-soils/>

continues to be lost to urban development or fragmented into rural lifestyle developments, often without due consideration of the long-term value this finite resource provides to New Zealand. While there are examples of good management practices nationwide, there is a need to better manage this resource across the country to ensure it is available for land-based primary production, both now and for future generations.

A National Policy Statement (NPS) was proposed NPS-HPL in the [discussion document](#) as the preferred option to protect New Zealand's most productive land. The proposal would require councils to identify HPL within their region and protect this resource for land-based primary production, with a particular focus on protecting HPL from lifestyle development, undesirable urban expansion and 'other' inappropriate subdivision, use and development. The proposed NPS-HPL does not seek to provide absolute protection for HPL and recognises that non-productive uses are appropriate on HPL in certain circumstances. However, it will require councils to better manage and protect this resource to ensure its long-term availability for land-based primary production.

See the [discussion document](#) for more information.

## 2 PROCESS FOR DEVELOPING THE PROPOSED NPS-HPL

The statutory requirements for developing a **NPS** are set out in sections 45–55 of the RMA. To develop the NPS-HPL, the Minister for the Environment chose to establish an officials-led process in accordance with section 46A(3)(b) of the RMA. The steps required under this process include:

- notifying the public and iwi authorities of the proposed NPS-HPL
- providing an opportunity for written submissions on the proposed NPS-HPL
- preparing a report and recommendations to the Minister for the Environment on submissions and the subject matter of the proposed NPS-HPL (the Report on Submissions and Recommendations).

Publishing a summary of submissions is not part of the statutory process. However, it will form part of the later Report on submissions and recommendations (which also contains a summary of submissions) which is required for enacting national direction under section 46A(c).

## 3 HOW WE CONSULTED

The Ministry for Primary Industries (**MPI**) and the Ministry for the Environment (**MfE**) undertook public consultation on the proposed NPS-HPL from 14 August until 10 October 2019. Public engagement on the proposed NPS-HPL was run as part of a wider government roadshow to seek feedback on proposals for national direction on HPL, freshwater and urban development. The roadshow included more than 60 meetings across New Zealand, with over 7500 people in attendance. This engagement included public and primary sector-focused meetings, workshop sessions with councils, and regional hui with iwi/Māori.

A [discussion document](#), summary of the proposal and indicative cost-benefit analysis of the proposed NPS-HPL, were provided on the two agencies' [consultation webpages](#). Consultation closed on 10 October 2019.

At the time of consultation, the Government was also consulting on the National Policy Statement for Urban Development (NPS-UD), but these two instruments are now on different timeframes. The NPS-UD was gazetted on 23 July, whereas the NPS-HPL is due to be finalised by early 2021. Submissions summarised in this document reflect the situation at the time they were provided.

## 4 HOW TO READ THIS DOCUMENT

This summary document provides an overview of themes raised by submitters on the proposed NPS-HPL [discussion document](#).

Not all submissions, or submission points, have been addressed individually in this document. We have grouped submissions into themes. In summarising submissions, we have made some necessary generalisations for brevity. We will release written submissions following the publication of this summary.

In some instances, we have used direct quotes or paraphrased a submitter's point to illustrate the main themes raised.

The questions we have provided in each topic are designed to indicate the types of queries asked of submitters. For a full list of questions asked refer to the [discussion document](#).

## 5 OVERVIEW OF SUBMISSIONS

A total of 250 submissions were received on the proposed NPS-HPL over the eight-week consultation period. We received submissions from a range of stakeholders including councils, primary producers, industry organisations, businesses and individuals. In addition to submissions from stakeholders, there were eight submissions received from iwi or other Māori organisations.

Submitters can be broadly categorised in the following groups:

- individual (66)
- council (48)
- primary producers (47)
- businesses (general) (36)
- sector body (25)
- NGO (11)
- government agency (9).

Submissions were broadly supportive of the intent of the proposed NPS-HPL, with approximately 224 submissions (90 per cent) indicating full or partial support for the proposal. Generally, there was a high level of support for the purpose and objectives of the proposed NPS-HPL and the overall intent to better protect and manage HPL. Submitters also generally agreed that a national policy statement was the best option to address the identified problems and achieve the objectives.

Submitters were broadly supportive for the scope of the proposed NPS-HPL to apply nationally, although there were suggestions to focus on particular areas that were experiencing the greatest pressure on their HPL resource. Some submitters also recommended the proposed NPS-HPL should focus on the most versatile soils, ie, only protect Land-use Capability Class 1, or Classes 1 and 2, rather than Classes 1, 2 and 3.

While there was general support for the intent of the proposed NPS-HPL, submitters raised a number of issues and requested a number of changes to the proposed NPS-HPL, ranging from technical amendments and policy refinements through to more substantive changes.

Submitters raised issues regarding the process and criteria to identify HPL and the policy framework that applies to the HPL resource once it has been identified. The strength of the policy framework that applies to urban expansion and lifestyle development on HPL was also a significant focus of

submissions, as was the interactions with other national direction, particularly the proposed NPS-UD and the *Essential Freshwater* package.

There were consistent requests from submitters for clear and coherent alignment between the proposed NPS-HPL and other proposed national direction instruments.

A more detailed overview of submissions is provided in [Part B](#) of this report.



## Part B: Topic summaries

This section provides a summary of key issues raised in submissions. Submissions have been grouped under the following headings:

- problem statement
- options for the proposal
- scope of NPS-HPL
- whenua Māori and Treaty of Waitangi
- NPS-HPL objectives
- identifying highly productive land
  - transitional definition
  - process
  - criteria
- urban expansion
- subdivision and rural lifestyle development
- protecting highly productive land from ‘other’ subdivision, use and development
- prioritising highly productive land for land-based primary production
- reverse sensitivity
- transitional protection of highly productive land
- other issues.

For each issue, this report provides an overview of policy intent, what was consulted on, overview of submissions and the key policy issues identified through submissions.

## 6 PROBLEM STATEMENT

### Introduction

The proposed NPS-HPL [discussion document](#) outlined three main issues that preclude the use of HPL for primary production:

- urban expansion, which was disproportionately occurring on HPL
- fragmentation of HPL for rural-lifestyle development, which was resulting in HPL no longer being suitable for primary production
- newly located activities in close proximity to HPL, which were reducing the productive capacity of HPL due to reverse sensitivity effects.<sup>2</sup>

The proposed NPS-HPL [discussion document](#) sought feedback on whether the RMA framework provided sufficient clarity and direction on how HPL should be managed and considered alongside competing land uses. It sought specific feedback on how HPL was being considered when providing for future urban expansion and fragmentation for rural-lifestyle development and how the tensions between primary production activities and incompatible activities should be managed (ie, managing reverse sensitivities).

In addition, the proposed NPS-HPL [discussion document](#) sought feedback on whether submitters agreed there was a problem with HPL and whether this problem had been accurately reflected in the [discussion document](#).

### Overview of submissions

There were 163 submissions providing feedback on the problem definition, as broken down in the table below.

**Table 1: Breakdown of submitters for problem statement**

Submitter type	Number
Businesses (general)	22
Council	34
Government agency	6
Grower	22
Individual	47
Māori organisation	4
NGO	10

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<sup>2</sup> Reverse sensitivity refers to the vulnerability of an existing activity to complaints from newly located activities in close proximity that are sensitive or incompatible with that existing activity (eg, new residential dwellings next to commercial rural production facilities).

Other primary producer	2
Sector body	15
Other/unspecified	1
<b>Total</b>	<b>163</b>

There was general agreement amongst submitters that the RMA framework did not currently provide sufficient clarity and direction on how to manage HPL. While many submitters noted there was some recognition of soils generally within Part 2 of the RMA (purpose and principles), there was strong agreement that this reference did not provide enough guidance or direction, particularly at the district or individual property level.

The majority of those who submitted on this section noted that a lack of clarity on how HPL should be managed under the RMA was leading to the inadequate consideration of the value of HPL. This inadequate consideration was seen as resulting in uncoordinated urban expansion and fragmentation of HPL and thereby precluding the best use of this finite resource for primary production for the benefit of New Zealand.

Other issues relating to the RMA framework that submitters raised include the:

- 'land-use efficiency' approach under the RMA makes it difficult to manage HPL
- RMA framework does not provide for consideration of the cumulative loss of HPL over time
- RMA allows for ad hoc decision-making and inconsistent levels of protection across council boundaries
- unclear reference to HPL in the RMA means that where protections for this resource are in place, these can be vulnerable to legal challenge (refer also [section 7 Options for the Proposal](#)).

Some submitters did not agree with the problem definition's focus on primary production and suggested the wider ecosystem services provided by soils should be the core focus. Conversely, some submitters did agree with the primary production focus, but recommended this was refined to focus on food production and the future food security of New Zealand.

A number of submitters did not agree there was a problem with how HPL is managed under the RMA and suggested the reference to soils under sections 5 and 7 of the RMA provided sufficient clarity. These submitters cited that a number of councils already have a policy framework which identifies and protects HPL.

Some submitters raised concerns about the quality of evidence used to justify the problem definition, including the limitations of the indicative cost-benefit analysis and the lack of region-specific data on the loss of HPL. A number of submitters also pointed out that despite urban expansion and lifestyle development, New Zealand still has plenty of land available for horticulture and primary production.

#### **Consideration of urban expansion onto highly productive land**

Some submitters mentioned HPL frequently loses when considered alongside urban expansion, as the 'winner' is usually the highest economically valued use of the site/application. In addition, some

submitters mentioned that during such decisions, there is little or no consideration of the wider community's interests in maintaining HPL for the long-term future and prosperity of the region.

Some submitters noted that when providing for urban expansion, the benefits of HPL are only considered in a superficial way, or they are given a lower priority than the many other issues an RMA decision-maker must consider.

Some submitters mentioned the lack of clarity under the RMA as the core driver for the loss of HPL to urban expansion. In addition, some submitters noted that HPL often presents fewer challenges for development than less productive land, as it is typically flat or rolling, cleared land and therefore less costly to develop and service.

Submitters provided examples from across the country of urban areas that were expanding onto HPL. In some of these cases, submitters noted there were options to expand urban areas onto less-productive land. There were also some examples provided where submitters considered the territorial authority had been thorough in its consideration of HPL, and urban expansion had been redirected to less productive land or within existing urban zones.

### **Managing fragmentation of highly productive land for rural-lifestyle development**

Some submitters considered fragmentation from rural-lifestyle development was resulting in a greater loss of HPL than urban expansion, despite offering significantly lower benefits in terms of housing capacity. It was also noted that rural-lifestyle developments do not use land efficiently, nor do they tend to lead to affordable housing. Examples were provided from across the country of HPL areas that have been fragmented for rural-lifestyle development.

Some submitters noted a number of pressures that were driving the fragmentation of HPL for rural-lifestyle development, including:

- demand for housing with abundant 'hobby land' in areas with high rural amenity values created by the surrounding primary production activities
- financial pressures or the need to raise capital resulting in HPL being subdivided (eg, farms owned by family members who needed to raise capital to buy out their parents or a sibling, or where low returns required the sale of land to raise capital for property improvements)
- provision of onsite worker housing, or subdividing for retirement on-farm, with these subdivided properties then on-sold to occupants unrelated to the surrounding primary production activities
- rural-lifestyle development in an area not previously developed for this purpose, in turn creating an environment which makes future fragmentation of nearby land more likely and leading to development creep through incremental change.

There was general agreement from most submitters on this section that rural-lifestyle development was not a productive use of HPL. Some submitters noted rural-lifestyle developments support buildings, concrete driveways and gardens on HPL that generally result in an overall loss of primary production. Submitters also noted that while some rural-lifestyle developments do support primary production, there is no guarantee the land will remain in production with subsequent development, fragmentation and change of ownership.

Some submitters noted rural-lifestyle development increases land values as it often requires an expensive 'urban standard' of services, which places these areas out of reach of people wanting to use the land productively.

A few submitters noted rural-lifestyle development at the urban edge can create problems for future urbanisation as it highly fragments the land, raises land prices, and makes efficient infrastructure and good urban design outcomes difficult to achieve.

#### **Reverse sensitivity issues facing highly productive land**

Many submitters, in particular farmers and growers, noted reverse sensitivity effects could have a significant impact on primary production. Submitters raised a number of examples of reverse sensitivity issues seen on HPL across New Zealand, including:

- noise from machinery such as vehicles, processing equipment and frost fans
- noise from animals
- chemical use and practices
- odour from silage and manure
- amenity complaints relating to constructions such as shade cloths, sheds, greenhouses and pack houses.

Some submitters referred to differing amenity expectations at the interface of urban and HPL. There were concerns expressed that primary producers were being required to internalise nuisance effects (eg, noise, odour) that are an expected part of commercial operations, increasing operating costs and, in turn, impacting the economic viability of those operations. Submitters also mentioned reverse sensitivity tensions where fragmentation for rural-lifestyle developments can lead to rural activities no longer being considered the prominent use in a rural area.

Some submitters noted the challenges councils face when managing reverse sensitivities, as many reverse sensitivity effects are often not easy to manage or confine within a property boundary. Some submitters noted the different approaches councils take to manage these, such as:

- consent notices and non-compliant covenants
- using buffers between primary production and other land uses
- using setbacks within property boundaries
- residents' associations
- techniques for mitigating noise, spray or dust.

There was mixed feedback on the effectiveness of these techniques and the level of enforcement.

## 7 OPTIONS FOR THE PROPOSAL

### Introduction

The proposed NPS-HPL [discussion document](#) outlined the main options to address the identified problems:

- a national policy statement (**NPS**)
- national environmental standards (**NES**)
- amendments to the National Policy Statement on Urban Development Capacity 2016 (**NPS-UDC**).

An NPS may state objectives, policies and methods, and other requirements that councils must include in their policy statements and plans. Councils must “give effect to” relevant NPS provisions through their regional policy statements and plans (section 62(3), 67(3)(a) and 75(3)(a)).

National environmental standards (NES) are regulations made under section 43 of the RMA. NES prescribe standards for environmental matters and can operate as plan rules to provide greater consistency and certainty in resource consent requirements nationally. NES generally prevail over plan rules, except where an NES expressly states plan rules can be more stringent or lenient.

The third option would involve amendments to the NPS-UDC to explicitly require HPL to be considered when identifying new urban areas to meet the NPS-UDC requirements. For example, there could be a requirement in the NPS-UDC to consider HPL when identifying areas that future urban areas must avoid within future development strategies. This option would be in addition to the current changes proposed to the existing NPS-UDC through the proposed [National Policy Statement for Urban Development](#).

The NPS-UD was developed under the urban planning pillar of the Government’s Urban Growth Agenda, a programme that aims to remove barriers to the supply of land and infrastructure and make room for cities to grow up and out. The NPS-UD will require councils to:

- plan well for growth, and ensure a well-functioning urban environment for all people, communities and future generations
- ensure urban development occurs in a way that takes into account the principles of Te Tiriti o Waitangi (emphasising existing requirements under the RMA)
- ensure council plans make room for growth both ‘up’ (intensification) and ‘out’ (urban expansion), and that the rules do not unnecessarily constrain growth
- develop, monitor and maintain an evidence base about demand, supply and prices for housing and land, to inform planning decisions
- align and coordinate planning across urban areas.

A standalone NPS was identified in the [discussion document](#) as the preferred option, as it has the potential to provide considerable improvements in how HPL is considered and managed by councils. A standalone NPS can also provide a higher degree of flexibility to councils to consider and respond to local circumstances when giving effect to the NPS, while still providing clear directions on the outcomes to be achieved and implementation requirements to achieve those outcomes.

The [discussion document](#) sought feedback on:

- Which option do you think would be the most effective to address the problems identified and why?

- Are there other pros and cons of a national policy statement that should be considered?
- Are there other options not identified that could be more effective?

## Overview of submissions

### General support for a standalone NPS

One hundred and twenty-nine submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 2: Breakdown of submitters for options for the proposal**

Submitter type	Number
Businesses (general)	25
Council	30
Government agency	6
Grower	14
Individual	26
Māori organisation	1
NGO	8
Other primary producer	1
Sector body	17
Other/unspecified	1
<b>Total</b>	<b>129</b>

The majority of these submissions expressed support for a standalone NPS as the most appropriate mechanism to protect HPL and address the problems identified. Most submitters agreed that a standalone NPS:

- would be effective in providing clear policy direction
- recognises that HPL is a nationally significant, finite resource
- would help ensure the benefits of HPL are given greater weight in land-use planning and decision-making than currently.

Council submitters were particularly supportive of a standalone NPS compared to the other two options consulted on.

Submitters noted a standalone NPS is the most effective mechanism, with the ability to provide clear policy direction and implementation requirements at a national level as well as giving councils

flexibility to tailor specific objectives and policies to suit their local context. Submitters also noted a standalone NPS would clarify that HPL is a matter of national significance and carry greater weight than regional policy statements or district plans when making critical decisions, which could make the difference when assessing finely balanced proposals.

One of the key benefits of a standalone NPS highlighted by submitters was that it allows for input by landowners and communities through the ensuing plan change processes to give effect to the NPS. This would help ensure councils achieve solutions tailored to their regional and local context. This is in comparison to an NES which would immediately introduce new standards without the local community being given a chance to influence how those standards apply in their region or district.

### **National environmental standard**

There was limited support for an NES as a solution for managing HPL and addressing the identified problems. Submitters raised concerns that an NES would introduce overly prescriptive provisions and would not provide councils with the flexibility needed to tailor provisions to manage HPL in their local context. Primary sector submitters, in particular, were concerned introducing provisions that applied nationally would not adequately allow for variability across the country, which in their view, was essential to support the variety of land-based primary production activities that rely on the productive capacity of the soil resource. Submitters also highlighted a significant limitation was the reduced ability for landowner and community input into the NES process, compared to the plan changes that give effect to an NPS.

The submitters who preferred an NES suggested that more focused environmental standards were needed in the first instance (eg, an NES for commercial vegetable growing and/or an NES for freshwater). National guidance on managing HPL could be investigated once these narrower NESs had been introduced. These submitters were generally involved in commercial vegetable production and sought a solution tailored to their industry. There was also some support for an 'interim NES' to provide immediate, more effective protection of HPL while councils fully gave effect to the proposed NPS – noting that this process of protection would take years.

### **Amendments to proposed NPS on Urban Development**

Some submitters supported an NPS as the most appropriate mechanism to manage HPL but did not support a standalone NPS. This was primarily due to the potential for overlap and conflict with the proposed NPS-UD being developed concurrently. Some submitters were concerned that managing two (at times competing) issues (urban development and HPL) through separate NPSs would lead to conflict between the NPS-HPL and NPS-UD, and result in unnecessary uncertainty, complexity and costly processes for councils and the private sector. These submitters generally thought it would be beneficial to address both issues through a single, integrated NPS that could include specific instructions as to how to weigh up competing objectives and policies.

Other submitters expressed a strong view that the proposed NPS-HPL and proposed NPS-UD should not be merged, as this would undermine the importance of each issue and be less effective. For example, there were concerns from some submitters that integrating the HPL issues into the NPS-UD would send the wrong signal, and not appropriately highlight the protection of HPL as a nationally important issue in its own right. However, there were consistent requests for the two instruments to be well aligned with the interactions clear and workable for all parties. Some submitters also requested improvements to cross linkages between the two documents to reinforce the message that, while providing for development capacity is a priority, it should not come at the expense of protecting HPL.



### **Make highly productive land a matter of national importance under the RMA**

A few submitters noted the present RMA framework, specifically Part 2 (Purpose and Principles), does not provide sufficient clarity or direction on how HPL should be managed. Councils have clear obligations to recognise and provide for matters of national importance under section 6 of the RMA, and must have regard to matters in section 7 of the RMA. As HPL is not specifically dealt with under the RMA, competing considerations that are explicitly referenced in section 6 of the RMA, or in national direction, can take precedence in land-use planning and decision-making over the long-term retention of HPL for primary production.

There were corresponding suggestions that the protection of HPL for land-based primary production should be elevated to a matter of national importance under section 6 of the RMA – similar to under the former Town and Country Planning Act 1977. This Act, now repealed, included the following matter of national importance: “*The avoidance of encroachment of urban development on, and the protection of, land having a high actual or potential value for the production of food*”. Submitters considered this would give HPL considerations the necessary emphasis when preparing plans and considering future development proposals on HPL. These submitters generally felt this option should be combined with the introduction of national direction (with a standalone NPS the preferred option) as including a new matter in section 6 on its own would not provide sufficient national direction to local authorities.

An issue for further consideration identified through submissions is whether protecting HPL should be included as a matter of national importance in section 6 of the RMA.

## 8 SCOPE OF NPS-HPL

### Introduction

As outlined in the NPS-HPL [discussion document](#), the policy intent of the proposed NPS-HPL is to focus on the key land-use planning issues affecting HPL – urban expansion, rural lifestyle development and reverse sensitivity effects. The scope of the NPS-HPL does not extend to wider soil health issues that were also highlighted in *Our Land 2018*. These issues are to be considered as part of a second phase of work. As set out in the NPS-HPL [discussion document](#), the scope of the proposed NPS-HPL also does not extend to regional constraints on land-use flexibility, in particular constraints relating to water quality and quantity. These are being addressed through *the Essential Freshwater* package. The interactions between the proposed NPS-HPL and *the Essential Freshwater* package are discussed in more detail in [Interactions with other national direction](#).

The intent of the proposed NPS-HPL is to maintain the availability of HPL for ‘primary production’<sup>3</sup> for future generations, and the proposed NPS-HPL is not designed to favour any particular primary sector. Consequently, the focus of the proposed NPS-HPL is on managing the types of development that typically result in the irreversible loss of HPL for primary production, ie, urbanisation and rural lifestyle development.<sup>4</sup>

The scope of the proposed NPS-HPL would exclude existing urban areas. This recognises the NPS-HPL should not retrospectively apply to these areas as it is highly unlikely these will revert to primary production. The proposed NPS-HPL would also not apply to future urban zones in district plans, as these areas have been identified as suitable for urban use through a statutory process and provide a clear signal to developers and landowners as to where future urban development can occur. Investment decisions are made based on future urban zoning (for example, the Future Urban Zone in the Auckland Unitary Plan) and the NPS-HPL should not undermine this. Conversely, the proposed NPS-HPL would apply to future urban areas in non-statutory plans (eg, Future Development Strategies (FDS) prepared under the NPS-UD) to allow councils to reconsider the suitability of these areas for urban development in light of the proposed NPS-HPL. Specific feedback on how the NPS-HPL should apply to future urban areas was sought through public consultation.

The proposed scope of the NPS-HPL was to:

- focus on protecting HPL for primary production generally
- focus on land-use planning issues affecting HPL rather than broader soil health issues and regional constraints to land-use flexibility
- apply nationally rather than target particular areas
- exclude existing urban areas and future urban zones in statutory documents.

The [discussion document](#) asked submitters:

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

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<sup>3</sup> The proposed definition of primary production in the NPS-HPL was based on the National Planning Standards definition, but limited to agricultural, pastoral, horticultural and forestry activities (ie, excluding mineral extraction and aquaculture).

<sup>4</sup> While rural lifestyle development is not always irreversible from a physical perspective, the higher land prices and smaller economic units means a return to primary production is very unlikely.

- What matters, if any, should be added to or excluded from the scope of the National Policy Statement? Why?
- Should future urban zones and future urban areas be excluded from the scope of the National Policy Statement? What are the potential benefits and costs?
- Should the National Policy Statement apply nationally or target areas where the pressures on HPL are greater?

## Overview of submissions

One hundred and twenty-seven submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 3: Breakdown of submitters for scope of NPS-HPL**

Submitter type	Number
Businesses (general)	18
Council	35
Government agency	8
Grower	7
Individual	34
Māori organisation	4
NGO	6
Other primary producer	–
Sector body	14
Other/unspecified	1
<b>Total</b>	<b>127</b>

Most submitters were supportive of the scope of the proposed NPS-HPL to apply nationally, with many submitters of the view that this is a nationally significant issue that warrants a national approach. However, there were some suggestions it should focus on particular areas experiencing the greatest pressure on the HPL resource, such as food-growing hubs like Pukekohe. Some submitters also recommended the scope be limited to the most productive soils (ie, LUC class 1 or classes 1–2).

Submitters were generally supportive of the proposed NPS-HPL focusing on primary production generally, rather than favouring particular sectors, although there were suggestions that the scope should be refined to focus primarily (or solely) on food production. There were also some concerns about the inclusion of forestry in the definition of primary production, on the basis that it is not reliant

on high quality soils nor a sustainable or productive use of high-quality soils, and can have other adverse effects (eg, amenity, biosecurity).

There were also requests for the definition of primary production to be amended to more clearly relate to primary production activities that rely on soil. This was to avoid the NPS-HPL inadvertently encouraging activities on HPL like intensive indoor primary production and glasshouses. Some submitters also raised potential interpretation and implementation issues associated with having a definition of 'primary production' that is similar but narrower in scope to the one used in the National Planning Standards.

### **Future urban areas**

There was support from the majority of submitters on this clause for the proposed NPS-HPL not to apply to existing urban areas and future urban zones in district plans. This is because these areas/zones have been through a full Schedule 1 process with extensive community involvement, submissions, hearings and so on, and they provide clear direction on whether future urban growth should occur. There were some requests for this exclusion to be extended to future urban areas identified in regional policy statements for similar reasons.

Some submitters also requested the proposed NPS-HPL not apply to future urban areas identified in non-statutory growth plans and strategies, particularly future growth areas identified in Future Development Strategies. These submitters emphasised that planning and investment decisions have already been made around future urban areas identified in non-statutory plans and strategies, and it is important the proposed NPS-HPL does not undermine this work. There were also some concerns that asking councils to reconsider future growth areas under the NPS-HPL could create unnecessary uncertainty and rework and be contrary to wider government objectives for urban growth.

### **Exclusions**

Some submitters raised concerns that the lack of specific recognition of their activity or operation in the NPS-HPL creates a risk they would be considered an 'inappropriate' subdivision, use or development of HPL. To address this concern, there were some specific requests from some submitters to exclude certain areas of land (eg, designations) and activities (eg, nationally significant infrastructure) from the proposed NPS-HPL or provide for these activities through the policies in some other way.

Issues for further consideration identified through submissions include:

- whether the focus of the NPS-HPL should be on food production or primary production more generally, or a narrower definition that focuses on the soil resource
- how the NPS-HPL applies to future urban areas in statutory and non-statutory plans
- whether to exclude certain activities from the NPS-HPL.

## 9 WHENUA MĀORI AND TREATY OF WAITANGI

### Introduction

The intent of the proposed NPS-HPL is to prevent inappropriate subdivision, use and development of HPL. It is not intended to unnecessarily restrict the use of whenua Māori<sup>5</sup> where this contributes to the social, economic and cultural wellbeing of tangata whenua.

The intention is that councils, in partnership with iwi, would consider whenua Māori as part of the process to identify HPL, noting the numerous constraints that apply to whenua Māori that don't apply to other land.

The proposed NPS-HPL does not differentiate between whenua Māori and other types of land tenure. This means the provisions within the NPS-HPL would apply equally to both whenua Māori and other forms of land tenure. Recognition of the cultural values surrounding whenua Māori is referenced in the following sections:

- **Identification of HPL** – councils may consider current land cover and use, and the environmental, economic, social and cultural benefits it provides when identifying HPL
- **Urban expansion** – the cultural benefit of urban expansion versus that of retaining the land in primary production must be assessed when considering urban expansion on to HPL.

### Overview of submissions

Sixteen submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 4: Breakdown of submitters for whenua Māori and Treaty of Waitangi**

Submitter type	Number
Businesses (general)	2
Council	4
Government agency	1
Grower	–
Individual	1
Māori organisation	6
NGO	2
Other primary producer	–
Sector body	–
Other/unspecified	–

<sup>5</sup> As defined in Te Ture Whenua Māori Act 1993. This includes both Māori customary land and Māori freehold land.

### Whenua Māori

A small number of council and iwi submitters sought clarification on how the NPS-HPL would apply to whenua Māori (Māori land). Whenua Māori typically faces a number of restrictions in regard to its use and development, including issues related to multiple ownership, and the type and quality of the land. These submitters stated that due to these constraints, it would be inappropriate to treat whenua Māori in the same way as other freehold land under the NPS-HPL.

Both council and iwi submitters raised concerns about the potential of the NPS-HPL to place further restrictions on the use of whenua Māori, which was seen as undermining the ability of tangata whenua to determine their own needs-based outcomes for their land, and not in keeping with the spirit of the Treaty of Waitangi. Submitters argued the NPS-HPL needed to better recognise the historical intent and purpose of land vested as whenua Māori, as well as past efforts by the Crown to unlock the potential of whenua Māori and alleviate the challenges faced by Māori landowners, which have had mixed success to date.

The potential impact of the NPS-HPL on papakāinga (collective housing traditionally in a marae setting) was an area of particular concern for iwi and council submitters. A number of submissions voiced the need to ensure the NPS-HPL does not act as another barrier to what is already seen as a complex and onerous process for Māori wanting to use their land for affordable and sustainable housing solutions for whānau. This was noted to be important given the current shortage of affordable housing in New Zealand and its disproportionate effect on Māori, particularly in growth regions. One iwi submitter stated that before urbanising productive land, the historical or customary Māori use of such land for māra kai (food gardens) should be considered. It was noted that under traditional Māori living structures, horticultural production, papakāinga and the associated kaitiaki role of Māori are often co-located, and the environmental and social benefits of these traditional structures should not be constrained or prohibited by the NPS-HPL.

A couple of submitters expressed some concern about including whenua Māori in the interim definition of HPL, and suggested it be excluded from this definition. Other submitters stated whenua Māori should be explicitly provided for as a consideration during the identification process. There was general support from submitters who submitted on these issues for providing for the involvement of iwi, hapū and Māori landowners throughout the implementation of the NPS-HPL.

### Engagement with Māori

A few submitters raised concerns iwi had not been appropriately engaged with throughout the development of the NPS-HPL, and that the engagement process so far did not satisfy the Crown's obligations under the Treaty of Waitangi and related settlement legislation/partnerships. These submitters expressed strong interest in being included in any further policy considerations, as well as in working closely with councils to implement the NPS-HPL.

Issues for further consideration identified through submissions include how to better provide for:

- whenua Māori under the NPS-HPL, including both the identification of HPL and interim definition
- sites of significance to Māori, including wāhi tapu, mahinga kai, pā and urupā
- cultural uses such as papakāinga on HPL
- iwi engagement and collaboration throughout the implementation of the NPS-HPL.

## 10 NPS-HPL OBJECTIVES

### Introduction

The proposed NPS-HPL included three overlapping objectives that are intended to work together:

- **Objective 1:** To recognise and provide for the value and long-term benefits of using HPL for primary production
- **Objective 2:** To maintain the availability of HPL for primary production for future generations
- **Objective 3:** To protect HPL from inappropriate subdivision, use and development, including by:
  - avoiding subdivision and land fragmentation that compromises the use of HPL for primary production
  - avoiding uncoordinated urban expansion on HPL that has not been subject to a strategic planning process
  - avoiding and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to HPL.

The first objective is intended to ensure the long-term values and benefits associated with using HPL for land-based primary production are better recognised in RMA planning and decision-making. This responds to concerns the long-term benefits of protecting HPL for land-based primary production are often undervalued compared to the short-term and site-specific benefits associated with urban expansion and conversion to rural lifestyle. The intent is that councils would then articulate the key benefits and values associated with HPL within their local context to ensure they are better considered in RMA planning and decision-making.

The intent of the second objective is to ensure the availability of HPL for land-based primary production is maintained for future generations. This does not imply a no net loss requirement – rather it would require councils to proactively consider and manage the HPL resource to ensure this can be used for land-based primary production now and into the future.

The third objective in the proposed NPS-HPL is intended to provide direction to all decision-makers to protect HPL from “inappropriate” subdivision, use and development. The proposed wording of the objective provided some indication of how “inappropriate” subdivision, use and development should be interpreted while allowing councils some flexibility to define this within their local context.

The discussion document asked submitters: what would an ideal outcome be for the management of HPL for current and future generations?

Other discussion document queries on objectives relate to topics covered below. Refer to the [discussion document](#) for more detail, as well as for extra questions not covered in this summary document.

### Overview of submissions

One hundred and forty-seven submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 5: Breakdown of submitters for NPS-HPL objectives**

Submitter type	Number
Businesses (general)	19
Council	36
Government agency	7
Grower	14
Individual	43
Māori organisation	5
NGO	7
Other primary producer	–
Sector body	15
Other/unspecified	1
<b>Total</b>	<b>147</b>

The majority of submitters were broadly supportive of the intent of the three objectives consulted on. Some suggested changes to the way the objectives are structured, while others requested some further clarification on some specific wording.

A number of submitters, mostly council and NGO submitters, commented that the objectives in their current form read more like purpose statements rather than environmental outcomes. Some submitters suggested this was inconsistent with the purposes of the RMA as an outcomes-based framework and suggested the objectives be re-worded into outcome statements. A small number of submitters also suggested the objectives could be condensed, with Objectives 1 and 2 potentially being combined. Objective 1 was seen to provide little practical guidance to local authorities, and with its intent adequately covered by the remaining two objectives.

There was strong feedback from submitters that there needed to be more clarity and guidance on what constituted inappropriate subdivision, use and development under Objective 3. There were mixed views, however, on whether this guidance was best provided in the objective itself, elsewhere in the NPS-HPL, or as a part of supplementary guidance.

Another prominent theme from the submissions was the need to clarify specific wording. This was noted to be particularly important in the context of case law, and how these terms had previously been interpreted by the courts.

For instance, submitters raised concern around the ambiguity surrounding the use of ‘value’ and ‘long-term’ in Objective 1, and ‘uncoordinated’ and ‘compromises’ in Objective 3. Submitters suggested these terms be further defined.



Submitters also expressed significant concern around the use of 'maintain' in Objective 2. One council submitter noted the need to 'maintain' the availability of HPL is likely to be interpreted as no net loss. This interpretation was noted to be inconsistent with the intention of the NPS-HPL to provide councils with the flexibility necessary to meet their urban development requirements under the Urban Growth Agenda, and their ability to recognise appropriate uses of HPL including those that have a functional need to be located on HPL. Submitters also expressed concerns around the use of 'avoiding' in Objective 3, which may also translate to the absolute protection of HPL.

A small number of submitters from the horticultural sector suggested the objective of the NPS-HPL was to not only maintain the availability of HPL, but to maintain the productive capacity and viability of the land. These submitters noted that while HPL may be available, it may not be viable for primary production due to issues such as fragmentation, lot size and reverse sensitivities. A few council and primary sector submitters suggested that Objective 2 be focused on the physical properties of versatile soils as opposed to the broader definition of HPL, while other submitters wanted the objective to focus on food production rather than primary production in general.

Issues for further consideration identified through submissions include:

- re-wording objectives as clear outcomes statements
- whether the three objectives should be combined
- clarifying or removing uncertain and inconsistent terms
- ensuring actions to achieve the objectives are clear in the policies.

## 11 IDENTIFYING HIGHLY PRODUCTIVE LAND – TRANSITIONAL DEFINITION

### Introduction

The proposed NPS-HPL consulted on included an interim (transitional) definition of HPL based on Land-use Capability (**LUC**) classes 1 to 3. This transitional definition identifies the land to which the provisions of the NPS-HPL apply to provide some protection of HPL until councils have had sufficient time to undertake the necessary work to map HPL within their region and promulgate plan changes.

The intention of including the transitional definition was to provide appropriate protection for HPL in the interim period before mapping can be completed and regional and district plans and policy statements can be updated to reflect these requirements. This was to prevent a 'gold rush' effect where the incoming, increased protection for HPL itself causes significant amounts of HPL to be irreversibly lost from primary production availability.

The discussion document proposed a transitional definition of HPL<sup>6</sup> that:

- is based on LUC classes 1–3
- includes a minimum threshold for LUC 1–3 land within a site of 50 per cent or 4 hectares (whichever is the lesser)
- applies to General Rural and Rural Production Zones (not Rural Lifestyle Zones)
- applies from the start date until regional councils have mapped HPL within their region.

The discussion document asked submitters for their feedback on:

- Should there be a default definition of HPL based on the LUC classification until councils identify this? Why/why not?
- What are the key considerations to consider when identifying HPL? What factors should be mandatory or optional to consider?
- What are the benefits and risks associated with allowing councils to consider the current and future availability of water when identifying HPL? How should this be aligned with the *Essential Freshwater Programme*?
- Should there be a tiered approach to identify and protect HPL based on the LUC class (eg, higher levels of protection to LUC 1 and 2 land compared to LUC 3 land)? Why/why not?

### Overview of submissions

The identification of HPL received the greatest amount of feedback, with 197 submitters mentioning the proposed transitional definition; the proposed process for regional councils to identify HPL; or the criteria regional councils would use to identify HPL (refer to sections 10, 11 and 12).

The one hundred and ninety-seven submissions that provided feedback on options for the proposal are broken down in the table below.

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<sup>6</sup> The proposed definition of HPL in the NPS-HPL discussion document is as follows: ***‘Highly productive land means land that has been identified as highly productive by a local authority in accordance with Policy 1 and Appendix A of this National Policy Statement. Where a local authority has not identified highly productive land in accordance with Policy 1 and Appendix A, highly productive land is a land parcel in a rural area that contains at least 50 per cent land defined as Land-use Capability 1, 2 and 3 as mapped by the New Zealand Land Resource Inventory or by more detailed site mapping.’***

**Table 6: Breakdown of submitters for identification of HPL**

Submitter type	Number
Businesses (general)	30
Council	46
Government agency	6
Grower	33
Individual	43
Māori organisation	5
NGO	10
Other primary producer	1
Sector body	19
Other/unspecified	4
<b>Total</b>	<b>197</b>

Most submitters on this section were supportive of the transitional definition of HPL to ensure better protection of this land until a more detailed assessment and mapping exercise is undertaken. Some submitters highlighted the potential risk of a ‘goldrush’ of applications to subdivide and develop HPL. This could occur in the absence of a transitional definition of HPL, as it would not be clear as to what land the provisions of the NPS-HPL would apply. Other submitters considered a transitional definition of HPL is important to provide a degree of national consistency until HPL is mapped within each region.

Most submitters supported the use of LUC classes 1–3 as the basis for the transitional definition of HPL, with submitters noting this provides a pragmatic approach to provide immediate protection of HPL that is aligned with several existing plan approaches. However, some submitters expressed a contrary view that the transitional definition of HPL should be narrower, based on LUC classes 1 and 2. This would include the ability for councils to expand on this as necessary when mapping HPL in the region, taking into account regional context (eg, the prevalence of LUC 1–3 land within the district/region). Some councils also sought clarification on how the transitional definition of HPL in the proposed NPS-HPL would apply to (or potentially override) existing definitions of HPL, versatile soils (or similar) in existing RMA plans and policy statements, noting these are both wider and narrower than LUC classes 1–3.

There was specific support for the LUC classification system as a suitable basis for the transitional definition, being a tool that is well recognised and used as well as the best currently available. A number of soil scientists also noted their support for LUC as the basis for defining HPL. However, some submitters opposed the use of the LUC system to define HPL, generally on the basis that the system is outdated, broad scale, and does not consider all the factors necessary to make versatile

soils highly productive. There was also some opposition to any interim definition as this was seen as being too broad, with the potential to unnecessarily restrict the use of land that may not ultimately be mapped as being highly productive. This would unduly constrain urban growth opportunities until detailed mapping is completed.

Submitters raised issues with the threshold in the transitional definition of HPL, that is for sites to include at least 50 per cent or 4 hectares of LUC 1–3 land (whichever is the lesser). Submitters noted parcels less than 4 hectares can be productive and should therefore be captured by the transitional definition of HPL. Some submitters also raised concerns that there are existing definitions of HPL in policy statements and plans based on LUC 1–3 land that do not include minimum thresholds for individual sites. Therefore, the proposed NPS-HPL as drafted may reduce the overall amount of land that can be considered and protected as HPL in these areas.

Issues for further consideration identified through submissions include whether:

- there should be a transitional definition of HPL before mapping is completed
- the transitional definition should be based on LUC 1–3 or LUC 1–2
- the transitional definition should prevail over existing definitions of HPL (however described)
- the threshold of LUC 1–3 land within a site to be defined as HPL.

## 12 IDENTIFYING HIGHLY PRODUCTIVE LAND – PROCESS

### Introduction

The proposed NPS-HPL included a policy (Policy 1) requiring regional councils to identify and map HPL in their regional policy statement in accordance with a set of criteria (Appendix A in the [discussion document](#)). The criteria to identify HPL are discussed in the next section.

The intent of identifying and mapping HPL at the regional level through the regional policy statement is to encourage a strategic, spatial mapping approach. This allows for wider consideration of HPL alongside other regional priorities and pressures, as well as cross-boundary issues between districts in the region. Undertaking this work at a regional level also ensures this process can occur alongside complementary work to identify areas for urban growth and constraints to urban development, through Future Development Strategies (FDS) prepared under the NPS-UD. In addition, a requirement to map HPL at the regional level through the regional policy statement:

- facilitates collaborative planning between councils within regions and associated consistency
- enables more efficient use of resources
- ensures areas of mapped HPL cannot be altered through a private plan change.<sup>7</sup>

The proposal included requirements for:

- regional councils to spatially map HPL in their region and include these maps in their regional policy statement within three years of the NPS-HPL coming into force
- territorial authorities to amend their district plans to include maps of HPL as identified by the relevant regional council (no later than two years after these are mapped in the regional policy statement or five years after the NPS-HPL is gazetted).

The discussion document asked submitters for their feedback on:

- If HPL is to be identified, how should this be done and by whom?
- What are the pros and cons of requiring HPL to be spatially identified?
- Is the identification of HPL best done at the regional or district level? Why?
- What are the likely costs and effort involved in identifying HPL in your region?
- What guidance and technical assistance do you think will be beneficial to help councils identify HPL?

### Overview of submissions

Submitters were supportive of the requirement to map HPL spatially, noting this had the potential to provide a number of benefits, including:

- accurate identification and delineation of HPL
- certainty on where the provisions of the NPS-HPL apply
- aligning the HPL identification exercise with other strategic, spatial planning processes.

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<sup>7</sup> Private plan change requests under Part 2, Schedule 1 of the RMA are limited to district plans and regional plans (including regional coastal plans).

Submitters also emphasised good spatial mapping of HPL will have flow on benefits in terms of managing the resource for future generations and providing investment certainty. While acknowledging that mapping will require a lot of up-front effort and costs, some submitters emphasised the long-term benefits will be greater and ongoing. A robust mapping process at the outset should also mean there would be limited need for reassessments in the future and less scope for debate on a case-by-case basis.

Notwithstanding the high level of support for mapping HPL, some submitters raised concerns about the time, costs and expertise required to accurately map HPL. There was strong feedback that central government needs to provide technical assistance and resourcing to help with the HPL mapping process. Many submitters also expressed a view central government should lead HPL mapping or at least the technical component of this process, with councils then able to apply local considerations and refinements. Submitters asking for strong central government leadership tended to express a view that HPL is a 'national issue' and a national mapping exercise would be the most cost-effective way to get consistent mapping across the country. Submitters cited cost and resource constraints, particularly in light of the implications of the range of national directions being implemented.

However, there was also a similar level of support for the proposed approach to undertake mapping at the regional level, subject to a suitable national methodology and implementation support. Submitters saw the benefits of the regional approach as including consistency and cohesiveness across multiple districts, while allowing councils the ability to take into account regional issues and constraints. Some submitters also thought a regional approach was important to allow lower classes of land that are highly productive (eg, viticulture land) to be mapped as HPL. A number of submitters emphasised the importance of mapping being a collaborative exercise between the regional council and territorial authorities within each region to make it as robust as possible and avoid multiple iterations of mapping (eg, at the regional policy statement level and then again at the district plan level).

Submitters also indicated mapping needs to be done at a scale suitable for use in plan change and consent processes and not just be indicative, otherwise the mapping would need to be subsequently refined, and potentially re-debated, through individual statutory processes.

Issues for further consideration identified through submissions include:

- whether mapping is better led by regional councils or central government
- the role of territorial authorities in the HPL mapping process
- developing guidance and technical assistance to support the HPL mapping process.

## 13 IDENTIFYING HIGHLY PRODUCTIVE LAND – CRITERIA

### Introduction

The intent of the proposed NPS-HPL was for regional councils to identify HPL based on the main factors that make land versatile and productive for land-based primary production. In addition to soil versatility, the process to identify HPL in the proposed NPS-HPL would also enable councils to consider:

- other factors that either contribute to the productivity of land, or act as a constraint on the use of the land for primary production
- whether the land has other values that should be managed.

To achieve this, the proposed NPS-HPL contained a combination of mandatory and optional criteria for regional councils to consider when identifying HPL. The mandatory criteria in the proposed NPS-HPL that councils **must** consider are as follows:

- the capability and versatility of the land to support land-based primary production (based on the LUC classification system)
- the suitability of the climate to support land-based primary production, particularly crop production (eg, a frost-free climate)
- the size and cohesiveness of the area to support land-based primary production.

The first two mandatory criteria set out above can generally be assessed using existing datasets (eg, LUC classification) and reports (eg, climate change scenarios). Conversely, the size and cohesiveness criteria are intended to allow for some discretion and encourage regional councils to take a broader view of the HPL resource within their region.

The optional criteria in the proposed NPS-HPL that councils **may** consider when identifying HPL included six factors that have the potential to contribute to the productivity of land but are not always relevant or critical factors in all circumstances. Those factors are:

1. the current or potential availability of water
2. access to transport routes
3. access to appropriate labour markets
4. supporting rural processing facilities and infrastructure
5. the current land cover and use, and the environmental, economic, social, and cultural benefits it provides
6. water quality issues or constraints that may limit the use of the land for primary production.

The optional criteria in the proposed NPS-HPL also allowed councils to consider the benefits provided by the current land cover and use. This recognises situations where it may not be appropriate to protect land that would otherwise be HPL for land-based primary production when the current use generates other benefits (eg, biodiversity).

The proposed NPS-HPL required councils to map HPL based on the required and optional criteria outlined above.

The discussion document asked submitters for their feedback on:

- Are the proposed criteria all relevant and important considerations for identifying HPL? Why/why not?
- Should the focus of the national policy statement be on versatile soils or HPL more broadly? Why/why not?
- Should the focus of the national policy statement be on primary production generally or on certain types of food production activities? Why/why not?

## Overview of submissions

### Focus on land versatility or land productivity

A key focus of submissions was whether the criteria to identify HPL should be focused on the physical properties of soils (ie, a versatile soils/land approach) or include all relevant factors that in some way contribute to the productivity of land. While submitters expressed a range of views on this topic, they largely fell into two broad groups:

1. The criteria should all be mandatory and include all relevant factors that contribute to the productivity of land.
2. The mandatory criteria should focus on the versatility of the soil and relate to physical parameters only.

Submitters in the first group usually emphasised that it is not just the physical properties of soil and climate that determine whether land is highly productive, rather it is a combination of natural, physical and social factors. These submitters were generally of the view that all these relevant matters should be considered when identifying HPL through a single set of mandatory criteria. A focus of these submissions, particularly from the primary production sector, was the potential limitation on using land productively, due to a current lack of available water for irrigation or constraints on the ability to discharge contaminants (primarily nutrients). These constraints are imposed by regional plans or the National Policy Statement for Freshwater Management 2014 and Proposed National Environmental Standards for Freshwater.

Another key benefit of a single set of mandatory criteria (as opposed to mandatory and optional criteria) identified by submitters was the potential for greater consistency between councils and across regions (depending on the number and nature of criteria used).

Submitters in the second group sought to focus on the physical, finite soil resource – as it is the intrinsic properties of the soil resource that give it value for land-based primary production. In their view, other factors (eg, access to markets, water availability) should be given very limited (if any) consideration and weight in the HPL identification process as these are often variable, not essential and temporal in nature. Additionally, they submitted that areas of HPL currently used for land-based primary production already have existing infrastructure, markets and/or labour resources. Submitters in this group also highlighted the risk that other factors or optional criteria would be used as a way to argue that land is not currently highly productive during the mapping exercise, resulting in less land being identified and protected as HPL. The wider criteria relating to land productivity were also seen as detracting from the purpose of the proposed NPS-HPL, which should be focused on protecting land with high, productive potential rather than protecting land based on how it is currently used (or underused) or due to perceived (and potentially solvable) constraints.

Where there was support for a mix of mandatory and optional criteria to identify HPL, this was generally caveated with a strong view that the non-physical, optional criteria (eg, access to transport routes) be given less consideration and weight when identifying HPL to ensure these criteria are not



used as a reason to exclude areas from the HPL mapping process inappropriately. Submitters also raised concerns about the subjective nature of some of the optional criteria in the proposed NPS-HPL as they have the potential to generate uncertainty, debate and inconsistencies in the HPL identification process across different councils.

### **The inclusion of LUC classes as highly productive land**

The proposed NPS-HPL did not specify exactly how LUC classes should be incorporated into the regional assessment of HPL, but this would require regional councils to consider “*the capability and versatility of the land to support primary production based on the Land-use Capability classification system*” when mapping HPL.

As with submissions on the transitional definition of HPL discussed above in [section 11 – Identifying highly productive land – transitional definition](#), submitter feedback on the use of LUC largely focused on the suitability of this classification system to identify HPL and the specific classes that would be used. There was broad support for using LUC to map HPL within each region for similar reasons to those discussed above – ie, LUC provides a pragmatic approach, is a well understood system, is consistent with existing practices, and remains the best classification system within New Zealand at this point in time. As such, most submitters agreed LUC provides a sound basis to map HPL within each region while recognising a lot of work will be required to refine this scale of mapping (1: 50,000) down to a property level.

While submissions on LUC classes were generally focused on the transitional definition of HPL, there was also some general support for using LUC classes 1–3 as a basis for the HPL mapping process. A number of council submitters noted that using LUC classes 1–3 was consistent with their existing definitions of HPL (or versatile soils) and that this land can be used productively for a range of land-based primary production uses and warrants protection. Some submitters also identified potential risks in separating out LUC classes 1, 2 and 3 when identifying and managing HPL as this will often be impractical, because any given parcel of land may comprise a range of LUC classes. Conversely, some submitters considered the proposed NPS-HPL should only focus on LUC classes 1–2 because class 3 land is much broader in area and has moderate physical limitations to arable use. These submitters also noted ‘versatile’ land has historically been defined based on LUC classes 1–2, including in the recent *Our Land 2018* and *Environment Aotearoa 2019* reports from central government.

Feedback was also provided on whether a tiered approach to protection – higher protection for more versatile soil classes – was an appropriate approach. Some submitters favoured this approach on the basis that LUC 1–2 land is the most versatile and therefore should have stronger protections. However, others considered this approach would diminish the protection given to LUC 3 and there was no real basis to differentiate levels of protection across the three land-use classes.

Some submitters also emphasised the importance of ensuring the identification of HPL can extend to other classes of LUC that are also highly productive, noting there are many examples of other land (LUC 4 and lower) being used productively for a range of crops and other forms of primary production. For example, some submitters also noted there is limited LUC 1–3 land within their district such that other classes of land (eg, LUC 4) are used for high primary productive purposes within their local context. Another key example that was frequently raised was the use of lower class LUC land for high-value viticulture and stonefruit. As such, these submitters were generally of the view the proposed NPS-HPL should explicitly allow for land classified lower on the LUC system to be mapped as HPL, based on local context, to ensure the protective provisions within the NPS-HPL then apply.

### **Constraints and other factors to not map land as highly productive land**

The optional identification criteria in the proposed NPS-HPL included factors that contribute to, or are relevant to, the productivity of land. These include factors such as water availability and access to transport routes and labour markets. Some submitters saw these optional criteria as constraints or limitations on the use of land for land-based primary production and hence fundamental as to whether versatile soils should be identified and protected as HPL.

For example, a large number of submitters (particularly from the primary sector and developers) considered there should be some scope to consider constraints on the ability to use land efficiently for primary production when identifying HPL. These submitters considered this was important to avoid the risk of land being identified as HPL and 'locked in' to land-based primary production inappropriately when there were constraints on the land preventing its productive use in a realistic and efficient way.

Conversely, there were also submissions raising concerns about the subjective and open nature of the proposed criteria (ie, access to transport routes, supporting rural facilities). There was a concern this would likely lead to uncertainties, inconsistencies and debate in the HPL mapping process. In particular, that the use of subjective criteria would likely encourage landowners to argue their land should not be identified as HPL based on one or more (potentially temporary and resolvable) constraints.

Potential implementation issues were also raised with the criteria for the suitability of the climate for land-based primary production. Submitters noted the LUC system already incorporated consideration of climate to a degree and the suitability of the climate is specific to the type of crop. Accordingly, there were a number of requests to better define the optional criteria in the proposed NPS-HPL if these are to be retained both through the policy and in supporting guidance.

Issues for further consideration identified through submissions include:

- whether the criteria to identify HPL should be focused on the versatility of the land, or land productivity more broadly
- whether the criteria to identify HPL should all be mandatory or a combination of mandatory criteria and optional considerations
- how LUC classes should be incorporated into the HPL identification process
- whether regional councils can choose to not map areas of versatile soils as HPL based on certain factors and, if so, what those factors should be.

## 14 URBAN EXPANSION

### Introduction

The proposed NPS-HPL included a policy (Policy 3) on when 'urban expansion' (ie, a proposal to rezone rural land to urban) should be allowed onto HPL. The intent of the proposed NPS-HPL was not to prevent urban expansion from occurring on HPL in all cases, recognising this is not practicable for many urban centres across the country, which are largely or completely surrounded by HPL. Rather, the intent is to provide clear direction that urban expansion should avoid HPL when other feasible options exist. It is also intended to ensure there is a robust and transparent assessment of alternatives, benefits and costs when urban expansion is proposed on HPL.

The proposed policy intent was that these considerations form a key focus of the section 32 evaluation for proposed plan changes for urban expansion onto HPL.

The urban expansion policy in the proposed NPS-HPL would only allow urban expansion to occur on HPL when there is a shortage of development capacity (as defined in the proposed NPS-UD) to meet demand and it can be demonstrated that it is the most appropriate option based on a consideration of:

- the feasibility of alternative locations and options to provide for the demand (eg, intensification)
- an assessment of the full range of benefits and costs (social, economic, environmental and cultural) from allowing urban expansion onto HPL compared to continued use of that land for land-based primary production.

More information on the NPS-UD is available in [section 7 – Options for the proposal](#).

The [discussion document](#) asked submitters for their feedback on:

- How can the proposed NPS-HPL and the proposed NPS-UD best work alongside each other to achieve housing objectives and better management of the HPL resource?
- How should HPL be considered when identifying areas for urban expansion?
- How should HPL be considered when planning for future urban expansion?
- Should future urban zones and future urban areas be excluded from the scope of the NPS? What are the potential benefits and costs?
- How should the NPS guide decision-making on private plan changes to rezone HPL for urban or rural lifestyle use?
- How should the NPS guide decision-making on resource consent applications for rural lifestyle subdivision and urban expansion on HPL?

### Overview of submissions

One hundred and fifteen submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 7: Breakdown of submitters for urban expansion**

Businesses (general)	16

Council	35
Government agency	5
Grower	9
Individual	31
Māori organisation	3
NGO	4
Other primary producer	–
Sector body	11
Other/unspecified	1
<b>Total</b>	<b>115</b>

Most were generally supportive of the overall intent of the proposed NPS-HPL to avoid urban expansion on HPL where other feasible alternatives exist. A key focus of submitter feedback was the relative strength and flexibility of the proposed urban expansion policy, with a range of mixed views expressed. Most submitters agreed there needs to be some flexibility in the NPS-HPL to allow for urban expansion onto HPL in certain circumstances. Submitters also recognised many urban centres are highly constrained in terms of where urban growth can occur due to the presence of HPL and/or other constraints.

On the opposite side, there was strong feedback from submitters to strengthen the requirements and tests in the NPS-HPL for urban expansion to be located on HPL. These submitters felt the proposed urban expansions tests were too permissive and easy to get around, and highlighted the risk this would limit the effect of the NPS-HPL and lead to the continuation of the status quo – ie, the continued loss of New Zealand’s most productive land to urban expansion.

#### **Shortage of development capacity**

Submitters were generally supportive of the requirement to demonstrate there is a shortage of development capacity to meet demand (in accordance with proposed NPS-UD methodologies) before urban expansion can occur on HPL. Some submitters sought clarification as to what timeframe this is intended to apply over as the NPS-UD requires councils to provide sufficient development capacity over the short (1–3 years), medium (3–10 years) and long term (10–30 years). It was also noted by some submitters that the proposed NPS-UD seeks to ensure there is no shortage of development capacity in the first place.

Conversely, some submitters raised concerns that the reference to shortage of development capacity would provide an easy avenue for councils and developers to justify continued greenfield development on HPL.

### **Assessment of benefits and costs**

There was general support from submitters for the intent of the proposed urban expansion policy to require a robust assessment of the benefits and costs (environmental, economic, social, cultural) of urban expansion compared to the continued use of HPL for land-based primary production. However, there was also strong feedback the proposed policy would simply lead to a continuation of the status quo where the more tangible, short-term benefits of urban expansion continue to outweigh the longer-term (less tangible) benefits from the continued use of HPL for land-based primary production.

In particular, submitters emphasised that traditional cost-benefit analyses (**CBA**) have a number of shortcomings, particularly in terms of how they assess and quantify intangible values and finite resources such as soils, as well as intergenerational benefits and costs. Accordingly, submitters requested a number of amendments to improve the assessment of benefits and costs to ensure better consideration and protection of HPL when urban expansion onto HPL is proposed. Suggested improvements to the policy include requirements to:

- provide a better measure of intangibles to more accurately represent the true benefits and costs
- ensure the assessment occurs over a longer timeframe to consider intergenerational benefits at the macro scale
- incorporate a value-based assessment or multi-criteria analysis.

Submitters also requested guidance and templates to help with the assessment of benefits and costs required under the proposed policy, clarify appropriate methodologies, and achieve more nationally consistent implementation.

### **Assessment of alternatives**

Submitters were generally supportive of the requirement in the proposed urban expansion policy to assess alternative locations and options. This is to ensure urban expansion only occurs on HPL when no other feasible options exist. However, there were also some concerns raised that the wording of the proposed policy is too weak and would not result in the desired outcomes being achieved. Submitters also raised some concerns that the use of 'feasibility' will enable alternative locations and options to be discounted on purely financial reasons, given the corresponding definition of feasibility in the proposed NPS-UD (ie, commercially viable for developers).

There were a number of suggestions on how to improve and strengthen the assessment of alternative locations and options, including:

- being more specific on the alternatives that must be assessed (eg, intensification, greenfield development on non-HPL land)
- removing the reference to 'feasibility' or ensuring alternative locations and options cannot be discounted based purely on financial or commercial viability reasons
- making the assessment of alternatives the first test or step in the policy.

### **Reducing the spatial extent of area subject to the urban expansion tests**

Some submitters raised concern about the area of land that would be subject to the urban expansion policies under the NPS-HPL. They noted many urban areas are completely or mostly surrounded by LUC class 1–3 land and, therefore, the test for urban expansion under NPS-HPL would apply to any new urban zoning. Some submitters noted that, under such circumstances, councils may find it difficult to meet the urban planning objectives under the NPS-UD while protecting HPL for future generations.

In addition, some submitters noted while it was important to protect LUC 1–3 from rural-lifestyle development, urban expansion offered significantly greater benefits to the community than rural-lifestyle development. As such, submitters generally supported stronger protections for rural-lifestyle development on highly productive land compared to urban expansion.

Issues for further consideration identified through submissions include:

- the relative strength and flexibility of the policy and how the tests and requirements for urban expansion onto HPL should be applied
- how to balance the proposed NPS-UD requirements to provide sufficient development capacity with the protection of HPL
- clarifying the requirements to assess alternative locations and options
- clarifying the requirements to assess benefits and costs.

## 15 SUBDIVISION AND RURAL LIFESTYLE DEVELOPMENT

### Introduction

The proposed NPS-HPL included a policy (Policy 4) focused on the management of rural subdivision and fragmentation of HPL. The policy intent of the NPS-HPL is to build on current best practice in the management of rural subdivision. This recognises that many district plans include effective provisions to manage fragmentation of productive rural areas, including specific provisions to manage subdivision on HPL. The proposed NPS-HPL was intended to ensure councils take a more proactive approach to managing fragmentation of HPL across New Zealand, with a particular focus on managing rural-lifestyle development<sup>8</sup> and controlling subdivision to maintain the productive capacity of HPL.

The proposed NPS-HPL also directed councils to locate new rural-lifestyle development away from HPL. Greater national direction on this issue is intended to help alleviate some of the pressures on HPL for rural-lifestyle development by providing opportunities for this development on less productive land.

The proposed NPS-HPL included a policy that would require territorial authorities to manage rural subdivision appropriately, focusing on avoiding fragmentation and maintaining the productive capacity of HPL, including by:

- setting minimum lot size standards for subdivision on HPL
- introducing incentives and restrictions to retain and increase the productive capacity of HPL
- directing new lifestyle development away from HPL.

The [discussion document](#) asked submitters for their feedback on:

- How should the national policy statement direct the management of rural subdivision and fragmentation on HPL?

### Overview of submissions

One hundred and forty submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 8: Breakdown of submitters for subdivision and rural-lifestyle development**

Submitter type	Number
Businesses (general)	17
Council	37
Government agency	4
Grower	23

<sup>8</sup> The proposed NPS-HPL included a definition of rural lifestyle development as follows: "Rural lifestyle development means subdivision and development where the primary purpose is rural-residential or rural lifestyle use within a rural area with a lot smaller than those of the General Rural and Rural Production zones, typically in the range of 0.2–8 hectares."

Individual	39
Māori organisation	1
NGO	3
Other primary producer	–
Sector body	13
Other/unspecified	3
<b>Total</b>	<b>140</b>

Submitters were generally supportive of the intent of the proposed NPS-HPL to both avoid further fragmentation of HPL and provide stronger restrictions on rural-lifestyle development on HPL. There was strong and consistent feedback from submitters that rural-lifestyle development poses a greater risk to HPL compared to urban expansion and is also a much more inefficient and inappropriate use of HPL. Submitters also identified a number of other issues associated with rural-lifestyle development on HPL, including that it:

- acts as a barrier to efficient urbanisation
- creates reverse sensitivity issues
- increases land prices (making land-based primary production less economically viable)
- takes land out of production.

As such, there was general feedback that the NPS-HPL should include stronger requirements to protect HPL from rural-lifestyle development (compared to restrictions for urban expansion on HPL) including requests for strong “avoid” wording to effectively preclude new rural-lifestyle development on HPL.

Some submitters expressed a view their current plan provisions are consistent with, and give effect to, the proposed NPS-HPL provisions on rural subdivision and lifestyle development. There were corresponding requests from submitters to ensure the NPS-HPL provisions are worded in a way that does not require unnecessary plan changes in such circumstances.

#### **Minimum lot size standards**

There was general support from submitters for more guidance to help set appropriate minimum lot size standards for subdivision on HPL, although there were mixed views on whether this should be through the NPS-HPL or non-statutory guidance. Submitters identified a number of challenges associated with developing minimum lot size standards for subdivision that would apply nationally because different land-based, primary production activities require different amounts of land to be productive. Submitters also identified a number of potential risks with a minimum lot size standard for subdivision on HPL being applied nationally, including that it would:

- sets an expectation that any compliant subdivision is appropriate on HPL and enable non-productive uses on HPL



- provide no consideration of local context (eg, what may be considered an appropriate lot size in Auckland may be quite different to that in Southland).

As such, most submitters expressed a preference for non-statutory guidance on appropriate minimum lot size standards to manage subdivisions on HPL rather than prescribing a national standard through the NPS-HPL.

Conversely, some submitters expressed support for the NPS-HPL to include a minimum lot size standard for subdivisions on HPL applied nationally. The main reasons they gave included national consistency, reduced costs, time and effort for councils to develop this individually, and reduced debate and litigation through the Schedule 1 process. Submitters suggested the NPS-HPL could provide a default starting point for a minimum lot size with councils able to amend this or set larger lot sizes in certain circumstances.

### **Other issues**

Other more specific issues with the proposed NPS-HPL provisions to manage rural-lifestyle development and subdivision on HPL raised by submitters include the need to:

- better recognise other methods that manage rural subdivision and maintain the productive capacity of HPL, such as zoning, clustering development, setbacks, rather than just focus on subdivision minimum lot size standards
- differentiate between rural-residential (eg, 0.5 ha) and typical rural-lifestyle development (eg, 4 ha), as the latter is much more inefficient and also becoming less desirable in the market. It was also noted that a distinct and more enabling framework for rural-residential development on HPL compared to larger rural-lifestyle development may help to alleviate overall pressure on, and fragmentation of HPL
- better recognise and manage the cumulative effects of subdivision on HPL.

Issues for further consideration identified through submissions include:

- the strength of the NPS-HPL provisions to avoid and/or manage rural-lifestyle development on HPL
- whether to provide national direction and/or guidance on minimum lot size standards for subdivision on HPL
- how to better recognise the cumulative effects of rural-lifestyle developments on HPL.

## 16 PROTECTING HIGHLY PRODUCTIVE LAND FROM ‘OTHER’ SUBDIVISION, USE AND DEVELOPMENT

### Introduction

The proposed NPS-HPL included a policy (Policy 2) that would require councils to identify other “inappropriate” subdivision, use and development on HPL, and include methods to protect HPL from such subdivision, use and development. This recognises there are other forms of subdivision, use and development in addition to urban expansion and rural-lifestyle development that can be inappropriate on HPL. This is particularly true for those uses that are not reliant on the soil resource, have no functional or operation need to be located on HPL, and can be located elsewhere. The proposed NPS-HPL did not list specific ‘inappropriate’ subdivision, use and development on HPL because councils need some flexibility to define what is appropriate and inappropriate within their particular local context.

The proposed NPS-HPL included a policy that would require councils to:

- identify inappropriate subdivision, use and development on HPL
- protect HPL from the identified subdivision, use and development.

The [discussion document](#) asked submitters for their feedback on:

- Should the objectives provide more or less guidance on what is “inappropriate subdivision, use and development” on HPL? Why/why not?

### Overview of submissions

Eighty-three submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 9: Breakdown of submitters for protecting HPL from ‘other’ inappropriate subdivision, use and development**

Submitter type	Number
Businesses (general)	7
Council	24
Government agency	7
Grower	15
Individual	11
Māori organisation	1
NGO	3
Other primary producer	1
Sector body	11

Other/unspecified	3
<b>Total</b>	<b>83</b>

This feedback focused on the definition of ‘inappropriate’ and how the interim protections of HPL should apply to ‘other’ inappropriate subdivision, use and development.

### **Defining ‘inappropriate’ subdivision, use and development on highly productive land**

A focus of submission feedback on proposed Policy 2 in the NPS-HPL [discussion document](#) (and Objective 3) was requests for further clarity and direction on what is ‘inappropriate’ subdivision, use and development on HPL. While there was general support for the NPS-HPL to provide a degree of flexibility for councils to identify ‘inappropriate’ subdivision, use and development on HPL within their local context, there was consistent feedback that there should be greater national direction and guidance to help councils with this process. This was seen as important to provide a higher level of national consistency and certainty in implementation, reduce debate and litigation, and achieve the desired outcomes.

Rather than provide a specific list of ‘inappropriate’ activities on HPL, most submitters supported the NPS-HPL setting out the matters councils must consider when identifying inappropriate activities on HPL (eg, a ‘functional needs’ tests). Conversely, there was some support for the NPS-HPL to list specific activities that would be considered an inappropriate use of HPL anywhere in New Zealand (eg, commercial storage facilities, industrial activities). Other submitters expressed a contrary view that non-statutory guidance would be the best approach to help councils identify inappropriate subdivision, use and development on HPL as it would provide greater flexibility and be easier to keep up to date with case law and current best practice.

Submitters also sought greater clarity on how specific activities would be considered under the NPS-HPL and whether these would (intentionally or unintentionally) be captured as inappropriate subdivision, use and development on HPL. In particular, submitters sought clarification on how the following activities would be considered under the NPS-HPL:

- nationally and regionally significant infrastructure
- ancillary activities (eg, processing plants, wine cellar doors)
- rural industries and activities (eg, rural contractor facilities, agricultural research industries, intensive indoor primary production).

### **Interim protection of highly productive land from ‘other’ subdivision, use and development**

The NPS-HPL [discussion document](#) sought feedback on whether the provisions that would apply to private plans changes (proposed Policy 6) and resource consent applications (proposed Policy 7) should extend beyond urban expansion and rural-lifestyle development to other activities on HPL. While submitter feedback on this question was mixed, there was general support for the NPS-HPL to apply to other forms of subdivision, use and development on HPL, before councils go through the process of defining this through their plans. This was generally on the basis that all applications proposed on HPL should be considered in the context of their impact on the productive capacity of HPL. Some submitters also asked for the NPS-HPL to provide clear direction that commercial and industrial developments should be strongly discouraged (or avoided) on HPL and directed towards locations zoned for that purpose.

Consistent with the feedback on proposed Policy 2, submitters also recognised that other (non-primary production) activities may be appropriate or unavoidable on HPL in certain circumstances. They sought to ensure the NPS-HPL provides a consenting pathway for these activities in appropriate circumstances. For example, there were requests for the NPS-HPL provisions to:

- incorporate a 'functional needs' test
- enable ancillary activities to be located on HPL when they support land-based primary production
- recognise the locational and operational constraints and needs of certain activities (eg, infrastructure, papakāinga).

Issues for further consideration identified through submissions include:

- providing more direction and certainty on what is considered inappropriate subdivision, use and development on HPL
- the 'other' types of subdivision, use and development that should be allowed on HPL and under what circumstances.

## 17 PRIORITISING HIGHLY PRODUCTIVE LAND FOR LAND-BASED PRIMARY PRODUCTION

### Introduction

Once HPL has been identified, the intent of the proposed NPS-HPL is for councils to maintain that land for land-based primary production. To achieve this, the proposed NPS-HPL included a policy (Policy 2) that would require councils to:

- prioritise the use of HPL for land-based primary production
- consider giving greater protection to areas of HPL that make a greater contribution to the economy and community.

The proposed NPS-HPL also recognises the potential to increase the productive capacity of HPL through reversing historic fragmentation. This can be achieved through incentives such as transferable development rights to encourage the amalgamation of smaller lots on HPL in return for increased development rights in more suitable, less productive areas. As such, the proposed policy relating to subdivision (Policy 4) would require territorial authorities to include incentives in their district plans to increase the productive capacity of HPL.

The proposed NPS-HPL includes policies that would require councils to:

- prioritise the use of HPL for land-based primary production
- consider giving more protection to areas of HPL that make a greater contribution to the economy and community
- provide incentives to increase the productive capacity of HPL.

The [discussion document](#) asked submitters for their feedback on:

- What level of direction versus flexibility should the objectives provide to maintain the availability of HPL for primary production?
- What are the pros and cons associated with prioritising HPL for primary production?

### Overview of submissions

#### Prioritising highly productive land for land-based primary production

Thirty submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 10: Breakdown of submitters for prioritising HPL for primary production**

Submitter type	Number
Businesses (general)	3
Council	8
Government agency	1
Grower	1

Individual	11
Māori organisation	–
NGO	1
Other primary producer	–
Sector body	5
Other/unspecified	–
<b>Total</b>	<b>30</b>

The NPS-HPL [discussion document](#) sought feedback on the pros and cons of prioritising HPL for land-based primary production. Submitters were generally supportive of the intent to prioritise HPL for land-based primary production and identified the following benefits of this approach:

- economic benefits – ensures land is retained for land-based primary production so the primary sector can continue to operate efficiently, with New Zealand's primary sector earnings sustained
- social benefits – protects the ability of HPL to produce food for current and future generations and provide local food supply and security. This will protect rural employment opportunities, which will be of benefit to rural and urban communities
- environmental benefits – better protection of HPL as a finite natural resource and the ecosystem services it provides.

Submitters also identified a number of disadvantages associated with prioritising HPL for land-based primary production, including:

- restricts the land available for housing and other economic needs
- may limit the ability for urban centres to grow in an efficient manner
- creates barriers to the use and development of Māori land
- may encourage intensive land-based primary production in sensitive catchments.

In terms of prioritising HPL for land-based primary production, some submitters asked for the policy to be strengthened to give clear direction that general industrial and commercial activities should not be located on HPL. There were also some requests to clarify the intent of 'prioritise' in the proposed policy, and how this is to be considered alongside other priorities, including providing for urban expansion under NPS-UD.

#### **Protecting areas that provide greater contribution to economy and community**

Submitter feedback was mixed on the policy direction in the proposed NPS-HPL for councils to 'consider' giving more protection to areas of HPL that make a greater contribution to the economy and communities. Some submitters sought amendments to require councils to give greater protection to these areas (rather than 'consider') and noted councils already consider such matters as standard practice.

Conversely, submitters also highlighted a number of potential interpretation and implementation issues with the proposed policy. In particular, submitters sought clarification on the terms 'greater protection' and 'greater contribution' in the proposed policy and noted the difficulties in assessing the contribution of a particular area of HPL to the economy and the community. Concerns were also raised that the proposed policy is focused on current use of HPL (rather than potential future use) and may therefore result in less protection of areas of HPL that are currently underused.

#### **Incentives to increase productive capacity of highly productive land**

The NPS-HPL [discussion document](#) sought specific feedback on whether the NPS-HPL should encourage incentives and mechanisms to increase the productive capacity of HPL. Feedback from submitters on this issue was mixed. There was general support for the intent of incentives to increase the productive capacity of HPL (eg, transferable development rights). Some submitters also expressed a view that the proposed NPS-HPL provides inadequate direction on the use of such incentives because these mechanisms can be effective in reversing fragmentation and are currently underused at present.

Conversely, submitters also emphasised such incentives can be complex, administratively demanding, and only work in particular circumstances (eg, where the land is already highly fragmented and where there are suitable recipient sites for donor development rights). As such, there was a general preference for the NPS-HPL to encourage incentives and mechanisms to increase the productive capacity of HPL rather than make these a mandatory requirement.

Issues for further consideration identified through submissions include:

- how to mitigate the negative implications of prioritising HPL for land-based primary production, including on urban growth, Māori land and sensitive catchments
- whether the NPS-HPL should require greater protection of existing food hubs
- whether the NPS-HPL should require or encourage the use of incentives to maintain and increase the productive capacity of HPL.

## 18 REVERSE SENSITIVITY

### Introduction

The proposed NPS-HPL included a policy (Policy 5) focused on managing reverse sensitivity effects on and adjacent to HPL. The intent of this proposed policy in the NPS-HPL is to build on current best practice, and ensure district plans include provisions to manage reverse sensitivity effects that can constrain and conflict with land-based primary production activities on HPL. It would require territorial authorities to achieve this through:

- making changes to their district plans, to set out the typical activities and effects from land-based primary production that should be tolerated on HPL
- restricting new sensitive and potentially 'incompatible activities' on HPL
- requirements for setbacks and buffers between HPL and adjacent urban zones.

The proposed NPS-HPL included a definition for "sensitive activities"<sup>9</sup> based on existing practice. The expectation was that councils would then develop plan provisions to restrict certain sensitive or incompatible activities (eg, schools, retirement villages) on, or adjacent to, HPL to ensure these activities would not result in reverse sensitivity effects and constrain the operation of land-based primary production activities.

The proposed NPS-HPL included a policy requiring territorial authorities to manage reverse sensitivity effects on and adjacent to HPL by:

- identifying typical activities and effects associated with primary production that should be anticipated and tolerated on HPL
- restricting new sensitive and incompatible activities on HPL
- establishing methods to manage reverse sensitivity such as setbacks and the design of developments
- avoiding or mitigating reverse sensitivity effects on HPL and residential/rural lifestyle zone interfaces.

The [discussion document](#) asked submitters for their feedback on:

- How should the national policy statement direct the management of reverse sensitivity effects on and adjacent to HPL?

### Overview of submissions

One hundred and thirty-three submissions provided feedback on options for the proposal, which are broken down in the table below.

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<sup>9</sup> Sensitive activity means an education facility, community facility, residential activity, visitor accommodation, retirement village, health facility or hospital, or marae.



**Table 11: Breakdown of submitters for reverse sensitivity**

Submitter type	Number
Businesses (general)	16
Council	35
Government agency	4
Grower	29
Individual	29
Māori organisation	–
NGO	5
Other primary producer	1
Sector body	12
Other/unspecified	2
<b>Total</b>	<b>133</b>

A significant theme in submissions was that most district plans already contain provisions to manage reverse sensitivity effects in rural areas and, as such, the proposed reverse sensitivity policy will achieve limited improvements in practice. Conversely, other submitters acknowledged the benefits of providing national direction to manage reverse sensitivity effects on HPL – to provide more national consistency and strengthen the weighting given to existing and new reverse sensitivity provisions and considerations through the resource consent process. Consistent with feedback on other NPS-HPL policies, submitters sought to ensure the NPS-HPL does not require unnecessary plan changes and associated costs when existing plan provisions relating to reverse sensitivity effects are consistent with, and give effect to, the NPS-HPL.

Another area of focus of submissions was the use of the terms “avoid”, “mitigate” or “restrict” in the proposed reverse sensitivity policy in the NPS-HPL. Submitters gave some strong feedback the policy should be strengthened to “avoid” new sensitive and incompatible activities on HPL. Some submitters expressed concern the use of the words “or mitigate” reverse sensitivity effects may actually weaken existing reverse sensitivity provisions by enabling sensitive and incompatible activities to be located on HPL where some level of mitigation occurs. Conversely, some submitters supported direction to mitigate reverse sensitivity effects, noting it can often be impracticable to avoid all reverse sensitivity effects.

There was general support for the requirement in the proposed policy to identify the typical activities and effects associated with land-based primary production on HPL to help mitigate reverse sensitivity effects. Some submitters sought further direction on the types of activities and effects associated with land-based primary production on HPL, either through the NPS-HPL or non-statutory guidance, to

help with implementation, ensure consistency and increase the recognition and acceptance of these effects.

Feedback on the proposed reverse sensitivity policy raised in submissions also included:

- general support for the policy to apply on, and adjacent to, HPL
- consistent feedback that the onus for providing mitigation should be on the new activity or development on, or adjacent to, HPL
- the need for flexibility for councils to determine the most appropriate regulatory and non-regulatory methods to avoid and mitigate reverse sensitivity effects.

Issues for further consideration identified through submissions include:

- the extent to which reverse sensitivity effects should be 'avoided' or 'mitigated'
- ensuring the policy does not require unnecessary plan changes where councils already have adequate provisions regarding reverse sensitivity
- defining sensitive and incompatible activities.

## 19 TRANSITIONAL PROTECTION OF HIGHLY PRODUCTIVE LAND

### Introduction

The proposed NPS-HPL included two policies directed at private plan changes and resource consent applications for urban expansion and subdivision on HPL (Policies 6 and 7). These policies would apply in the transitional period to provide some level of protection before councils have identified and mapped HPL and fully given effect to the proposed NPS-HPL. The proposed policies in the NPS-HPL [discussion document](#) set out matters councils would need to consider when assessing private plan change and resource consent applications on HPL. Those matters were focused on the:

- alignment of the proposal with relevant council plans and policies relating to urban growth and HPL
- benefits of the proposed use of land compared to its continued use for land-based primary production
- functional need for the proposal to be located on HPL and alternative options for the proposal on land with less value for land-based primary production.

The proposed NPS-HPL included two policies setting out matters to be considered for the following applications:

- **private plan changes** – alignment with relevant council plans and policies relating to urban growth and HPL, benefits of proposed use compared to continued use of land in land-based primary production, and alternative locations for the proposal on land with less value for land-based primary production
- **resource consent applications** – alignment with relevant council plans and policies relating to urban growth and HPL, impacts on existing and future land-based primary production, the practical and functional need for the proposal to be located on HPL, potential reverse sensitivity effects and how these will be managed, and benefits of proposed use compared to continued use of land for land-based primary production.

The NPS-HPL also sought feedback on whether the policies should extend beyond urban expansion and rural-lifestyle development to other industries and operations. Feedback from submitters on this issue is discussed under [Section 16 – Other subdivision, use and development on HPL](#).

The [discussion document](#) asked submitters for their feedback on:

- Should there be a default definition of HPL based on the LUC classification until councils identify this? Why/why not?

### Overview of submissions

Ninety-one submissions provided feedback on options for the proposal, which are broken down in the table below.

**Table 12: Breakdown of submitters for transitional protection of HPL**

Submitter type	Number
Businesses (general)	14
Council	33
Government agency	3
Grower	4
Individual	20
Māori organisation	1
NGO	3
Other primary producer	–
Sector body	12
Other/unspecified	1
<b>Total</b>	<b>91</b>

Submitters were generally supportive of the intent of the proposed policies in the NPS-HPL relating to private plan changes and resource consent applications to achieve some protection of HPL before councils fully give effect to the NPS-HPL.

Some submitters highlighted the risk of a ‘gold rush’ of applications to develop and subdivide HPL during this transitional period in the absence of such provisions.

Conversely, there were submitters that questioned the effectiveness of the provisions to provide transitional protection of HPL, as the:

- RMA already requires councils to ‘give effect to’<sup>10</sup> the NPS-HPL through plan changes and ‘have regard to’<sup>11</sup> the NPS-HPL through resource consent applications
- policies would not capture permitted activities and controlled activities on HPL
- policies need a strong rule framework to be effective in practice.

Some submitters also questioned the:

- relationship with other NPS-HPL policies relating to urban expansion and rural lifestyle development, and the potential for inconsistencies, unnecessary duplication and confusion
- rationale to apply slightly different tests and requirements for proposed private plan changes and resource consent applications on HPL when the effects to be managed are consistent for both.

<sup>10</sup> Section 62(3), 67(3)(a), 75(3)(a).

<sup>11</sup> Section 104(1)(b)(iii).

As such, there were a number of requests to review and refine the policies while ensuring the overall intent of providing protection for HPL during the transitional period.

Other issues identified in submissions with the proposed NPS-HPL provisions relating to private plan changes and resource consent applications include:

- **Assessment of benefits and costs:** submitters raised a number of concerns with the requirements to assess benefits and costs in the proposed policies consistent with those outlined in relation to the urban expansion policy. In particular, submitters were generally concerned the policies would lead to a continuation of the status quo where the short-term and site-specific benefits of urban and rural-lifestyle development would continue to outweigh the long-term benefits associated with retaining HPL for land-based primary production.
- **Assessment of alternatives:** a number of submitters noted applicants usually seek to rezone land or propose development on land they own and control. As such, applicants generally have few alternative locations they can assess as practicable alternatives. To address this issue, there were requests to delete the requirement to assess alternatives or reword this in a way that allows for a different type of option analysis to be undertaken. For example, it was suggested assessing options should focus on how to minimise the impact on the productive capacity of HPL rather than alternative locations per se.
- **Direct insertion:** submitters highlighted a number of potential benefits and risks associated with the direct insertion of the proposed policies into plans.<sup>12</sup> The main benefits identified in submissions included efficiency gains, less debate and re-litigation, greater national consistency, and helping to ensure HPL is more 'front of mind' when assessing applications on HPL. Key risks associated with direct insertion identified in submissions include not allowing for local flexibility, greater risk of deficient provisions, natural justice issues and undermining public confidence in RMA plan-making processes. Where submitters did support direct insertion of policies, they emphasised the need for the provisions to be drafted clearly and carefully to ensure they are directive, fit-for-purpose and do not result in unintended consequences.

Issues for further consideration identified through submissions include:

- resolving any inconsistencies and unnecessary duplication between the transitional policies for private plan changes and resource consents and other policies
- direct insertion of the proposed transitional policies into plans
- the strength and appropriateness of the assessment of benefits and costs test, and assessment of alternative options.

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<sup>12</sup> As provided for in section 55(2) of the RMA.

## 20 OTHER ISSUES

### Climate change

#### Introduction

A key underlying objective of the proposed NPS-HPL is to ensure New Zealanders continue to have access to the physical resources necessary to adapt to increasingly uncertain and hostile growing environments posed by climate change. This includes higher temperatures, rising sea levels, drought and increasing rainfall.

The intent of the NPS-HPL is to protect the current and future availability of New Zealand's best growing land, with the versatility to support different land uses, crops and production methods. The versatility of HPL will be increasingly important in building climate resilience, particularly in the face of increasingly volatile growing conditions and disrupted global food supply chains.

The proposed NPS-HPL specifically addresses climate change in the following sections:

- **Identification of HPL** – includes climate as a mandatory criterion for assessing HPL. Provides councils the ability to consider both the current and future suitability of the climate to support primary production when identifying HPL
- **Urban expansion, resource consent and plan change requests** – include the need to consider the environmental benefits of urban expansion and subdivision on HPL, as opposed to retaining the land in primary production.

#### Overview of submissions

We received 24 submissions related to the proposed NPS-HPL and climate change. Submissions focused on two key points: that protecting HPL generally has a positive impact on climate change mitigation; and the importance of HPL in adapting to climate change by increasing community resilience to severe and extreme weather.

A few submitters recognised using HPL for some forms of primary production can result in lower environmental impacts than using lower class land. One submitter used their own dairy farm as an example, stating the high-quality soils on their farm require less water and fertiliser to produce the same amount of milk as lower-quality land, resulting in lower nitrate leaching and greenhouse gas emissions. Another submitter highlighted the importance of HPL to horticulture, noting horticultural crops typically produce lower emissions compared to animal-based agriculture.

Some submitters noted that as HPL tends to be located near urban centres, the loss of this land will result in food being produced further away from target destinations and therefore will increase transport-related emissions. Protecting HPL was also seen as a way to potentially reduce our reliance on imported food, and result in lower emissions from the freight of imported food.

Food security was another major theme in submissions. A number of submitters emphasised the importance of self-sufficiency in the future, including ensuring as a country we are not overly reliant on imported food. This was seen by these submitters as particularly important in the face of increasingly uncertain global food supply, driven by unpredictable harvests and disruptions in global food supply chains as a result of climate change. Given this uncertainty, some submitters emphasised the need to protect land that is currently producing food or with the potential to produce food as necessary to future-proof New Zealand's food supply.

Submitters saw the inherent flexibility of HPL as enabling communities to adapt and be resilient. Climate resiliency was a key theme in submissions, with a number of submitters pointing to the continued availability of HPL as a significant resilience factor. Submitters noted crops have specific growing needs, such as soil conditions and microclimates, and the continued permanent loss of HPL combined with the effects of climate change would place further pressure on food-growing areas. Submitters also noted climate change would impact not only where food is grown in New Zealand, but also the type of crops grown. The availability of HPL was seen as essential to being able to support the development of more resilient crops.

A couple of submitters noted sea-level rise would also place further pressure on HPL in New Zealand. For example, it was estimated five per cent of HPL in Auckland would be exposed to the effects of sea-level rise by 2050, including sea water and/or river intrusion and increasing flood risk. Submitters considered this a reason to further emphasise the value of remaining HPL in the region.

Issues for further consideration identified through submissions include:

- ensuring the NPS-HPL provides scope for councils to consider both the current and future climate when identifying HPL
- how to future-proof the NPS-HPL as changes in climatic conditions alter the distribution of HPL in New Zealand.

## **Interactions with other national direction**

### **Freshwater**

#### *Introduction*

The intent of the proposed NPS-HPL regarding freshwater is to provide councils with the flexibility to exclude land from being considered highly productive if there is evidence of long-term or permanent constraints on the productive use of that land. It is not the intention of the NPS-HPL to protect HPL where this land cannot be viably used.

However, there is a need to prevent temporary constraints on water availability and, to a lesser extent, water quality from precluding land from being considered highly productive. These constraints may be resolved in the short to medium term and should not result in the permanent loss of land from primary production.

The proposed NPS-HPL included the following clauses as optional considerations when identifying HPL:

- the current or future potential availability of water
- water quality issues or constraints that may limit the use of the land for primary production.

### **Overview of submissions**

#### *Freshwater quality*

There was strong feedback in submissions that the NPS-HPL needs to be aligned with other national direction, in particular the *Essential Freshwater: Action for healthy waterways* package.<sup>13</sup>

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<sup>13</sup> Includes:

Some submitters, particularly from the horticulture sector, raised significant concerns about the combined impact of the *Essential Freshwater* proposals and the NPS-HPL. Submitters noted the nutrient bottom-lines in the National Policy Statement for Freshwater Management (NPS-FM) would affect the viability of using HPL for primary production, most notably horticulture, particularly in areas with degraded water quality. When combined with the impact of NPS-HPL, which would limit other land-use options by restricting the ability of landowners to subdivide or develop HPL, this was seen as essentially 'locking up' land in primary production, which may no longer be economically or environmentally viable.

Submitters emphasised this was a key risk of the NPS-HPL, which could lead to the perverse outcome of leaving landowners in an untenable situation where they are effectively 'frozen in limbo', with extremely limited opportunities to maximise the productive capacity of their land or undertake alternative uses. Submitters therefore urged water quality be reflected as a factor in both the determination of HPL, as well as the wider policy framework and implementation of the NPS-HPL.

One submitter noted that recognising water quality as a determining factor of HPL would preclude more land from the protections of the NPS-HPL, and therefore result in a greater permanent loss of HPL from primary production.

#### *Water availability*

A small number of submissions, predominantly from councils and the horticultural sector, addressed whether water availability should be considered when identifying HPL.

The main point raised by these submissions is that while water availability plays an important part in determining the productive capacity of land, it is often a temporary constraint to productive use rather than a permanent one. Excluding land from being considered as highly productive on this basis was therefore seen as inappropriate by some submitters, particularly as this would open the door to this land being permanently lost for primary production.

One submitter noted some councils have previously used lack of water to justify urban expansion on to HPL, when options such as local storage dams and reservoirs or expanding reticulated networks suggest lack of water need not be a problem in the long term. It was also noted that as water takes have a limited life, irrigation can alter the productive capacity of land in a way that does not accurately represent the long-term or sustainable, productive capacity of that land.

A strong theme across the submissions on water availability, was the uncertainty surrounding the future availability of water, and the efficiency with which we use this resource. For instance, a couple of submitters pointed out there is a lack of information across regions about how much water is available for current and future use. One council submitter stated 'it is impossible to know what water resources future generations will have'. Other submitters pointed to a range of factors that are likely to alter what water availability looks like in future, including climate change, the development of drought-resistant crops and technology, and changes in farming practice. Better options for water storage and managed aquifer recharge were also seen as possible ways to manage water availability in future. Given the level of uncertainty surrounding the future availability of water, and the pressures on this resource, submitters were cautious of tying water availability into the identification of HPL.

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- Proposed National Policy Statement for Freshwater Management
  - Proposed National Environmental Standards for Freshwater
  - Draft stock exclusion section 360 regulations



One submission from the horticultural sector noted that having no water does not necessarily preclude land from being highly productive, and pointed to their own experience producing crops on land with no irrigation. The submitter also noted that while having access to irrigation is not always necessary to produce certain crops, it does give growers more options, including the ability to grow different crops throughout different parts of the year.

One council submitter emphasised the supply of naturally delivered and/or available water is more important than water supply generally, and noted climate change would also impact the availability of naturally delivered water.

#### **Issues for further consideration**

Issues for further consideration identified through submissions include whether to provide for:

- water quality as an optional consideration when identifying HPL, including analysis of the trade-off between mitigating perverse outcomes on landowners and the potentially greater loss of HPL
- water availability as an optional consideration when identifying highly productively land, including analysis of the temporal nature of water availability.