

Submission by

Hamilton City Council

A DISCUSSION DOCUMENT ON A PROPOSED NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND

17 October 2019

1.0 Introduction

- 1.1 Hamilton City Council (HCC) supports the general intent of the proposed objectives and policies of the proposed National Policy Statement for Highly Productive Land (NPS-HPL).
- 1.2 We agree that local government has a responsibility to ensure there is sufficient highly productive land available for primary production now and in the future.
- 1.3 HCC is primarily focused on the alignment of the proposed NPS-HPL with the Urban Growth Agenda.
- 1.4 HCC consider that achieving a balance between protecting land from inappropriate subdivision, use and development and the requirement for high growth areas to provide for growth and meet their requirements under the National Policy Statement - Urban Development Capacity (NPS-UDC) and the proposed National Policy Statement - Urban Development (NPS-UD) is essential.
- 1.5 As it stands, the proposed NPS-HPL is likely to have little application to land within the HCC territorial authority (TA) boundaries, as all land is currently zoned for future urban purposes within the Operative Hamilton District Plan.
- 1.6 In anticipation of growth beyond its current boundaries, HCC has identified additional strategic growth areas in the adjoining Waikato District and currently has a strategic agreement in place regarding when these areas will be incorporated into the city.
- 1.7 These strategic agreement areas adjoining Hamilton within Waikato District have an Urban Development Area (UDA) overlay, which aims to prevent further rural subdivision and avoid fragmentation of highly productive land.
- 1.8 It is currently not clear if this existing overlay within the Waikato District Plan will qualify as “areas that have been identified as future urban **zones** in district plans” [emphasis added] as per the proposed criteria to identify highly productive land.
- 1.9 HCC suggest/request that a further category is added to proposed Policy 1 to the exclusion list which covers this form of existing strategic agreement and future urban land use identified through joint iwi, central and local government spatial plans. This request and subsequent amendments to the proposed policies are outlined in Appendix 1 (with track changes) of this submission.
- 1.10 We acknowledge that there will be a range of challenges for both growth and non-growth councils relating to the protection of highly productive land. This submission, however, focuses on highly productive land issues relevant to Hamilton City in the context of its wider strategic spatial planning exercises with the Crown and Iwi, specifically in relation to the Hamilton to Auckland Plan and Metropolitan Spatial Plan.

1.11 Our key submission points are to:

- Reconsider the inclusion of future urban areas identified in non-statutory strategic documents, such as existing strategic agreements and spatial plans (such as the Hamilton Metropolitan Spatial Plan) in the scope of the NPS, especially areas that are required in the medium to long-term to meet the NPS-UDC and proposed NPS-UD development capacity requirements.
- Support for the stronger regulation against rural-lifestyle development on highly productive land.
- Consider, in relation to urban growth, a lower level of protection for Class 2 and 3 soils if these areas are required to meet planned future development capacity.

2.0 Alignment with the Urban Growth Agenda

- 2.1 HCC has, for the last 12 months, been actively engaged and working with Central Government on the local application of the Urban Growth Agenda, namely the Hamilton to Auckland Corridor Plan (H2A) and the associated Hamilton Metro Plan.
- 2.2 This collective H2A Corridor Spatial Plan has resulted in a joint agreement between local government, central government and iwi that formally launched on 15 August 2019 with Minister Twyford and other officials from Treasury and the Ministry of Housing and Urban Development in attendance.
- 2.3 This existing agreed approach to spatial planning in the H2A corridor has explored settlement pattern options in the Hamilton to Auckland corridor predicated on identifying areas of Class 1 soils. The NPS-HPL has now proposed that consideration is given to soil classes 1, 2 and 3.
- 2.4 This proposed NPS-HPL and the timeframes for implementation may run counter to the outcomes of these existing spatial planning exercises underway if they are not given recognition in this NPS.

3.0 Question: Do you think there are potential areas of tension or confusion between this proposed National Policy Statement and other national direction (either proposed or existing)?

- 3.1 Yes, there is a potential conflict between the proposed NPS-HPL and the proposed NPS-UD, particularly in the conceptualisation of land value. More specifically, the use of price efficiency in the NPS-UD of the differential between urban land and rural land as the *raison d'être* for urban expansion and increasing greenfield housing capacity, versus the valuing of rural land (particularly highly productive land) as a precious taonga and source of life and wellness for the country.
- 3.2 The Urban Growth Agenda includes a narrative of building cities both “up and out” and the proposed NPS-UD provisions enable consideration of greenfield development that is out of sequence or not envisaged by current urban limits or spatial plans.
- 3.3 In practice, both proposed Policy 6 ‘Consideration of requests for plan changes’ and the definition of highly productive land Classes 1-3 in the proposed NPS-HPL will largely stymie these provisions from achieving their intended outcomes. These conflicting provisions need to be reconciled to ensure central government provides a coherent planning framework for local government implementation and decision-making.
- 3.4 Both NPSs will consequently need to be clear on which Statement takes precedence in the consideration of these types of proposals.

4.0 Question: How can the proposed National Policy Statement for Highly Productive Land and the proposed National Policy Statement on Urban Development best work alongside each other to achieve housing objectives and better management of the highly productive land resource?

- 4.1 The NPS-UD is still very much focused on increasing capacity/supply in response to housing and business land demand, albeit with a renewed focus on quality urban environments and amenity

values.

- 4.2 Under the proposed NPS-UD, councils would need to carry out a full analysis of alternatives, benefits and costs when considering whether urban expansion should be located on highly productive land used for growing food and vegetables and for other primary production.
- 4.3 HCC, in its parallel submission to the NPS-UD, has proposed a model or sequential site selection approach based on Local Area Assessments (LAAs) used overseas, which seek to prioritise out-of-sequence site greenfield selection. A similar approach could be used to balance the competing assessments required for the NPS-HPL under proposed Policy 3.
- 4.4 Proposed Policy 3 should also have guidance on a typical cost-benefit analysis use and outline what timeframes are considered appropriate to potentially stymie land for continued use or 'potential' use of land for primary production.

5.0 Question: How can the proposed National Policy Statement for Highly Productive Land best align and complement the requirements of the proposed National Policy Statement on Urban Development?

- 5.1 It would be advisable then, when considering whether to expand into areas of highly productive land, that alternative options to meet demand for housing and business land have been fully explored through the NPS-UD and over what timeframes. Some councils will be able to meet higher infill capacity in the short-medium term around existing nodes or centres than others, although with time and infrastructure servicing, more infill allowance may become available, negating a need for greenfield expansion into highly productive areas.
- 5.2 It may be an option that the NPS-UD aligns with this Policy to show where anticipated out-of-sequence growth areas are planned and whether these are on highly productive soils.
- 5.3 We strongly suggest that Policies 3 and 6 of the proposed NPS-HPL and the NPS-UD proposal on providing for out-of-sequence greenfield development need to be aligned to enable consideration of anticipated growth that may not be consistent with a council's statutory and non-statutory plans and policies for growth management and planning.

6.0 Question: How can this policy best encourage proactive and transparent consideration of highly productive land when identifying areas for new urban development and growth?

- 6.1 It should be a requirement that areas that are likely to be highly productive are clearly identified in the Regional Policy Statement (RPS). Identification within the RPS will provide clear identification of these areas.
- 6.2 There needs to be a clear method, or test, to clarify the full extent of highly productive soils across potential high growth or development areas, beyond the somewhat indicative, or broad brush, mapping of these areas in the LUC classification system.
- 6.3 The Government should also consider whether it could procure the baseline LUC mapping across New Zealand to ensure consistency. Regional Councils could then undertake the refinement of this at a local scale, adding and removing areas as appropriate, in accordance with Policy 1 and Appendix A.
- 6.4 Proposed Policy 4 is supported. HCC acknowledges that fragmentation of land into rural lifestyle properties on its periphery is a key issue facing highly productive land. We generally support Proposed Policy 4 outlining that territorial authorities amend their District Plans to manage rural subdivision to avoid fragmentation and maintain productive capacity of highly productive land.
- 6.5 HCC agrees that rural lifestyle development needs to be strongly regulated through the NPS-HPL, particularly in high growth areas. Rural lifestyle lots have both negative impacts for both highly productive land and for providing for urban development. In effect, they do not deliver benefits for

either retaining productive capacity of land or providing for growth through intensification. Generally, where urban expansion occurs into rural areas, it is not possible to properly masterplan these areas that have already been fragmented by inefficient lifestyle subdivision.

- 6.6 Whilst it is acknowledged that there are local considerations which should inform land development policy, in lieu of more detailed LUC classification and criteria for land release, a nationally consistent approach to further fragmentation of highly productive land should take precedence.

7.0 Policies 6 and 7: Consideration of private plan changes and resource consent applications on highly productive land

- 7.1 It is understood that the proposed policies directed at private plan changes and resource consent applications would have immediate effect from the date the NPS-HPL comes into effect. These timeframes need to be understood in terms of the implications and weighting given to the implementation of the out of sequence greenfield policies proposed in the NPS-UD.
- 7.2 The avoidance of Schedule 1 would obviously expedite the consideration of these policies and fill the vacuum until a council gives effect to the NPS and completes its own LUC mapping.
- 7.3 The proposed NPS would require regions to undertake the definition and identification of HPL in consultation with their communities. The vague and subjective nature of some of the proposed criteria for defining HPL may make it difficult to reach agreement in terms of which land should be designated HPL and which should not.
- 7.4 HCC supports proposed Policy 7 and considers it is important to avoid the establishment of activities, including large scale rural industries that would be equally able to locate in a general industrial zone in an urban location, and that are better serviced by transport and other infrastructure but are seeking to benefit from the generally lower land prices that a rural location offers.
- 7.5 Whilst the intent of proposed Policy 7 is supported, the requirements to understand the practical and functional needs for urban expansion to occur in any one location can be complex and should take into consideration a range of funding and infrastructure servicing considerations.
- 7.6 Equally, the policy in practice places an onus on the authority to be able to understand the long-term benefits that would occur from the continued or 'potential' use of land for primary production. This is a high bar for many consenting planners in local authorities and will require outsourced expertise from agricultural valuers and technical primary industry consultants.
- 7.7 It is noted that there is a proposal for site-specific Land Use Capability Assessments prepared by a suitably qualified expert, but experiences with the current NPS-UDC in terms of economic and feasibility assessments shows that such experts are hard to acquire and much like feasibility assessments, there are varying methodologies to reconcile. There therefore needs to be clear guidance and support in this area from the Ministry for Primary Industries and the Ministry for the Environment.

8.0 Further Information

- 8.1 Should the Ministry for Primary Industries and the Ministry for Environment require clarification of the above points, or additional information, please contact Paul Bowman (Team Leader – City Planning) on 07 838 6520, email paul.bowman@hcc.govt.nz in the first instance.

Yours faithfully



Richard Briggs
CHIEF EXECUTIVE

Appendix 1: Hamilton City Council's Proposed Amendments to the Proposed NPS-HPL

HCC's suggested changes are shown via underline and ~~strikeout~~
HCC's comments are shown in [square brackets]

Objective 1: Recognising the benefits of highly productive land

To recognise and provide for the value and long-term benefits of using highly productive land for primary production.

Objective 2: Maintaining the availability of highly productive land

To maintain the availability of highly productive land for primary production for future generations.

Objective 3: Protecting from inappropriate subdivision, use and development

To protect highly productive land from inappropriate subdivision, use and development, including by:

- avoiding subdivision and land fragmentation that compromises the use of highly productive land for primary production;
- avoiding uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process; and
- avoiding and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to highly productive land.

Proposed Policy 1: Identification of highly productive land

- 1.1 Regional councils must identify areas of highly productive land using the criteria set out in Appendix A and:
 - map each area of highly productive land; and
 - amend their regional policy statements to identify areas of highly productive land within the region.
- 1.2 Territorial authorities must amend their district plans to identify highly productive land identified by the relevant regional council under policy 1.1.

[We think that amendments to District Plans should be able to occur without a Schedule 1 process as it will occur after changes to Regional Policy Statements, which will occur through a Schedule 1 process which provides for community participation.]

Appendix A: Criteria to identify highly productive land

In accordance with Policy 1, regional councils must use the following criteria to assess and identify areas of highly productive land:

- a. the capability and versatility of the land to support primary production based on the Land Use Capability classification system;
- b. the suitability of the climate for primary production, particularly crop production; and
- c. the size and cohesiveness of the area of land to support primary production.

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

[Territorial Authorities are required to amend their District Plans to identify highly productive land identified in a Regional Policy Statement. As such regional councils rather than territorial authorities should undertake the full assessment of highly productive land as inconsistency in the identification of highly productive land between a regional policy statement and a district plan is not permitted by this Policy and would not be a desirable outcome].

- a. [the current or potential availability of water – see question below];
- b. access to transport routes;
- c. access to appropriate labour markets;
- d. supporting rural processing facilities and infrastructure;
- e. the current land cover and use and the environmental, economic, social, and cultural benefits it provides; and
- f. water quality issues or constraints that may limit the use of the land for primary production.

Highly productive land excludes:

- a. urban areas; and
- b. areas that have been identified as future urban zones in district plans; and
- c. areas identified in a future development strategy, existing strategic agreements or spatial plan developed collaboratively between iwi, central and local government.

Proposed Policy 2: Maintaining highly productive land for primary production

Local authorities must maintain the availability and productive capacity* of highly productive land for primary production by making changes to their regional policy statements and district plans to:

- a. prioritise the use of highly productive land for primary production
- b. consider giving greater protection to areas of highly productive land that make a greater contribution to the economy and community;
- c. identify inappropriate subdivision, use and development of highly productive land; and
- d. protect highly productive land from the identified inappropriate subdivision, use and development.

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

Urban expansion must not be located on highly productive land unless:

- a. there is a shortage of development capacity to meet demand (in accordance with the NPS-UDC methodologies and definitions); and
- b. it is demonstrated that this is the most appropriate option based on a consideration of:
- c. a cost-benefit or multi-criteria analysis that explicitly considers the long-term costs associated with the irreversible loss of highly productive land for primary production;
- d. whether the benefits (environmental, economic, social and cultural) from allowing urban expansion on highly productive land outweigh the benefits of the continued use of that land for primary production; and
- e. the feasibility and appropriateness of alternative locations and options to provide for the required demand, including intensification of existing urban areas.

Proposed Policy 4: Rural subdivision and fragmentation

Territorial authorities must amend their district plans to manage rural subdivision to avoid fragmentation and maintain the productive capacity of highly productive land, including by:

- a. setting minimum lot size standards for subdivision located on highly productive land to retain the productive capacity of that land;
- b. incentives and restrictions on subdivisions to help retain and increase the productive capacity of highly productive land; and
- c. directing new zoning for rural lifestyle development away from areas of highly productive land

Proposed Policy 5: Reverse sensitivity

Territorial authorities must recognise the potential for sensitive and incompatible activities within and adjacent to areas of highly productive land to result in reverse sensitivity effects and amend their district plans to:

- a. identify the typical activities and effects associated with primary production activities on highly productive land that should be anticipated and tolerated in rural areas;

- b. restrict new sensitive and potentially incompatible activities on highly productive land to ensure these do not compromise the efficient operation of primary production activities;
- c. establish methods to avoid or mitigate reverse sensitivity effects ~~including such as~~ through setbacks and the design of developments; and
- d. establish methods to avoid or mitigate reverse sensitivity effects at the interface between areas of highly productive land and adjacent residential and rural lifestyle zones.

Proposed Policy 6: Consideration of requests for plan changes

When considering a request for a private plan change ~~for urban expansion on highly productive land, or~~ to rezone an area of highly productive land to rural lifestyle use, local authorities must have regard to:

- a. The alignment of the request with relevant local authority statutory and non-statutory plans and policies relating to urban growth and highly productive land;
- b. The benefits (environmental, economic, social and cultural) from the proposed use of land compared to benefits from the continued use of that land for primary production; and
- c. Whether there are alternative options for the proposed use on land that has less value for primary production.

[We note that Policy 3 already addresses requests for private plan changes for urban expansion on highly productive land hence duplication through Policy 6 does not seem to be necessary].

[We also note that if this policy is not redrafted to exclude urban expansion, that point a. above should be reconciled with the provisions of the proposed NPS-UD which enable consideration of greenfield development that is not aligned with local authority statutory and non-statutory plans and policies. As currently drafted these two sets of provisions are in direct conflict and do not create a coherent planning framework for local government implementation and decision-making].

Proposed Policy 7: Consideration of resource consent applications for subdivision and urban expansion on highly productive land

- a. When considering an application for subdivision or urban expansion on highly productive land, consent authorities must have regard to:
- b. The alignment of the application with relevant local authority statutory and non-statutory plans and policies relating to urban growth and highly productive land;
- c. The extent to which the subdivision or development will impact on the existing and future use of the land for primary production;
- d. The practical and functional need for the subdivision or urban expansion to occur at that location;
- e. The potential for reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities; and
- f. The benefits (environmental, economic, social and cultural) from the proposed activity compared to the long-term benefits that would occur from the continued or potential use of the land for primary production.

Resource consent applications must include a site-specific Land Use Capability Assessment prepared by a suitably qualified expert.

[what is a land use capability assessment, what is needed?

We question the need for a site-specific land use capability assessment in any resource consent process if the mapping required by Policy 1 has been completed. It seems that it would duplicate this information at additional cost without any obvious additional benefit].

Interpretation

Highly productive land means:

- a. 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; or
- b. where a local authority has not identified highly productive land in accordance with Policy 1 and Appendix A, a land parcel in a rural area that contains at least 50% or 4 hectares of land (whichever is the lesser) defined as Land Use Capability 1, 2 and 3 as mapped by the New Zealand Land Resource Inventory or by more detailed site mapping; but
- c. does not include:
 - urban areas or areas that have been identified as a future urban zone in a district plan or proposed district plan; and
 - areas identified in a future development strategy, existing strategic agreements or spatial plan developed collaboratively between iwi, central and local government.

Primary production means:

- a. any agricultural, pastoral, horticultural, or
- b. forestry activities; and
- c. includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); and
- d. includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but
- e. excludes further processing of those
- f. commodities into a different product.

Productive capacity means, in relation to highly productive land, the physical qualities of the land to support primary production and generate the most economic output. This includes consideration of physical constraints on use of land for primary production (e.g. lot size, presence of structures and buildings) but does not include consideration of wider soil quality issues.

Sensitive activity means an education facility, community facility, residential activity, visitor accommodation, retirement village, health facility or hospital, marae.

Rural area means an area identified in a district plan or proposed district plan as a general rural zone or rural production zone but does not include an area identified as a rural lifestyle zone (however described).

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.

Urban area means:

- a. an area identified in a district plan or proposed district plan as being primarily zoned for residential, industrial, or commercial activities, together with adjoining special-purpose and open-space zones, however described; but
- b. does not include an area zoned primarily for rural or rural-lifestyle activities, however described.

Urban expansion means a rezoning or development proposal that would result in land use change from a primarily rural use to a primarily urban use (residential, industrial or commercial).

General rural zone means areas used predominantly for primary production activities, including intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

Residential activity means the use of land and building(s) for people's living accommodation.

Rural lifestyle zone means areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur.

Rural production zone means areas used predominantly for primary production activities that rely on the productive nature of the land and intensive indoor primary production. The zone may also be used for a range of activities that support primary production activities, including associated rural industry, and other activities that require a rural location.

Timeframes

The proposed NPS would set out timeframes for giving effect to certain policies, with other policies having immediate effect from the date the proposed NPS is gazetted. The proposed timeframes are as follows:

- **Proposed Policy 1.1 and 2** – regional councils must identify highly productive land no later than three years after the NPS is gazetted; and
- **Proposed Policies 1.2, 2, 4 and 5** – territorial authorities must implement these policies no later than two years after the relevant regional council identifies highly productive land in accordance with proposed Policy 1.1, or no later than five years after the NPS is gazetted.

The objectives and remaining policies in the proposed NPS would have immediate effect from the date the NPS is gazetted and would have to be implemented as soon as practicable after this date.