

## 8.6 SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT

**Author:** Hamish McGillivray, Senior Policy Advisor

**Authoriser:** Mark de Haast, Group Manager

### PURPOSE OF REPORT

- 1 To seek Council approval of the draft submission on the proposed National Policy Statement on Urban Development, which is attached as Appendix 1 to this report.

### DELEGATION

- 2 Council has the authority to consider this matter.

### BACKGROUND

- 3 On 21 August 2019, the Ministry for the Environment and Ministry for Housing and Urban Development released the proposed National Policy Statement on Urban Development.
- 4 The National Policy Statement on Urban Development (NPS-UD) is proposed to replace the current National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). This recognises that while the NPS-UDC has been an important first step towards better urban planning, it is not considered sufficient.
- 5 The NPS-UD would form part of the statutory framework under the RMA, and would need to be reflected in the Council's District Plan.
- 6 The new NPS-UD will build on many of the existing requirements for greater development capacity, and broaden its focus and content. This includes provisions that increase the weight of consideration for urban development and intensification and a greater voice for tangata whenua.
- 7 Submissions on the proposed NPS-UD must be lodged by 5pm Thursday 10 October 2019. Recommendations based on submissions will be reviewed by an independent technical advisory panel. If Ministerial and Cabinet approval is given, the proposed NPS-UD is likely to take effect in the first half of 2020.
- 8 The submission on the NPS-UD also has links to consultation on a proposed National Policy Statement on Highly Productive Land (NPS-HPL). A draft submission on the NPS-HPL is provided in a separate accompanying report.

### National Policy Statement on Urban Development - Objectives

- 9 The NPS-UD is designed to enable growth, provide for diverse and changing amenity values, address unnecessary regulatory constraints and encourage quality urban environments. The intent is to ensure growth is strategically planned and leads to well-functioning cities that contribute positively to people's well-being.
- 10 The proposed NPS-UD takes a targeted approach, applying more rigorous requirements to the largest, fastest growing cities and urban centres, including the Kāpiti Coast District, where housing shortages create national impacts. It would direct councils to be more strategic about planning how and where development should occur, including identifying areas where evidence shows urban development may not be appropriate. It would build on and strengthen the requirement for councils with major urban centres to identify new urban areas through future development strategies.
- 11 The NPS-UD contains objectives and policies in four key areas:
  - Future Development Strategy – requires councils to carry out long-term planning to accommodate growth and ensure well-functioning cities.

- Making room for growth in RMA plans – requires councils to allow for growth ‘up’ and ‘out’ in a way that contributes to a quality urban environment, and to ensure their rules do not unnecessarily constrain growth.
  - Evidence for good decision-making – requires councils to develop, monitor and maintain an evidence base about demand, supply and prices for housing and land, to inform their planning decisions.
  - Processes for engaging on planning – ensures council planning is aligned and coordinated across urban areas, issues of concern to iwi and hapū are taken into account, and hapū and whānau aspirations for urban development on whenua Māori are understood.
- 12 The significance and impact of key areas of change are covered in the next section with details captured in the draft submission, which is attached as Appendix 1 to this report.
- 13 The NPS-UD forms part of Government’s Urban Growth Agenda (UGA). Other areas of work under the UGA are intended to support the NPS-UD. This includes new tools for infrastructure funding and financing, investment on modern transport systems and a stronger partnership between central/local government and iwi, hapū and communities.
- 14 Further details on the proposed NPS-UD is available on the Ministry for the Environment website: [www.mfe.govt.nz/more/towns-and-cities/national-policy-statement-urban-development-capacity](http://www.mfe.govt.nz/more/towns-and-cities/national-policy-statement-urban-development-capacity).

## ISSUES

- 15 The consultation on the NPS-UD is part of a suite of national planning guidance being consulted on by Government. The consultation timeframe given to analyse the detail and impacts of the NPS-UD has been challenging. A summary of key points is outlined below. The detailed submission and response to consultation questions is attached as Appendix 1 to this report.
- 16 Kāpiti Coast District Council’s draft submission generally supports the NPS-UD. A number of the changes in the proposed NPS-UD align with the approach taken in developing our first Housing and Business Assessment of Development Capacity (HBA) under the current NPS-UDC and/or work already underway to shape future planning for growth in the District and region.

### Recognition of non-market tools and limitations

- 17 While Council recognises its role under the NPS-UD in enabling and managing growth, both ‘up’ and ‘out’ and in achieving ‘quality urban environments’, it cannot force development to occur if land owners are not willing or prepared to develop. Council’s draft submission requests that circumstances beyond Council’s control are better reflected in the ‘responses’ required under the NPS-UD (that require more development capacity to be provided). This should enable other non-market (or development market) influences to be taken into account when determining if, where and how much additional development capacity might be required.
- 18 The introduction to the NPS-UD also identifies a number of evolving areas of work and development to support the NPS-UD under the Government’s Urban Growth Agenda. This includes tools relating to infrastructure funding and developing partnerships between central government, local government and iwi. These and further initiatives from the Government are welcomed to help address and overcome issues influencing the development market and development outcomes. Providing clarity on how the NPS-UD and the Urban Growth Agenda proposes to manage market and non-market parts together is important if the NPS-UD is to achieve its objectives of increasing supply and delivering affordable housing.

### Developing a Future Development Strategy

- 19 A key change of the NPS-UD is that the Kāpiti Coast District is recognised as part of the Wellington Major Urban Centre (MUC) (alongside Wellington City, Hutt, Upper Hutt and

Porirua Councils). MUC's have been introduced to replace current 'high' and 'medium' growth categories under the NPS-UDC. The NPS-UD focuses more detailed requirements on these larger cities and urban areas, where the national impact of housing challenges is greatest.

- 20 Kāpiti was previously a 'medium' growth area and as such, the Council didn't have to comply with the more rigorous requirements for "high growth" areas. As part of the MUC, there would be more requirements for the Council to meet, with additional related cost and resourcing implications.
- 21 The Wellington MUC Councils will be required to develop a Future Development Strategy. A Future Development Strategy (FDS) sets out future locations for growth, areas of constraint and bottom lines (targets) for housing development. This was only previously a requirement for high growth councils.
- 22 Producing a future development strategy and other strategic planning processes provides the opportunity to align identifying urban growth areas and identifying areas where urban development should be avoided. The development of a FDS potentially aligns with work to review the Council's Development Management Strategy 2007 (which sets out the current growth framework for Kāpiti) and the work currently underway to develop a Wellington Regional Growth Framework. The NPS-UD proposes specific timeframes for developing a FDS, which will have implications on how quickly these two other pieces of work can be progressed.

#### Making room for growth – impacts on the Proposed District Plan

- 23 A number of the policies proposed in the NPS-UD look to increase the consideration of urban development as part of decision making under the RMA. At a high level, Council supports the intent of these provisions. However, a number of proposed policies require more refinement and clarity to ensure they can effectively achieve their objectives. This includes the description of 'quality urban environment' and defining 'diverse' and 'changing over time' for amenity. Getting this level of clarity in policies is important to ensure the intent and application of these areas are clear and avoid potential litigation through both plan making processes and resource consent decisions.
- 24 Similarly, while provisions providing for intensification generally reflect the approach provided in the Proposed District Plan, providing clearer definition of qualifying criteria and terms such as 'frequent public transport stops' and 'centres' are important, particularly as the Kāpiti Coast District does not have the same scale and application for some policies as they might apply to larger cities and urban areas.
- 25 The proposed NPS-UD would require Council to remove minimum car parking requirements from the District Plan and contains three different options for what this looks like. While this approach may be appropriate for cities, the draft submission expresses concerns about the suitability of this approach in the Kāpiti context.
- 26 The full extent of plan changes and the processes and timeframes required to do these will not be known until the NPS-UD has been finalised. Currently the NPS-UD would require implementation through a range of mechanisms including direct inclusion of some policies in plans, a Schedule 1 plan change process within 18 months of gazettal, and further Schedule 1 plan changes following completion of the FDS. The impact this will have on Council is covered in Financial Considerations below.

#### Evidence for decision making

- 27 The NPS-UD continues the requirement to undertake a HBA every three years. It also requires quarterly monitoring and the annual publication of a monitoring report. The draft submission identifies that Council is comfortable with undertaking future HBA monitoring and the publication of an annual report, but it does not support reference to quarterly monitoring. Our experience to date is that the nature and significance of changes in indicators between quarters is minimal, with a number of the indicators used only updated annually. Council

supports reference to monitoring but recommends leaving discretion to councils to determine how they best do this.

#### Process for engaging on planning

- 28 New provisions for engagement have been added to the NPS-UD. Under the RMA, Councils are required to take into account any relevant planning document recognised by an iwi authority when preparing policy statements and plans. The NPS-UD extends these requirements, with Councils being required to also provide hapū and whānau opportunities to identify their aspirations for urban development on whenua Māori, and then take these into account when preparing policy statements, plans and FDS.
- 29 Council supports the intent of these changes in principle, but recognises the impact engaging beyond the scope of current processes will have on time and resourcing requirements for both Council, iwi, hapū, and whenua Māori owners. Whenua Māori is often owned by multiple shareholders which could making contacting owners and capturing consensus on views challenging. The draft submission highlights these challenges and seeks additional guidance and assistance from central government to help meet these requirements.

## CONSIDERATIONS

### Policy considerations

- 30 The development of a FDS overlaps with the review of the Development Management Strategy and work underway to develop the Wellington Regional Growth Framework. A future report will be prepared for Council identifying the relationship between, potential for alignment and integration across the documents as part of progressing Councils requirements for planning for future growth.

### Legal considerations

- 31 There are no legal considerations for this submission.

### Financial considerations

- 32 The proposed NPS-UD will place additional resource requirements on Council. As well as the development and regular review of the FDS, more regular reviews of the District Plan will also be required. Along with extended consultation with iwi, hapū and whenua Māori owners, these additional requirements will increase resourcing requirements of the Research and Policy and District Planning Teams. A forward work programme is currently being developed by the District Planning Team to help identify the extent and timing of future plan change requirements.

### Tāngata whenua considerations

- 33 We have not engaged with iwi on this submission given the short timeframe provided to Council in which to analyse the NPS-UD and prepare a response.

### Strategic considerations

- 34 *Toitū Kāpiti* reflects aspirations for a vibrant and thriving Kāpiti, with strong and safe communities that are connected to our natural environment. Therefore, it is important that Council advocate for outcomes that will have a favourable impact on the District.

## SIGNIFICANCE AND ENGAGEMENT

### Significance policy

- 35 This matter has a low degree of significance under Council's Significance and Engagement Policy.

**Consultation already undertaken**

36 No public consultation was undertaken for the development of this submission.

**Engagement planning**

37 An engagement plan is not required for this submission.

**Publicity**

38 This submission will be uploaded to the 'Submissions we have made' section of the Council website.

**RECOMMENDATIONS**

39 That Council approve the draft submission on the proposed National Policy Statement on Urban Development, which is attached as Appendix 1 to this report.

**APPENDICES**

1. Draft Submission on the Proposed National Policy Statement on Urban Development

**Draft Cover Letter**

Hon David Parker and Hon Phil Twyford

Email: [npsurbandevelopment@mfe.govt.nz](mailto:npsurbandevelopment@mfe.govt.nz)

Dear Ministers Parker and Twyford,

Thank you for the opportunity to comment on the proposed National Policy Statement on Urban Development.

Kāpiti Coast District Council generally supports the overall intent and direction of the proposed NPS-UD. Like other urban areas, Kāpiti has experienced an increase in housing demand and prices which is creating pressure on housing affordability and limiting people's choices for living and working in the District. Understanding demand, development capacity and the factors affecting them provides us with a better understanding of how to help manage and address these pressures. This is vital if we are to achieve the NPS-UD's aspirations of high quality, liveable urban environments that foster the well-being of people and the environment.

While we support the range of tools and processes proposed by the NPS-UD to help inform how we manage growth in our district, we have concerns about the focus of competitive land markets as the sole means to achieve all the goals of this document. An example of the complexities that need to be worked through is in our recent HBA analysis, which indicates greenfield development in some areas may be counter-productive to intensification around our centres and points of high amenity.

We believe a range of measures are needed to address varied incentives that impact on business and residential developments and to provide sufficient choice in the market to meet the needs of our community into the future. It is encouraging to hear that a number of additional tools are being developed under the Urban Growth Agenda to help manage and respond to these growth pressures.

Councils cannot achieve these outcomes singularly through the control of development. Tools need to also focus on incentivising landowners and developers to develop land in optimal locations in optimal ways. Many Councils, including ours, have long had planning provisions that encourage intensification and further development in our centres, but these opportunities are often not maximised by developers who see innovative or more intensive solutions as risky developments, and single storey, detached housing as a guaranteed return. We hope that a number of the tools in development may help address these 'non-market' issues and help realise greater levels of existing potential instead of unnecessarily expanding our urban areas quicker than we might otherwise need to, creating reduced densification of urban areas. This is particularly important as we look to balance decisions of expansion with the benefits of intensification, efficiency of infrastructure provision, optimal use of our productive lands, reducing our carbon footprint and the sustainability of our environment.

While the grouping of regions in the NPS-UD is helpful in that it allows a greater visibility of regional markets, it also creates some challenges for those smaller centres. Many of the provisions within the NPS-UD are designed to help metropolitan urban centres function and deliver the development needed where space for development is highly constrained and infrastructure provision (such as public transport) is efficient and available. For smaller districts on the periphery such as ours, particularly commuter hubs and those which are collections of smaller towns and settlements rather than cities in their own right, some requirements are likely to have negative unintended consequences. We seek some flexibility in the way the provisions are applied to the margins of growth areas to ensure that 'big city' provisions are not being applied across the board to the detriment of our local communities.

The following submission provides further details on potential impacts and opportunities to achieving the outcomes of the NPS-UD. We welcome your thoughts and feedback, and Council officers are happy to share their thoughts and experiences with the team developing the NPS-UD.

Yours sincerely

K. Gurunathan JP, MA  
MAYOR, KAPITI COAST DISTRICT

**NPS UD Consultation Questions**

1. Do you support a National Policy Statement on Urban Development that aims to deliver quality urban environments and make room for growth? Why/Why not?

Yes. We support the overall intent and direction of the proposed NPS-UD to support and shape processes and decisions to make room for growth and quality urban environments. However, we have a number of concerns around elements of the proposal that we address throughout the submission.

While we recognise the role for Councils under the NPS-UD to enable and manage development and quality urban environments, the NPS-UD needs to recognise that Councils don't build residential dwellings or commercial buildings. The type and nature of housing is largely determined by the market/developer. The way the NPS-UD is currently framed requires Councils to respond to market-led factors that are beyond their control. In effect, this could lead to Councils being required to provide development capacity and infrastructure investment beyond practical levels, which still would not resolve issues such as land-banking affecting competitive land markets, but would potentially be at the cost of ratepayers.

The NPS-UD needs to be part of a package of measures which includes responses to other non-RMA related factors. It is noted that the challenge of getting this balance right is not just an issue for NZ. This point was recently recognised in the UK by the National Audit Office, whereby the design and assessment of Councils performance against housing targets identify significant levels of non-compliance due to factors and design of a system and measures that lay largely beyond their control.

- Are there other tools under the RMA, other legislation or non-statutory tools that would be more effective in achieving a quality urban environment and making room for growth?

Further discussion on links to other RMA and non-statutory tools are discussed in response to questions later in this submission.

2. Do you support the approach of targeting the most directive policies to our largest and fastest growing urban environments? Why/why not?

Yes. We recognise and support Kāpiti Coast District Council's inclusion as part of the Wellington main urban centre given its interconnections and the level of growth across the Wellington urban area.

- Do you support the approach used to determine which local authorities are categorised as major urban centres? Why/why not?

See previous comment.

- Can you suggest any alternative approaches for targeting the policies in the NPS-UD?

While the grouping of regions in the NPS-UD is helpful in that it allows a greater visibility of regional markets, it also creates some challenges for those smaller centres. For smaller districts the requirements of the NPS-UD may have negative unintended consequences. We would seek some flexibility in the way the provisions are applied to the margins of growth areas to ensure that 'big city' provisions are not being applied across the board to the detriment of our local communities.

**Future Development Strategies**

3. Do you support the proposed changes to future development strategies (FDSs) overall? If not, what would you suggest doing differently?

We support the introduction of an FDS for the Wellington MUC. This builds on the joint work the Wellington medium growth Councils have undertaken to develop the HBA under the current NPS-UDC. We also support the flexibility to include an FDS as part of another suitable document. This provides the potential to align the development of an FDS as part of current work to develop a Wellington Regional Growth Framework.

– Do you support the approach of only requiring major urban centres to undertake an FDS? Would there be benefits of requiring other local authorities to undertake a strategic planning process?

No comment.

– What impact will the proposed timing of the FDS have on statutory and other planning processes? In what way could the timing be improved?

We agree in principle behind the intention to sequence the update and review of HBA and FDS's to inform LTPs and subsequent changes (where necessary) to district plans, and the provision of more flexibility for how and when Councils do this.

As Wellington councils were not previously required to prepare an FDS, we understand that Greater Wellington Regional Council is looking at developing an FDS as part of the Wellington Regional Growth Framework (RGF), and that it may intend to release a draft for consultation mid-2020. This creates doubt that the RGF will be completed in time to inform our next LTP.

We are also conscious of how frequent a three-year review of a strategic document is, and that previous plan changes to address previous FDS may still be in process when that review is underway.

As an alternative, we propose that the FDS should require 'an assessment of the need to review' every three years, and where necessary, a review/update to be completed at least every 6 years (or sooner where indicated by an HBA or significant monitoring findings). This approach would provide more flexibility to align reviews with other process such as the Regional Land Transport Strategy and with the availability of Census data (which is the basis of most population and demand projections), while still being responsive through any changes identified through monitoring and HBA's. This additional flexibility also provides further scope to avoid overlaps with District Plan changes (i.e. so that plan changes can be completed before another one is required to start) and aligns with LTP processes. Potential risks from an out of date FDS are also balanced under the ability to directly consider the NPS-UD policies and recent HBA results.

**Making room for Growth**

4. Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?

Somewhat. We support the intent of the NPS-UD to describe features of a 'quality urban environment' for consideration in policy and resource consent processes. However, the description as currently provided through the Objective appears incomplete and by leaving out key elements, such as amenity and urban design, creates uncertainty and has the potential to be used to litigate decisions (see further comments below).

– Do you support the features of a quality urban environment stated in draft objective O2? Why/why not?

The current features defined in the 'quality urban environment' description reflect a range of functional elements, but do not include any amenity aspects that are often associated with urban design and 'place-making'. Some of these elements might be necessary to balance and qualify the use of 'quality'. We note the intention is to include additional context to this effect in the preamble. Our view is that this context must be included in the provisions of the NPS-UD to afford it some legal weight.

Clarification of the ongoing role and fit of the Urban Design Protocol has been identified as a gap in relation to this matter, and through appropriate reference in the provisions, may reduce uncertainty. A refresh of the Urban Design Protocol may also be timely.

– What impacts do you think the draft objectives O2–O3 and policies P2A–P2B will have on your decision-making?

There are a number of impacts objectives O2–O3 and policies P2A–P2B could have on decision making.

Policies P2A/B should reflect consistent wording and references. P2A refers to 'planning decisions' which is defined as policies, plans or strategies, whereas P2B directly references policies, plans and strategies. Also grouping relevant P2A/B into policies reflecting plan making and resource consent considerations could make the policies more user friendly.

The link between P2Ac) and d) and the FDS/District Plan is unclear, in particular, whether this is intended to take precedence over the FDS and District Plan. This causes the potential for confusion and risk of overriding and potentially compromising the FDS and District Plan land-use/subdivision objectives via ad-hoc consent decisions, and needs to be made clearer when and how policies apply e.g. is weight provided when a FDS and DP are not reflective of a recent HBA?

P2A b) and d) are unclear and should identify what adverse effects on competitive land markets are to be avoided.

Objective 3 and P2B b) and d). It does not clearly articulate what the benefits and costs of urban development are. This section might be relevant to referencing potential constraints on land-use and making links such as to highly productive land, and/or could be better achieved by 'having regard to' the FDS which is required to look at constraints and other matters. The need to have particular regard to the scale of costs and benefits also appears to extend beyond section 32 requirements for plans, and would be a new requirement for applicants. This is likely to introduce additional requirements on Councils and applicants and could add further grounds for legal debate and delay.

P2B c) raises questions over how decisions can be made in regards to 'quality urban environments' against current District Plan provisions, before they have the opportunity to be reviewed and updated to reflect the NPS-UD. Further information or guidance will be needed for decision makers on how this is applied in the interim to District Plan provisions being reviewed.

#### **Amenity values in urban environments**

5. Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?

Yes. Indicating changing amenity values over time would be useful provided that the concepts of "diversity" and "change over time" are further explained through the policy.

–Do you think these proposals will help to address the use of amenity to protect the status quo?

Policy P3A currently restates the Objective and misses the opportunity to be bolder and expressly define how Councils and communities should use and interpret the Objective to identify variances

and changes over time as part of developing the FDS, and District Plan provisions. This could include clearer linkages to the use of zone descriptions reflecting pressures and changes over time (discussed later in the submission). This policy should strongly link back to the definition of quality urban environment.

– Can you identify any negative consequences that might result from the proposed objective and policies on amenity?

Failure to achieve any positive improvements to amenity values, due to a lack of clear policy about the kinds of change that the NPS-UD is seeking to achieve. Amenity is already a concept which is somewhat subjective, and adding in a temporary element to this may make it even more subjective, and therefore likely to resort in an opportunity for challenge and appeal.

– Can you suggest alternative ways to address urban amenity through a national policy statement?

Yes, by providing clear policy direction. The intent of this policy should be to assist local authorities to overcome obstacles (identified through the robust problem definition analysis which has presumably been completed to inform this discussion document) which have to date prevented district plans from suitably providing for diversity and change over time.

#### **Enabling opportunities for development**

6. Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not?

Somewhat. While we agree with the intent of providing and responding to the amount of development capacity available to meet demand, we have concerns about the implications the framing of development capacity has on subsequent requirements under the NPS-UD.

Refining analysis of factors affecting development capacity increases assumptions and reduces the amount of capacity. Some factors affecting 'feasible and likely' development capacity are beyond the influence of the resource management framework. Policy P5C enables these factors and constraints to be identified through monitoring and consideration in future plan making processes (P5D). This might enable some regulatory factors to be identified and addressed to improve development capacity, but there is no further means mentioned to further address issues outside the resource management framework.

For Kāpiti, current underlying market factors and resident's apparent preferences for housing types have been identified as favouring greenfield development over intensification. Providing more development capacity to address shortages on the peripheral areas is unlikely to change this outcome and likely continue the low take-up of medium density opportunities further, and also affect the ability to meet the requirements for providing a wider variety of housing options.

If this is not factored into the NPS-UD, Kāpiti risks undermining strategic principles guiding growth across the district and delivering poor quality urban environments and eroding productive rural areas (with exacerbation of greenfield suburban growth over intensification of high accessible centres with high levels of amenity) rather than achieving a more balanced approach. Additionally, the provision of additional capacity also requires council to nominally identify a greater extent of infrastructure investment.

While we recognise Policy P4D - F is carried over from the NPS-UDC, we wonder whether other Councils who have undertaken an FDS have indicated any potential benefits and efficiencies to be gained by including regional and district baselines in the FDS and linked through to requirement under the NPS-UD. This would still require Councils to make changes in their District Plan provisions to reflect changes/needs in the FDS, they just don't have to detail and specify bottom

line directly but refer to the FDS. The HBA and monitoring continue to identify and trigger a need for review.

**Ensuring Plan content provides for expected levels of development**

7. Do you support proposals requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description? Why/why not?

Yes. We agree that this could be useful to help illustrate and understand the type and nature of development anticipated across an area. Linking this with changes of typology over time could also be helpful (links to discussion also covered below).

– Do you think requiring zone descriptions in district plans will be useful in planning documents for articulating what outcomes communities can expect for their urban environment? Why/why not?

Somewhat. If they are not legally binding (see below) they may have limited impact but can help manage understanding and expectations during development of plans and context surrounding the interpretation and application of rules.

– Do you think that amenity values should be articulated in this zone description? Why/why not?

Yes. If amenity values and anticipated changes over time can be captured into zone descriptions alongside the type of development and any changes over time, it would provide useful context to the objectives policies and rules for an area. However, the overall impact may be limited as our understanding under existing case law is that zone descriptions within district plans currently have no legal weight when making decisions as they are not one of the required components specified in RMA Section 75(1). This leads to a question whether the NPS requiring zone descriptions in a district plan can give them legal weight in the decision making process under Section 104(1) (b)(iii) and (vi), which could help provide further weight to the approach and objectives being sought by the changes.

The PDP contains zone descriptions already, which will be revisited through future plan review. However, this would require a Schedule 1 process and cannot be done immediately. A more effective approach would be to update the descriptions at next plan review or as part of implementing the Planning Standards.

**Providing for intensification**

8. Do you support policies to enable intensification in the locations where its benefits can best be achieved? Why/why not?

Yes. Achieving intensification in areas where it can best be realised is generally consistent with the approach in the Kāpiti Coast Proposed District Plan. However, the current reference to only one criteria needing to be met and the ambiguity around criteria e.g. “high demand for housing” could lead to challenge and uncertainty between applicants and consenting staff. It also has the potential to detract from the desired state of quality urban environment, with potential for fragmented subdivision and development.

Further definition, including the need to meet all, or more than one criteria and potentially linking high demand to the HBA, could help mitigate issues and provide greater clarity around the application of the provision on the ground.

– What impact will these policies have on achieving higher densities in urban environments?

Depending on their definition, we would expect impacts for intensification to have a limited impact unless they are able to overcome current feasibility and housing preferences. There is also a

potential for fragmented development to occur unless a cohesive approach is defined. To better understand the potential impacts a clearer definition of 'frequent transport stops' and 'centres' is needed. The potential timeframes to include PD6 could be problematic as it adds another timing requirement amongst other changes. This would be simplified if the timeframes were more flexible and enabled alignment with the next plan review or as part of implementing the Planning Standards.

– What option/s do you prefer for prescribing locations for intensification in major urban centres? Why?

Option 1 – descriptive approach. This is generally consistent with the approach in the Kāpiti Coast Proposed District Plan to provide for intensification around a number of key centres with good accessibility. As previously mentioned, defining 'frequent transport stops' and 'centres' are necessary to define and help implementation of the policy.

– If a prescriptive requirement is used, how should the density requirements be stated? (For example, 80 dwellings per hectare or a minimum floor area per hectare).

No comment

– What impact will directly inserting the policy to support intensification in particular locations through consenting decisions have?

We think this is likely to have a limited impact in our district. A particular challenge for Kāpiti is that a number of areas are already identified and enabled for intensification, but factors affecting current market feasibility (low comparable land costs and preferences for standalone housing) only see a small number of medium density developments come forward each year. Some medium density developments have not sold well to date. We plan to undertake further work to better understand the extent to which regulatory and non-regulatory factors affecting the feasibility of medium density development in Kāpiti to inform future growth planning processes.

#### **Providing for greenfield development**

9. Do you support inclusion of a policy providing for plan changes for out-of-sequence greenfield development and/or greenfield development in locations not currently identified for development?

No. Do not support in its current form as 'must provide for' is a high test and there are a number of concerns with the criteria and its links to the district plan and cost and implications for infrastructure investment. It also appears to override plan provisions even if there is a FDS in place.

Piecemeal development of infrastructure is often uneconomic and creates risks and costs around inefficient network design. The development and operation of third party infrastructure also creates a risk that Councils will be seen as a fall back to step in if assets or operators fail.

– How could the example policy better enable quality urban development in greenfield areas?

Currently the detail of the criteria does not accurately capture the expectation and circumstances in the preamble to the draft policy. In particular, the policy needs to make clear that a plan change could include a future development area already identified but out of sequence, or another area not currently identified for urban development. We also have concerns that the criteria as currently drafted would enable further development and loss of highly productive land in rural areas/ peripheral areas. To this effect, it is unclear what relationship and expectations would exist between this policy and other national direction and the fit with more detailed District Plan provisions, for example on natural hazards.

– Are the criteria in the example policy sufficiently robust to manage environmental effects ensure a quality urban environment, while providing for this type of development?

No. see above comment. The criteria are limited and some are open to interpretation, for example:

- what comprises ‘protected areas’?
- what is ‘appropriate development’ in respect of natural hazards?

– To what extent should developers be required to meet the costs of development, including the costs of infrastructure and wider impacts on network infrastructure, and environmental and social costs (recognising that these are likely to be passed onto future homeowners and beneficiaries of the development)? What impact will this have on the uptake of development opportunities?

If the requirement is for Council to provide for the development that meets the criteria it provides no discretion as a starting point, so the assumption should be that developers meet the full costs. If the policy was reframed to provide discretion, there would be more opportunity for Council to enter into potential agreements (including with Government in some cases) to provide some/parts of infrastructure services on certain terms and conditions.

Even if the costs are passed on to future home owners/beneficiaries via the developer, this will make the developer more likely to consider costs of infrastructure servicing than if the costs were to be spread across all ratepayers via the Council bearing the costs.

– What improvements could be made to this policy to make development more responsive to demand in suitable locations beyond areas already identified for urban development?

The on-going development of HBA’s and FDS’s and district plans provides a suitably responsive framework. The HBA and FDS processes should stimulate more regular and on-going discussion between land owners and developers and Council, where necessary leading to plan changes that free up additional capacity for development (Policy P4G and P2A & B).

#### **Removing minimum car parking requirements (Page 40)**

10. Do you support limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development? Why/why not?

We support the ambition of achieving a modal shift, and we agree that carparking requirements can be an obstacle to development. However, we are concerned that the policy options provided here are not suitable in our context. Urban development in Kāpiti is spread across a number of settlements, with a high percentage of people also living in rural areas. This creates a high reliance on cars as the primary means of transport. As a result, parking is a significant issue in our district, particularly around town centres and our rail stations.

While we are working with partners to improve modal shift, further intensification and reducing or removing minimum parking requirements will further exacerbate this issue until infrastructure required for alternative modes, and modes shift is achieved. Significant additional investment in public transport frequency and coverage and other alternatives would be required.

The approach to parking and target for modal shift should be evidence based and tailored to specific local circumstances, recognising that a one size fits all approach is not appropriate and that local authorities outside the cities have a very different set of challenges and opportunities.

– Which proposed option could best contribute to achieve quality urban environments?

In Kāpiti all three options risk degrading the quality of our urban environments, at least in the medium term until modal shifts are achieved.

- What would be the impact of removing minimums in just high- and medium-density, commercial, residential and mixed-used areas, compared with all areas of a major urban centre?

In Kāpiti we consider both options may create some negative impacts. Without improvements to current public transport connections, removing parking minimums in medium density areas would exacerbate current levels of congestion. Similarly, outside key centres, policies are also likely to be limited without alternative modes and given the reliance and need for cars for residents to get around and meet their basic needs.

- How would the 18-month implementation timeframe impact on your planning processes?

It would be challenging. Kāpiti may have some flexibility to accommodate this in its new forward work programme, which will be developed after the election with a new Council. However, a six-month extension to this timeframe may increase the likelihood Council could include other urban development initiatives into that plan change. We note allowing 2 years post-gazettal would still enable notification of an urban development plan change prior to the elections in 2022.

- What support should be considered to assist local authorities when removing the requirement to provide car parking to ensure the ongoing management of car parking resources?

Significant support to improve public transport in Kāpiti so that feasible alternatives are available to driving cars.

#### **More directive intervention to enable quality urban development ( Page 43)**

11. Do you think that central government should consider more directive intervention in local authority plans?

More directive intervention could be useful across local authority plans where Government seeks to achieve consistency, simplification and standardisation. The Planning Standards are one mechanism introduced to achieve this.

However, the difficulty is working out solutions that provide the right mix of prescription and direction while enabling local variation where appropriate. Changes need to be carefully considered and discussed with Councils to avoid unanticipated outcomes. For example, removing height to boundary rules in high density zones would need to be carefully considered, using a refined rather than blunt wide-ranging approach. Other countries which do not use height to boundary controls generally have other safety nets to manage potential adverse effects such as the 'right to light' easements in the UK.

Areas that may have some benefit from national direction could include subdivision and development on land subject to natural hazards. In particular, ensuring that land subdivided is feasible for building on at an affordable price. This should be considered in line with changes being proposed to the Building Act and Code e.g. liquefaction prone land.

- Which rules (or types of rules) are unnecessarily constraining urban development?

We plan to undertake further work to identify potential market factors and regulatory constraints affecting the feasible development across key areas of Kāpiti Coast District following the completion of our HBA. Provisions which are intended to provide quality urban environment often impose additional costs due to lower yield being possible. Such provisions include managing stormwater, natural hazard avoidance, or mitigating boundary setbacks, sunlight access planes, protection of indigenous vegetation and parking requirements.

- Can you identify provisions that are enabling higher-density urban development in local authority plans that could be provided for either nationally or in particular zones or areas?

No comment.

- Should a minimum level of development for an individual site be provided for across urban areas (for example, up to three storeys of development is a permitted activity across all zones)?

See comments above. While there may be significant benefits in permitting increased levels of development across urban areas, care will be needed to avoid negative impacts on affordability, viability and delivery. We would also expect such a step to be inclusive of some protections for the amenity values of existing residents (e.g., shading).

- Given the potential interactions with the range of rules that may exist within any given zone, how could the intent of more directive approaches be achieved?

We have not considered this in detail, but likely options include NES or through National Planning Standards.

#### Evidence for good decision making (Page 46)

12. Do you support requirements for all urban environments to assess demand and supply of development capacity, and monitor a range of market indicators? Why/why not?

While we are supportive of monitoring and developing evidence on demand/supply and feasibility to inform future growth planning and decision making, we do not support the ongoing requirement for quarterly monitoring. This requirement and ambiguity of the form this should take distracts from the overarching objective which is to develop and use evidence to inform decisions and respond early to key changes. Quarterly reporting is time intensive and lacks significant changes over the quarterly period. Additionally, many of the national data sets are not updated on a consistent quarterly basis making their coverage and inclusion moot.

The current quarterly requirement also creates expectation around this data, so not having it available on a quarterly basis undermines the benefits in developing decision makers and stakeholders understanding of the subject matter. To overcome this and achieve optimal outcomes we support an overarching principle to support monitoring with an annual report published as the most efficient and effective frequency for monitoring.

#### Engagement on urban planning (Page 49)

13. Do you support inclusion of policies to improve how local government works with iwi, hapū and whānau to reflect their values and interests in urban planning?

Timeframes for consultation have not enabled council to discuss the draft NPS-UD with tangata whenua.

We are supportive of building a greater understanding of values and interests of iwi, hapū and whānau, however we have some concerns about this proposal. Any proposal which extends consultation requirements will further test scarce resources of Council, iwi, hapū and whānau. Consultation with multiple shareholders of Whenua Māori will be particularly resource-intensive for all parties, and achieving consensus across all shareholders of whenua Māori may not be possible. We are interested in how central government may be able to match increased expectations with assistance in building capacity.

- Do you think the proposals are an appropriate way to ensure urban development occurs in a way that takes into account iwi and hapū concerns?

Potentially, except to note the capacity challenges it may create for all parties.

- How do you think local authorities should be directed to engage with Māori who do not hold mana whenua over the urban environment in which they now live?

Consultation with Maori under the Resource Management Act is fundamentally based on who holds mana whenua. If there is to be a departure from that here, we simply note that may have wide-ranging consequences.

- What impacts do you think the proposed NPS-UD will have on iwi, hapū and Māori?

The NPS-UD will create additional and new demand on iwi and hapū that will compete for their limited capacity to engage. This will require additional resourcing to support over and above existing iwi relationships and engagement. Further support and resource from Government would aid developing work in this area.

#### Coordinated planning (Page 52)

14. Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū? Why/why not?

Yes.

#### Timing (Page 55)

15. What impact will the proposed timing for implementation of policies have?

Implementing the requirements will add significant additional resource costs. Current timings prevent options for Council to align and integrate changes in a more flexible and efficient way. This is important when considering the need to implement and make changes immediately, in 18 months and then (where necessary) following completion of an HBA and FDS. This creates a continuous schedule without yet taking business as usual requirements for updating and maintaining other aspects of the District Plan and the implementation of the proposed HPL and National Planning Standards into account.

#### Guidance and implementation support (Page 56)

16. What kind of guidance or support do you think would help with the successful implementation of the proposed NPS-UD?

The need for various areas of guidance and support to enable implementation of the NPS-UD have been discussed elsewhere in this submission.

Government funding and support to help further develop, refine and adjust development models to achieve the NPS-UDC with Councils would be welcomed. This would be a more efficient and effective use of resources rather than officers developing technical expertise around data and IT processes. Support would help focus capacity on delivering and achieving the outcomes of the NPS\_UD and could contribute significantly to faster reviews, more consistency and agreement around methodology and the ability to use modelling as a part of mainstream planning processes.

Detailed guidance on how to fulfil the price point information for demand and capacity, including how this can be generated and applied. Similarly, clear guidance on how proposals around the size and tenure for demand and capacity of business can be achieved in HBAs.

Central government funding for the additional infrastructure planning and delivery required by NPS UD as identified as part of work relating to the Urban Growth Agenda.

**Alignment with other national direction under the RMA**

17. Do you think there are potential areas of tension or confusion between any of these proposals and other national direction? If so, please identify these areas and include any suggestions you have for addressing these issues.

The link to and balance between the NPS-HPL is quite weak. Stronger wording in the NPS-UD means this will likely end up taking precedence in practice and higher measures of interim protection should be afforded to these areas to offset a gold rush.

It should be made clearer which national directive has precedence, or there is potential for tension with Regional and District planning documents leading to increased risk and challenge and associated legal costs.

18. Do you think a national planning standard is needed to support the consistent implementation of proposals in this document? If so, please state which specific provisions you think could be delivered effectively using a national planning standard.

References made in previous comments in this submission.

**Questions from Appendix 3**

- A1. Do you support the changes to the HBA policies overall? Are there specific proposals you do or do not support? What changes would you suggest?

AP15 – It is unclear how information on tenure and size can be meaningful captured and analysed to support this policy. Further guidance would be useful.

- A2. What do you anticipate the impact of the proposed policies (and any related changes) would be on planning and urban outcomes?

In general, the benefits of the HBA, when simplified, is that it creates awareness and evidence to build understanding around the current state of residential and business development and capacity and other factors of change including rate of uptake, changes in use and activities and movement within areas over time. This also supports more informed discussion with developers.

- A3. Are the margins proposed in policies AP3 and AP12 appropriate? If not, what should you base alternative margins on? (eg, using different margins based on higher or lower rural-urban price differentials).

No. Using a baseline and higher growth scenario for modelling demand provides for a range of growth. Having two scenarios removes the need to use an additional margin (or you could qualify this approach provided the two scenarios are at least 20% difference). This would help simplify the HBA process and also avoid confusion between population/demand/capacity figures used in the HBA with other projections used in other Council planning processes including the LTP and infrastructure planning.

- A4. How could these policies place a greater emphasis on ensuring enough development capacity at affordable prices?

It is unclear and potentially difficult for Councils to meaningfully contribute to the affordability of development capacity. While modelling can identify feasibility at different margins, it is ultimately the market providers and developers who set the price and availability of housing to the market. Providing capacity and monitoring sales and build process of the types of housing may help indicate any changes but ultimately it is landowners and developers who choose when and how to bring development to the market and at what price point.

Further guidance on how to achieve this and its fit to affordability would be welcomed in finalising the final NPS-UD.

A5. Do you support the approach of targeting the HBA requirements only to major urban centres?  
Why/why not?

See comment to question 2.

## 8.7 DRAFT SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND

**Author:** Hamish McGillivray, Senior Policy Advisor

**Authoriser:** Mark de Haast, Group Manager

### PURPOSE OF REPORT

- 1 To seek Council approval of a draft submission on the proposed National Policy Statement for Highly Productive Land, which is attached as Appendix 1 to this report.

### DELEGATION

- 2 Council has the authority to consider this matter.

### BACKGROUND

- 3 On 14 August 2019, The Ministry for the Environment and Ministry for Primary Industries released the proposed National Policy Statement for Highly Productive Land for consultation (NPS-HPL).
- 4 Submission on the proposed National Policy Statement (NPS) must be lodged by 5pm Thursday 10 October 2019. The submission on the NPS-HPL also has links to consultation on another proposed NPS on Urban Development which is addressed in a separate accompanying report.

### National Policy Statement on Highly Productive Land

- 5 The NPS-HPL seeks to maintain the availability of highly productive land for future primary production.
- 6 The proposed policy places emphasis on land rather than soil given its focus on the capability of land for primary production uses. This recognises that soil, in combination with other factors, such as climate conditions, water availability and proximity to transport infrastructure and labour, determine the productive capacity of land for primary production.
- 7 Highly productive land provides significant economic and employment benefits to the communities that surround them, and collectively underpins the value of New Zealand's primary sector. However, in many areas the availability of highly productive land is coming under increasing pressure from urban expansion.
- 8 Increasingly, the demand for land for development is leading to the loss and fragmentation of productive land (e.g. as a result of lifestyle developments). Similarly, as urban areas expand into rural areas they are increasingly creating conflict and reverse sensitivities with existing rural uses.
- 9 The purpose of the NPS-HPL is to recognise the importance of highly productive land for primary production and provide greater protection against inappropriate subdivision use and development of highly productive land.
- 10 The NPS-HPL recognises highly productive land as sites that contain a majority of their area as category 1 – 3 type soils within the Land Use Classification (LUC). These categories typically identify the most versatile soils that support arable food production. The NPS-HPL requires regional councils to also recognise any other highly productive categories where appropriate, such as gravels that may support viticulture. A regional map of LUC 1-3 soils is attached as Appendix 2 to this report.
- 11 The NPS-HPL requires regional councils and territorial authorities to:
  - identify areas of highly productive land (using the LUC 1-3 classification as a minimum); and

- introduce policies into regional policy statements and district plans to manage the subdivision or development of highly productive land.
- 12 This will include the review and update of policies in district plans to: manage rural subdivision; avoid fragmentation and maintain the productive capacity of highly productive land; and recognise the potential for sensitive and incompatible activities within and adjacent to areas of highly productive land.
  - 13 Requests for plan changes will also be tested against NPS-HPL policies and a site-specific Land Use Capability Assessment will be required to be prepared by a suitably qualified expert as part of a resource consent application for development or subdivision of highly productive land.
  - 14 Further information on the proposed NPS-HPL is available on the Ministry for Primary Industries website: [www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/](http://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/)

## ISSUES

- 15 The consultation on the NPS-HPL is part of a suite of national planning guidance being consulted on by Government. The timeframes in which to analyse the detail and impacts of the NPS-HPL have been challenging. A summary of key points is outlined below. The detailed submission and response to consultation questions is attached as Appendix 1 to this report.
- 16 The Kāpiti Coast District Council's draft submission generally supports the policy intent of the proposed NPS- HPL, as it is giving greater consideration to the importance of highly productive land. The Proposed District Plan (PDP), currently includes policies to sustain land with productive potential for primary production and avoid urban and intensive rural residential development on the most productive areas. This includes provisions within the Rural Dune and Rural Plain zones, where most of the highly productive soils for the district are found. As such, we consider that there is a general alignment between the intent of the proposed NPS-HPL and the PDP.
- 17 However, there are a number of areas where outcomes under the NPS-HPL could be better achieved. One example is that the language between the Objectives (use of 'avoid' and 'protect' in Objective 3) needs to be better aligned to that in the Policies (in particular, Policies 3-5), which do not appear to reflect the same strength as the Objectives.
- 18 Similarly, longer term benefits from the retention of productive land (including unknown potential future benefits) also need to be considered. This will help provide clarity and certainty into planning and consent decisions, but also ensure highly productive land is not eroded from other competing short-term benefits. This is particularly important for ensuring the right balance and considerations are provided against competing pressure for urban development.
- 19 Currently, territorial authorities will be given two timeframes in which to implement the proposed NPS-HPL. However, one timeframe is dependent on the time it takes regional councils to first identify all highly productive land and make changes to their policy statement. The other would require Council to proceed independently before the regional council has completed its work.
- 20 The draft submission seeks that the timeframes be simplified to a single timeframe of district plan change two years after the regional work has been completed. If this suggested change is not implemented, the time it takes the regional council to complete their response will impact the time remaining for territorial authorities to give effect to the NPS-HPL.
- 21 The attached submission supports the use of transitional provisions to ensure protection of highly productive land until new rules are included in district plans. This will support flexibility in timeframes for implementing the NPS-HPL, while also managing the potential impact from urban development eroding highly productive land in the interim.

- 22 The draft submission suggests the potential use of National Environmental Standards (NES) to achieve technical changes and consistency of plans to achieve the outcomes of the NPS-HPL. An example includes the use of minimum lot sizes for highly productive rural areas to avoid fragmentation of highly productive land. The use of NES also has the benefit of avoiding costs of plan changes in some instances. However, Council's support is contingent on the development and implementation of any NES as part of a package alongside the NPS.
- 23 A key concern in the draft submission is ensuring that the NPS-HPL and other national direction is aligned to set clear direction for both urban and rural development.
- 24 Further detailed feedback is provided in the draft submission which is attached as Appendix 1 to this report.

## CONSIDERATIONS

### Policy considerations

- 25 If gazetted in its current state, the proposed NPS-HPL will require a review of the Proposed District Plan provisions for managing land that contains highly productive land. Resource consent decisions would need to have regard to both policies under the NPS-HPL and the Proposed District Plan until this is completed.
- 26 The NPS-HPL proposals also have a bearing on the proposed review of the Development Management Strategy, development of a Wellington Regional Growth Framework, and proposals in the draft National Policy Statement on Urban Development to develop a Future Development Strategy. These processes are all designed to provide frameworks for long-term growth in the district and would need to identify and avoid any inappropriate subdivision or development on highly productive land.
- 27 This will be a key consideration for managing future growth and development, particularly in the northern part of the district, where the majority of our most productive land is found.

### Legal considerations

- 28 There are no legal considerations for this submission.

### Financial considerations

- 29 Implementation of the NPS-HPL will impose additional costs on the District Planning Team to develop evidence on highly productive land and to review and update the District Plan.

### Tāngata whenua considerations

- 30 We have not engaged with iwi on this submission given the timeframes provided in which to analyse and prepare a response.

### Strategic considerations

- 31 *Toitū Kāpiti* reflects aspirations for a vibrant and thriving Kāpiti, with strong and safe communities that are connected to our natural environment. Therefore, it is important that Council advocate for outcomes that will have a favourable impact on the district.

## SIGNIFICANCE AND ENGAGEMENT

### Significance policy

- 32 This matter has a low degree of significance under Council's Significance and Engagement Policy.

### Consultation already undertaken

- 33 No public consultation was undertaken for the development of this submission.

**Engagement planning**

34 An engagement plan is not required for this submission.

**Publicity**

35 This submission will be uploaded to the 'Submissions we have made' section of the Council website.

**RECOMMENDATIONS**

36 That Council approves the draft submission on the proposed National Policy Statement on Highly Productive Land, which is attached as Appendix 1 to this report.

**APPENDICES**

1. Appendix 1: Draft Submission on the National Policy Statement for Highly Productive Land
2. Appendix 2: Map of LUC 1-3



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## Proposed National Policy Statement for Highly Productive Land Submission

We would like to hear your views on the proposed National Policy Statement for Highly Productive Land (NPS-HPL).

Please feel free to use this template to prepare your submission. Once complete please email to [soils@mpi.govt.nz](mailto:soils@mpi.govt.nz).

You can also make a submission using the online submission tool. A link to the online submission tool is available at [www.mpi.govt.nz/HighlyProductiveLand](http://www.mpi.govt.nz/HighlyProductiveLand).

### Contact details

**Name:**

Jason Holland, District Planning Manager, Kapiti Coast District Council

**Postal address:**

Private Bag 60601  
Paraparaumu 5032

**Phone number:**

04 2964700

**Email address:**

Jason.holland@kapiticoast.govt.nz

Are you submitting on behalf of an organisation? Yes

If yes, which organisation are you submitting on behalf of?

Kapiti Coast District Council



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## 1.0 Overall submission comments

### Key agreement/support areas

- Productive land is a critical resource that is under threat
- Productive land is under pressure from urban expansion, rural residential (lifestyle blocks) and reverse sensitivity
- Linkage to the urban development and freshwater reforms and work on national planning standards also being undertaken
- There are limitations to the LUC classification system which make it difficult to use at a property level
- Regional council to undertake assessment of 'highly productive land' with default of classes 1-3 initially. Nationally consistent methodology should be used.
- Need to include clear transitional provisions including at least the objectives policies 6 & 7 and definitions to manage the likely 'gold rush' of subdivision and development on highly productive land between gazettal and implementation.

### Areas of concern and suggestions for improvement

- As currently worded the policies will not achieve the objectives (particularly objective 3), as the language used in the policies does not deliver on the objectives 'avoid' and 'protect' terminology. This will likely result in uncertainty for decision makers on plan changes and resource consent applications. This lack of clarity will likely result in disagreement and appeals.
- The policies understate the importance of highly productive land in providing the ability of future generations to produce food, and the fact highly productive land is a finite natural resource.
- The economic value of food production as highlighted in the discussion document focuses on international exports (for example Figure 1). The value of food production for the local and national markets appears to be a secondary value.
- The costs and difficulties of implementing this NPS given the need for plan changes to implement objectives and policies, and potential significant costs associated with clarifying highly productive land boundaries
- Ensuring alignment with other National Direction (operative and proposed)
- Need to use the Schedule 1 plan change process and deal with Environment Court appeals to implement the NPS
- Five years from gazettal timeframe for District Council implementation of policies is unlikely to achieve the objectives, there is a need for clearer transitional provisions if the objectives are to be met.



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### Suggested changes

- Amend policy 1: 1.2 so territorial authorities are not required to use the Schedule 1 process to amend their district plans to identify highly productive land maps only as identified by the regional council under policy 1.1. noting that rules can be introduced separately under a schedule 1 process.
- Amend policy 3 to be more directive about protection of HPL as a priority over urban or lifestyle development;
- Amend policy 4 to be more specific about lot sizes for rural production
- Amend the 'rural lifestyle development' definition to either delete reference to lot sizes or have a much smaller maximum for the range
- Provide a path for implementation which excludes Environment Court Appeals; and
- Remove five year requirement for implementation (retain 2 years after Regional Council has included in RPS, but ensure this is operative before commencing a district plan change).
- Amend definition for productive capacity to remove reference to 'the most economic output', as this may change over time. Including the reference to the most economic output could be considered at odds with Part 2, as the determination on economic output will be made as a snapshot in time. This risks undervaluing the potential importance of productive land for food production in the future and the changing nature of markets/economies of scale over time.

## 2.0 Response to Questions for submitters

### Section 2.3: Defining highly productive land [page 19]

1. What are the values and benefits associated with highly productive land?

#### Economic benefits

*the primary sector can continue to operate efficiently, local food supply is not threatened, and primary sector earnings are sustained.*

#### Social benefits

*Ensures the ability for current and future generations to produce food.*

*Protecting rural employment opportunities benefits both rural and urban workforces*

#### Environmental benefits



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*Highly productive land is a finite natural resource, which is often part of, and complementary to remaining natural systems.*

Cultural benefits

*Local food production enabled by highly productive land has traditionally been an important part of the culture of New Zealanders.*

- 
2. What are the values and benefits associated with existing food growing hubs and how can these be maximised?

*These areas provide local, regional and sometimes national benefits in terms of food supply. The aggregation of production of specific crops or raw materials within a hub creates efficiencies such as transport to markets or processors. The benefits of these hubs can be maximised by protecting them from urban development and reverse sensitivity issues to enable them to continue to operate into the future.*

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**Section 3.1: Problem statement [page 23]**

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3. Does the RMA framework provide sufficient clarity and direction on how highly productive land should be managed? Why/why not?

*No there is not sufficient clarity or direction in the RMA. It is left to the discretion of individual local and regional authorities with no national direction. The lack of national direction is the main contributing factor to this situation. This lack of national direction also applies to other resource management issues such as planning for subdivision and development on land affected by natural hazards.*

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4. Does the RMA framework provide sufficient clarity on how highly productive land should be considered alongside competing uses? Why/why not?

*No. Highly productive land is not specified as a section 6 or 7 matter which means it is not necessarily prioritised in decision making when compared with the matters specified in these sections of the RMA. If Councils attempt to manage highly productive land in their plans (for the sole fact the land is highly productive), this can be difficult due to fact the RMA does not identify highly productive land as either a matter of national importance under section 6 or another matter under section 7. Councils must therefore find other reasons and methods to manage highly productive land e.g. maintaining urban form, managing urban development to identified growth areas, and then use subdivision rules and standards to limit subdivision of productive land.*

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5. How are values and wider benefits of highly productive land being considered in planning and consenting processes?

*The Kapiti Coast District Council has included objectives and policies in the Proposed District Plan which consider rural productivity including (emphasis added):*

**Objective 2.3 – Development Management**

To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas which can be efficiently serviced and integrated with existing townships, delivering:

- a) urban areas which maximise the efficient end use of energy and integration with infrastructure;
- b) a variety of living and working areas in a manner which reinforces the function and vitality of centres;
- c) resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;
- d) higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;
- e) management of development in areas of special character or amenity so as to maintain, and where practicable, enhance those special values;
- f) sustainable natural processes including freshwater systems, areas characterised by the productive potential of the land, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
- g) an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; and
- h) management of the location and effects of potentially incompatible land uses including any interface between such uses.

**Objective 2.6 – Rural Productivity**

To sustain the productive potential of land in the District, including:

- a) retaining land which is suitable for a range of primary production activities;
- b) achieving added economic and social value derived from primary production activities through ancillary on-site processing and marketing;
- c) enabling activities that utilise the productive potential of the land in the rural environment;
- d) reducing conflict between land uses in the rural environment and adjoining areas; and



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- e) avoiding, remedying or mitigating adverse *effects* on the efficient operation of existing *primary production activities* from *sensitive activities* establishing on adjoining sites;

while safeguarding the life-supporting capacity of air, water, soil, and ecosystems by avoiding, remedying or mitigating adverse *effects* on the *environment*.

#### Policy 7.1 – Primary Production

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**Primary production activities will be provided for as the principal use in the District's Rural Zones** where adverse *effects* on the *environment* are avoided, remedied or mitigated and the life-supporting capacity of air, water, soil and ecosystems is safeguarded.

#### Policy 7.8 – Growth Management

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**Avoid the use of land** in the Rural Dunes, Rural Plains, Rural Eco-Hamlet and Rural Hills *Zones* for urban development or *rural residential development* where such a proposal would:

- a) **compromise the use and productive potential of land for primary production activities;**
  - b) compromise the District's ability to maintain a consolidated urban form in *existing urban areas*;
  - c) compromise the distinctiveness of existing settlements or reduce rural character values between and around settlements;
  - d) adversely affect the vitality of the District's *Centre Zones*;
  - e) make inefficient use of the *transport network*; or
  - f) increase pressure for public services and *infrastructure* (including transport and community *infrastructure*) beyond existing capacity.
- 

*These objectives and policies generally align with the direction of the Proposed NPS however these policies were significantly debated as part of the schedule 1 process and some were appealed. This has meant significant costs to the Council to protect productive rural land in the District Plan due to a lack of national direction to date.*

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### Section 3.2: Urban expansion on to highly productive land [page 24]

6. How is highly productive land currently considered when providing urban expansion?  
Can you provide examples?

*The objectives and policies above set out the direction in relation to urban expansion for the Kapiti Coast District Council. It is important to note that the operative NPSUDC could be considered to currently have more weight than the PDP objectives and policies above as the PDP was developed prior to the NPSUDC coming into effect.*

*The recently completed housing and business land assessment (HBA) to comply with the operative NPSUDC could be used as evidence to promote urban development on existing rural land where a shortage of capacity is identified in the HBA. Urban expansion applications on highly productive land would be difficult to prevent in this situation without strong national HPL direction.*

*Therefore the current practice would benefit from the NPSHPL.*

7. How should highly productive land be considered when planning for future urban expansion?

*The potential for the loss of highly productive land to occur should be a consideration when looking at any proposal (plan change or resource consent) for urban expansion. Ideally areas of productive land should be the least preferred option for urban expansion.*

*The tension between the need for housing and the need to protect highly productive areas needs careful consideration and it may mean that some urban areas cannot continue to expand into the surrounding countryside. This may mean that any additional housing needs to be provided (at that location) via intensification of existing urban areas.*

### Section 3.3: Fragmentation of highly productive land [page 25]

8. How is highly productive land currently considered when providing for rural-lifestyle development? Can you provide examples?

*In the Kapiti Coast District the above objectives and policies (see q 4) identify the need to consider the productive potential of land when considering subdivision for rural lifestyle development. The Kapiti Coast District Plan includes subdivision provisions which require larger lots be retained in the areas which contain the highly productive land (the Rural Plains and Rural Dunes zones) based on the LUC categories 1-3.*



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*There have frequently been challenges to this approach, in individual resource consent applications, where the commercial viability (or lack thereof) of a particular farming type has been argued to try to enable smaller lifestyle lots on potentially highly productive land.*

- 
9. How should highly productive land be considered when providing for rural-lifestyle development?

*Highly productive land should be avoided, if practicable, when identifying areas for small scale lifestyle lots (eg less than 4ha). Highly productive land is a finite natural resource and the fragmentation of it is very difficult to reverse once it has happened.*

---

**Section 3.4: Reverse sensitivity [page 26]**

10. How should the tensions between primary production activities and potentially incompatible activities best be managed?

*The primary production activities occurring lawfully on rural land need to generally be prioritised over sensitive urban activities on the urban/rural interface. Reverse sensitivity and the provisions of RMA sections 16 and 17 (which can override rules in plans and resource consents) are a threat to primary production activities. However some more intensive primary production activities (for example intensive farming, silage pits or market gardening) which are likely to result in significant adverse effects (noise, dust or odour) if located close to dwellings and should be managed more carefully in relation to the location of dwellings.*

- 
11. How can reverse sensitivity issues at the rural-urban interface best be managed?

*These are generally managed through zoning and rules in District Plans and the ability to manage urban development to prevent urban expansion into productive areas. The consolidation of urban areas and urban / rural interface setback conditions are key methods to manage reverse sensitivity. The ability to include these controls in district plans may be eroded by provisions in other national policy statements such as the proposed NPSUD policies 2A & 2B.*

---

**Section 3.5: These issues are being seen throughout New Zealand [page 26]**

12. Do you agree that there is a problem? Has it been accurately reflected in this document?

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*Yes there is a potential problem however the problem may vary across the country depending on growth pressures and productive land availability.*

---

13. Are you aware of other problems facing highly productive land?

*Another potential issue is the tension between primary production and the protection of areas of significant indigenous biodiversity. This includes the potential for primary production to impact on freshwater ecosystems. The intensive use of productive land can either result in runoff or ground water that carries a high level of nutrients or sediments to waterways or in the need to abstract water for production.*

---

14. Which option do you think would be the most effective to address the problems identified in Chapter Three? Why?

*In terms of effectiveness a national environmental standard working in conjunction with a highly directive NPS will be the most effective method. Past experiences in giving effect to NPS's shows Councils still incur costs and delays due to appeals on matters which should be set out in national environment standards. If bottom lines and clear standards are desirable, a NES is the best method. In the absence of evidence to the level of detail required to support an NES (e.g. mapping to a property level) clear transitional provisions should be included in the NES until the evidence is available. This would manage the very real risk of a 'gold rush' of subdivision and development applications on highly productive land being made before the required evidence is available to support provisions in plans.*

*The option of including HPL policies or requirements in the NPSUD has some merit as it would clarify the tensions between these NPS. This could include reference to HPL in Policies 2A, 2B, 4D, & 4G of the proposed NPSUD.*

*The NPS option chosen provides the greatest flexibility for local decision making but has the risk of significant cost to individual regional and then local Councils to implement the NPS in their policy statements and plans, and carries a high degree of risk of not successfully addressing the loss of highly productive land for a number of years before the relevant subdivision and development control provisions are in District Plans especially when considered alongside the NPSUD provisions (particularly policies 2A and 2B).*

---

15. Are there other pros and cons of a National Policy Statement that should be considered?

Pros

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- *Some flexibility to implement at a local level*
- *Gives some direction*
- *Can be highly directive if desirable*
- *Potential to implement some things immediately*

Cons

- *Leaves the detail to local government through a contestable and legal process (plan changes or resource consents) This imposes significant implementation costs on local government.*
- *Implementation will vary across the country due to contestable process*
- *Generally an expensive and slow exercise to get provisions into a plan under schedule 1 due to consultation and hearing requirements and environment court appeals.*
- *Councils often have to manage appeals on provisions which give effect to an NPS even in cases where the NPS provisions are very directive i.e. they are not optional e.g. NPSET. This imposes costs and delays.*
- *The drafting of NPS's is often open to different interpretations, leading to uncertainty and conflict.*

---

16. Are there other options not identified in this chapter that could be more effective?

*Other options that may be more effective include:*

1. *Amending the RMA to elevate HPL to a matter of national importance urgently, and create an NES to manage/protect the resource. This would be efficient if implemented quickly.*
2. *Making HPL provisions part of the National Planning standards and enabling them without the need for a schedule 1 process. This would be quick and low cost for Councils but would be inflexible.*
3. *As part of an NPS, creating a specific process to implement provisions relating to the protection of HPL similar to the freshwater plan change process (no appeals to the environment court) to still allow flexibility but cut the implementation costs, risks to achieving outcomes, and delays with completing planning processes.*
4. *Amend s.86B(3)(a) of the RMA to clarify that rules in a proposed plan for the protection of highly productive soil have immediate legal effect.*

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**Section 5.2 Purpose of the proposed National Policy Statement [page 34]**

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- 
17. Should the focus of the National Policy Statement be on versatile soils or highly productive land more broadly? Why/why not?

*The focus on highly productive land appears to be more appropriate for the Kapiti Coast District as some areas of class 1-3 soils (particularly class 2 and 3 soils) are poorly drained areas that could be considered to be wetlands. There are also other areas which are productive for olives (award winning oils) which are not identified as class 1-3. The inclusion of additional criteria enables these issues to be considered when defining the actual HPL in the region via the regional assessment.*

- 
18. Should the focus of the National Policy Statement be on primary production generally or on certain types of food production activities? Why/why not?

*The changing nature of primary production over time would make a product specific approach risky. If a crash occurs in that product market the viability of the land might be discounted and subsequently land lost to fragmentation or urban expansion. This outcome is already a risk under the current wording of proposed policy 2b which directs greater weight to be placed on giving greater protection to highly productive land which make a greater contribution to the economy. This type of assessment is a snapshot in time which may change into the future. There is also less flexibility to take into account changes as a result of climate change. It is potential of highly productive land that is the important natural resource, rather than just the current economic use of that land.*

---

### Section 5.3 The scope of the proposal [page 35]

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

*Overall the scope of addressing urban development, fragmentation of land for lifestyle development and reverse sensitivity is considered appropriate. The exclusion of soil quality and regional constraints to land use flexibility seem to be appropriate as part of an NPS which requires a detailed regional assessment to be carried out which can consider these issues.*

- 
20. What matters, if any, should be added to or excluded from the scope of the National Policy Statement? Why?

*The contribution to the economy consideration within policy 2 should be removed so the actual productive potential of the land becomes the dominant consideration as to whether or not land is given greater protection. Productive land which is used for food production (non-export) will likely be given less significance under the current wording of policy 2,*



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*despite the importance of the land for domestic food production. It would be useful to expand upon what is meant by 'community' in Policy 2 b.*

---

21. 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?

*Areas already identified for urban development shouldn't necessarily be excluded from the NPS unless significant existing infrastructure investment has already occurred to support urban development in these areas. This is particularly relevant if there are alternative sites available for urban expansion in the region or vicinity which are not on HPL.*

---

22. Should the National Policy Statement apply nationally or target areas where the pressures on highly productive land are greater?

*There is some merit in focusing on areas where highly productive land is under threat from either urban development or fragmentation as a higher priority eg medium and high growth areas under the NPSUDC. However this could mean that highly productive land in other areas which are not currently fast growing is developed, so a national approach is considered more appropriate than a targeted approach.*

---

#### **Section 5.4 The proposed National Policy Statement [page 37]**

23. What would an ideal outcome be for the management of highly productive land for current and future generations?

*The ideal outcome would be for primary production in New Zealand to be able to support the New Zealand population sustainably and enable exports of primary products while maintaining and enhancing the quality of the natural environment and providing employment and economic benefits to the population.*

*Clearly highly productive land is a limited natural resource, so an ideal outcome would be to preserve this land so future generations will be able to use it to provide food.*

---

#### **Policy 1: Identification of highly productive land [page 41]**

24. If highly productive land is to be identified, how should this be done and by whom?

*The current proposal for regional council to do this is acceptable however there will be a significant cost to this work, and delays assuming the regional council will need to follow a Schedule 1 process to amend their RPS. It would be desirable for financial support to be*



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*available to the regional councils to undertake the assessments and a nationally consistent methodology. The regional assessment fits between national direction and repetition of an assessment by each local council and will enable a level of efficiency as well as local input to be considered. A nationally consistent methodology will reduce risk of appeals and consequent costs, delays and uncertainty.*

---

25. Are the proposed criteria all relevant and important considerations for identifying highly productive land? Why/why not?

*The proposed criteria seem generally appropriate to allow significant flexibility at a regional level however the requirement to exclude areas identified for future urban may be an unnecessary or inappropriate constraint in some locations.*

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#### **Policy 2: Maintaining highly productive land for primary production [page 42]**

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26. What are the pros and cons associated with prioritising highly productive land for primary production?

*These are discussed in the response to Q1*

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#### **Alignment with the Urban Growth Agenda [page 43]**

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27. 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)?

*There is clear tension with both the NPSUDC and the Proposed NPSUD in relation to urban expansion. Incorporating the key highly productive land provisions from the NSPHPL into the NPSUD would provide greater clarity. This may be more effective and efficient than creating a separate NPS for highly productive land.*

*There is also some tension with the NPSFM in relation to prioritising primary production on HPL in catchments where freshwater is over-allocated.*

---

28. 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?

*Including some clear policies in each Proposed NPS that identifies this tension and gives direction to resolve it. The proposed NPSHPL recognises that urban expansion may be*



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*necessary (policy 3) and seems as currently drafted to prioritise urban expansion required by the NPSUDC if the productive land issues have been considered in a cost benefit analysis. It would be helpful if the proposed NPSUD also recognised the protection of highly productive land when considering areas for urban expansion and ideally prioritised intensification within urban areas over greenfield expansion onto highly productive land.*

*The freshwater work could similarly be clear about the water demands and potential risks to freshwater from primary production activities and clarify how these issues are to be prioritised.*

---

### **Policy 3: New urban development on highly productive land [page 45]**

29. How should highly productive land be considered when identifying areas for urban expansion?

*Policy 3 sets out an assessment to allow urban expansion on highly productive land. The policy states (**emphasis added**)*

*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:
  - a cost-benefit analysis that explicitly considers the long-term costs associated with the irreversible loss of highly productive land for primary production;
  - 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
  - the **feasibility of alternative locations and options** to provide for the required demand, **including intensification of existing urban areas**.

*This approach could be strengthened and in many cases less assessment required if the final bullet point of the policy was amended and relocated to before b) to read as follows:*

- b) *There are no feasible alternative locations or options (including intensification within existing urban environments) to provide for identified demand for housing or business capacity which do not include highly productive land; and*
  - c) *It is demonstrated...*
- 

30. How should the National Policy Statement direct the management of rural subdivision and fragmentation on highly productive land?

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*The approach of having this occur as part of district plans seems appropriate. However the policy is not particularly specific and will result in each Council debating via a schedule 1 process the appropriate lot size and other elements of the policy. This process will result in appeals with the associated costs and delays. Guidance in the policy about the scale of lots that are suitable for primary production activities would assist Councils to implement the policy.*

31. How should the National Policy Statement direct the management of reverse sensitivity effects on and adjacent to highly productive land?

*This issue should be included in the NPS as reverse sensitivity can be very difficult to manage especially in already fragmented rural areas or areas adjacent to urban areas. Common reverse sensitivity issues relate to noise, dust or odour. Some primary production activities are less likely to create these effects, or may only have seasonal or occasional effects on their residential neighbours. Consideration of reverse sensitivity is important to be clear about.*

**Policies 6 and 7: Consideration of private plan changes and resource consent applications on highly productive land [page 49]**

32. How should the National Policy Statement guide decision-making on private plan changes to rezone highly productive land for urban or rural lifestyle use?

*This is important as the value of urban land is significantly higher than rural land and there is often a desire for rural landowners to subdivide as a way to generate income when they retire from their farming activity. However the private plan change risk is even more likely to erode productive potential and is not included in this policy. This policy should relate to both rural residential and urban expansion risks.*

*As currently drafted policies 6 and 7 are weaker than policy 3 and it is highly likely that productive land will be lost before policy 3 is able to be implemented.*

*This is important as the value of urban land is significantly higher than rural land and subdivision is likely to be sought. This risk also relates to rural lifestyle development as well and the policy should be expanded to cover this.*

*These two policies need to provide strong transitional provisions until the Regional assessment and district plan changes required by earlier policies have been implemented. The inclusion of HPL in the NPSUD is necessary to achieve the objectives.*

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33. How should the National Policy Statement guide decision-making on resource consent applications for subdivision and urban expansion on highly productive land?

*The guidance should align with the objectives of both NPSUD and NPSHPL.*

---

**Section 5.6 Implementation [page 52]**

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34. What guidance would be useful to support the implementation of the National Policy Statement?

*Non-statutory guidance has no legal weight and while potentially helpful, it is unlikely to reduce litigation and may increase delays if the guidance recommends highly complicated assessments. Guidance may not be necessary if the current conflict between the objectives and policies is resolved.*

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## Specific / technical questions

The questions below are included in the outline of the proposed NPS-HPL (Chapter Five of the discussion document) and may assist technical experts when providing a submission.

### Specific questions

#### Section 5.3: The scope of the proposal [page 35]

35. How should the National Policy Statement best influence plan preparation and decision-making on resource consents and private plan changes?

*Through objectives and policies which are clear, unambiguous and directive with criteria to be applied at the local level only where flexibility is required.*

*Ideally implementing the NPS should not lead to litigation over the policy intent or the intended meaning of particular words or phrases within the NPS..*

36. Should the National Policy Statement include policies that must be inserted into policy statements and plans without going through the Schedule 1 process? What are the potential benefits and risks?

*Yes this is preferred for clarity and simplicity. The objectives and policies that manage consents and private plan changes should be inserted into district plans and the objectives could be beneficial in Regional Policy Statements. If managing highly productive land is of national significance and it is desirable to address the issue consistently at a national level, Councils should not have to use schedule 1 to insert provisions into their district plans. Using schedule 1 will most likely lead to different approaches being put into plans. This risks achieving NPS objectives and increases costs on Councils from the schedule 1 process and resolving appeals.*

37. What areas of land, if any, should be excluded from the scope of the proposed National Policy Statement? Why?

*Existing urban areas (including identified future urban zones) and conservation land. All other land may have productive uses which are valuable and an appropriate public engagement process (regional assessment) is needed to determine which areas are highly productive in each region.*

### Specific questions

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**Section 5.4: The proposed National Policy Statement [page 37]**

38. What level of direction versus flexibility should the objectives provide to maintain the availability of highly productive land for primary production?

*The NPS should allow flexibility in determining what is highly productive land in each region, and in relation to any areas that are not LUC class 1-3 there should be flexibility about the provisions for these areas. It should be directive (more so than the current proposal) about how highly productive land is protected and managed for future generations.*

*Given the tone of the objectives, the policies should set clear bottom lines for highly productive land to be retained for future generations, however this is not the case. As currently worded the policies set up a process for the further loss of highly productive land, as it is clearly of secondary importance to the provision of additional urban land under the draft NPSUD. This flexibility provided by the policies is at odds with the direction of the objectives. This should be rectified to provide certainty to decision makers.*

39. Should the objectives provide more or less guidance on what is “inappropriate subdivision, use and development” on highly productive land? Why/why not?

*Greater clarity is needed, particularly on specific issues such as appropriate minimum lot sizes. However these detailed matters are not suitable for an objective and would be best located in either a policy or an NES.*



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### Specific questions

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40. What are the pros and cons of requiring highly productive land to be spatially identified?

*Strongly support spatial identification of highly productive land. If the land is to be protected from urban development and lifestyle subdivision it is essential that it is easily identifiable in map form to all parties. Mapping must be at a scale which can be used at a property level. If the mapping information is accurate there are no cons associated with mapping highly productive land as it provides greater certainty to all parties and will be shown in LIMs, and could also be made available to public via GIS.*

---

41. Is the identification of highly productive land best done at the regional or district level? Why?

*The national level would be best as it is the most efficient. The current (national) LUC maps provide a start point for this work. It does not make sense to leave this to the district level as all territorial authorities would need to procure the same assessment in a relatively short timeframe. The regional level is the next most appropriate, in the Wellington Region for example a regional assessment would be more efficient than 8 local assessments. Incorporating the regional mapping into district plans without having to use schedule 1 would be greatly beneficial.*

---

42. What are the likely costs and effort involved in identifying highly productive land in your region?

*Unable to comment specifically.*

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43. What guidance and technical assistance do you think will be beneficial to help councils identify highly productive land?

*If possible updated national soil mapping as the LUC mapping is quite old. If that is not possible then a nationally consistent methodology and science support to undertake identification processes. Technical science expertise to undertake this work is likely to be held within a few science institutes, and the timeframes for this work is likely to put significant pressure on those with expertise, which may compromise the quality and robustness of the work.*

*Information held by MPI on primary production activities, including any economic information.*

*Clarity on suitable lot sizes which are efficient for primary production activities, however this should not be non-statutory guidance.*

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**Specific questions**

**Appendix A: Criteria to identify highly productive land [page 41]**

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44. Should there be a default definition of highly productive land based on the LUC until councils identify this? Why/why not?

*This would be helpful as a transitional provision alongside policies 6 and 7.*

---

45. What are the key considerations to consider when identifying highly productive land? What factors should be mandatory or optional to consider?

*The key considerations should include:*

- *Soil suitability*
- *Water availability*
- *Site size*

*These should be mandatory, all others could potentially be optional.*

---

46. What are the benefits and risks associated with allowing councils to consider the current and future availability of water when identifying highly productive land? How should this be aligned with Essential Freshwater Programme?

*Alignment with the freshwater programme is important as water allocation and reliability of water is a key consideration for primary production. However, we caution against locking in perceptions that land is productive or not based solely on current water availability, given water availability may change over time through climate change or by future development of water storage and distribution infrastructure.*

---

47. Should there be a tiered approach to identify and protect highly productive land based on the LUC class (e.g. higher levels of protection to LUC 1 and 2 land compared to LUC 3 land)? Why/why not?

*Not necessarily. The LUC maps for the Kapiti Coast show very little class one land. In some places it is impractical to separate classes as class 1 is on the same farm as class 3 land. Separating them may result in perverse outcomes for production. Some crops are better suited to other soil types. The LUC maps should only be used as transitional/starting point reference until more detailed mapping is completed by regional councils.*

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### Specific questions

#### Policy 3: New urban development on highly productive land [page 45]

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

*The policy could be amended to better align with the objectives to read as follows to be stronger in protecting 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. *there are no feasible alternative locations and options to provide for the required demand, including intensification of existing urban areas; and*
- b. *it is demonstrated that this is the most appropriate option based on a consideration of:*
- *a cost-benefit analysis that explicitly considers the long-term costs associated with the irreversible loss of highly productive land for primary production;*
  - *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*
  - *~~the feasibility of alternative locations and options to provide for the required demand, including intensification of existing urban areas.~~*

---

49. 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?

See response to Q 29 above.

### Specific questions

#### Policy 4: Rural subdivision and fragmentation [page 46]

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50. Should the National Policy Statement provide greater direction on how to manage subdivision on highly productive land (e.g. setting minimum lot size standards for subdivisions)? If so, how can this best be done?

*Policy 4 directs that subdivision in highly productive land have minimum lot sizes. However this does not identify what an appropriate lot size may be for highly productive land. The Kapiti Coast District Plan for example, has a 6ha minimum lot size for the most productive land and a 4ha lot size for other productive land. This contrasts with 4000m<sup>2</sup> and 1ha lot*

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*sizes for 'rural residential' development. It is unclear what lot sizes are considered appropriate for HPL.*

---

51. Should the proposed National Policy Statement encourage incentives and mechanisms to increase the productive capacity of highly productive land (e.g. amalgamation of small titles)? Why/why not?

*Clause b) of this policy is unclear with 'incentives and restrictions' in the same clause. These potentially need to be separated into 2 clauses with further clarity on the type of 'incentives and restrictions' that may be considered appropriate.*

#### **Specific questions**

##### **Policy 5: Reverse sensitivity [page 47]**

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52. How can the National Policy Statement best manage reverse sensitivity effects within and adjacent to highly productive land?

*The policy seems appropriate to manage reverse sensitivity issues.*

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#### **Specific questions**

##### **Policy 6 and Policy 7: Consideration of private plan changes and resource consent applications on highly productive land [page 49]**

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53. Should these policies be directly inserted into plans without going through the Schedule 1 process (i.e. as a transitional policy until each council gives effect to the National Policy Statement)? What are the potential benefits and risks?

*Yes this is necessary to ensure immediate protection. This policy requires triggers to stop it from applying once a FDS is completed under the NPSUD unless a new HBA identifies new shortfalls in supply. Otherwise Councils will be bound by this policy despite having carried out all necessary capacity and delivery assessment work, and having identified future urban development areas in their plans. Such an outcome would undermine all this work and risks the unnecessary loss of additional highly productive land.*

*How this policy interplays with the draft NPSUD policies needs to be clarified.*

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*It would be helpful for these policies, in the form they are suggested to be modified in responses to Q32 and 33 above to be transitional provisions with a transitional definition of highly productive land. These transitional provisions must be able to be implemented in district plans without formality.*

---

54. How can these policies best assist decision-makers consider trade-offs, benefits, costs and alternatives when urban development and subdivision is proposed on highly productive land?

*Given the scarcity of highly productive land close to urban areas with significant growth pressures (for example Auckland, Hamilton, Wellington, Queenstown) the retention of the remaining highly productive land should have priority over urban expansion and only be considered if all other options to meet demand (including intensification, redevelopment and brownfield development) have been exhausted.*

---

55. Should the policies extend beyond rural lifestyle subdivision and urban development to large scale rural industries operations on highly productive land? Why/why not?

*We see reasons for and against this.*

*As for rural lifestyle and urban development, land values for business uses typically far exceed the land value for primary production activities, so once a rural industrial use is established on highly productive land it will be unlikely to revert to primary productive use.*

*However, there are likely to be some benefits from locating rural industries on highly productive land, such as transport efficiencies and avoiding reverse sensitivity issues. Simply extending the policy to rural industries may make it difficult for decision-makers to recognise these benefits.*

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### Specific questions

#### Section 5.5: Interpretation

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56. Do any of the draft definitions in the National Policy Statement need further clarification? If so, how?

*Certainty about where extractive industries (quarries) fit? Are they primary production or not?*

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*Concern that the definition of ‘rural lifestyle development’ is very broad in terms of lot size. 8ha is a very large lot to be a lifestyle development in some parts of the country. For example on the Kapiti Coast at least 50% of the highly productive land is in lots of less than 8ha. The only area of class 1 soil in the District south of the Otaki River is an area of approximately 14 ha in 4 lots one of which is an avocado orchard and another citrus and berry orchard.*

*Consider that 4ha is a more appropriate maximum size for lifestyle development and that many market gardens and orchards (on the Kapiti Coast) are between 4 and 8ha in size. Alternatively delete the ‘typically in the range of 0.2 -8ha’ from the definition.*

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57. Are there other key terms in the National Policy Statement that should be defined and, if so, how?

*No comment*

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58. Should there be minimum threshold for highly productive land (i.e. as a percentage of site or minimum hectares)? Why/why not?

*It may be useful to have some clear criteria such as percentage or area or both to ensure sites with only tiny slivers of productive land were not being inappropriately identified. However it is difficult to comment on this in the absence of detailed mapping to identify potential unanticipated outcomes.*

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### Specific questions

#### Section 5.6: Implementation [page 52]

59. Do you think a planning standard is needed to support the consistent implementation of some proposals in this document?

*A planning standard or NES could be helpful if implemented as part of a package with this NPS.*

60. If yes, what specific provisions do you consider are effectively delivered via a planning standard tool?

*Due to the flexibility of the policies within the draft NPS (which contrast with the objectives), and the dominance of the NPSUD over it, there do not appear to be any genuine bottom lines which could be put into national planning standard format. It would be helpful if minimum lot sizes were included in a national standard or NES.*

### Specific questions

#### Section 5.7: Timeframes [page 52]

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.

61. What is the most appropriate and workable approach for highly productive land to be identified by council? Should this be sequenced as proposed?

*Territorial authorities should not have to implement Policy 1.2 until regional councils have met their obligations under Policy 1.1. There is no certainty for local councils that the regional assessment in Policy 1 will be final until it is operative in the RPS. This could take several years after notification of the proposed RPS change unless there is an alternative mechanism proposed for changes to the RPS to implement this NPS that does not include schedule 1.*



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*Once a regional council has identified the highly productive land under Policy 1.1, territorial authorities should be required to insert these maps and policies into their district plans without using schedule 1.*

*The implementation of Policies 4 and 5 by territorial authorities is likely to result in many appeals. It should be carefully considered whether it is possible for some of the requirements of Policies 4 and 5 to be nationally prescribed under NPS (or NES), and put into district plans without territorial authorities having to use schedule 1 e.g. minimum lot size standards for primary production activities on highly productive land; reverse sensitivity methods and standards.*

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62. What is an appropriate and workable timeframe to allow councils to identify highly productive land and amend their policy statements and plans to identify that land?

*The five year total is not easy for territorial authorities to meet if the Regional Council is delayed in completing their assessment, for example it is challenged in the RPS schedule 1 process, and if inserting the mapping to be inserted into district plans is also to be done via schedule 1 (with potential appeals). Suggest removing the 5 year maximum for district plan implementation and making it clear schedule 1 is not to be used by territorial authorities to insert the mapping and policies which have been debated at the regional level. Prefer a 2 year timefraome for rules in a district plan after the regional policy statement changes are operative.*

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**Please use the space below to provide any additional comments you may have.**

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