

National Policy Statement – Highly Productive Land

Government's recently released National Policy Statement – Highly Productive Land has significant consequences for development and use of 'highly productive land' based upon regional-scale mapping as an interim regime.

The National Policy Statement - Highly Productive Land ([NPS-HPL](#)) came into effect on 17 October 2022, and has immediate consequences for, and application to, any current consenting or planning processes currently underway.

It introduces a regime requiring regional councils to identify, map, and then protect (through policy statements and plans), land defined as 'highly productive'. However, before that mapping occurs at the regional scale, the NPS-HPL provides an interim or 'default' regime, identifying any land as highly productive if it is:

- Zoned general rural, rural production; and
- LUC 1, 2, or 3 land¹.

You can find out whether your land is within the above classes, and therefore identified as 'highly productive' using the following link: [LUC mapping](#). There are some exceptions to the default categorisation of highly productive land, in particular where such land is:

- identified for future urban development; or
- subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.²

The LUC mapping system is based upon mapping assessments that measure the land's properties that determine its capacity for long term sustained production. The default LUC mapping is, in some places, likely to be outdated and / or not consider property-specific factors, which could mean your land is identified as 'highly productive' (in the absence of any site-specific assessment, or the next stage or regional mapping, being carried out). While the NPS-HPL could be seen as 'overly restrictive' for land that might not be appropriately considered highly productive (pending a more site-specific assessment or regional mapping exercise), it equally has the potential to be 'under protective' for land that doesn't fit within the default regime.

Some particular primary industries for example rely on 'niche' climatic factors and growing conditions to produce a specialised product, although the soils they rely on might not fit within the default LUC 1,2, or 3 categories. A good example, are stony soils in many Central Otago locations which support significant viticulture, yet are often mapped higher than LUC 4. Regional Councils will have the ability to identify and map such areas as highly productive land where:

that is in a general rural zone or a rural production zone, but is not LUC 1, 2, or 3 land, ... if the land is, or has the potential to be (based on current uses of similar land in the region), highly productive for land-based primary production in that region, having regard to the soil type, physical characteristics of the land and soil, and climate of the area.³

However, the interim regime does not automatically protect those areas until such mapping is completed, which could be as late as 17 October 2025.

¹ Policy 3.5(7)(a) with reference to the Land Use Capability Class, as mapped by the NZ Land Resource Inventory.

² Policy 3.5(7)(b)

³ Policy 3.4(3)

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Why was the NPS-HPL introduced?

The NPS-HPL was released by Central Government in an attempt to give clear national direction to cease or halt the decline of loss of the country's best food growing land. This objective however is weighed against competing needs to increase housing supply and feasible development capacity, in line with the Government's [Urban Growth Agenda](#) and the [National Policy Statement on Urban Development 2020](#). The key findings of the Ministry for the Environment's "Our land 2018" [report](#), were that there are two main pressures facing highly productive land, being: the expansion of urban areas, and the change of land use from primary production to lifestyle blocks. The NPS-HPL addresses those issues, but does not provide direction regarding improvement or enhancement of highly productive land, and only limited policy direction in terms of the potential reverse sensitivity effects which have the potential to limit or undermine productive uses of highly productive land (discussed further below).

How could it affect your rural property?

Default / interim mapping or property specific

While the default regime provides for interim identification of LUC 1,2, or 3 land (that is general rural or rural production zone⁴) the associated definition of those categories also allows for a more detailed mapping exercise to be undertaken to determine the LUC classification on a site-specific basis:

LUC 1, 2, or 3 land means land identified as Land Use Capability Class 1, 2, or 3, as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification

Given the default LUC mapping is based upon a coarser scale of assessment (and in many instances was produced using hard copy topographical maps as a base), more detailed mapping may result in a different categorisation of your land. Site-specific mapping exercises consider the precise limitations that define the LUC categories, (such as susceptibility to erosion, steepness of slope, susceptibility to flooding, liability to wetness or drought, salinity, depth of soil, soil texture, structure and nutrient supply and climate). For example, for land to be LUC class 1, 2 or 3, the land must have a slope of 15 degrees or less (irrespective of any other LUC limitation). Land with slopes greater than 15 degrees would be LUC class 4 or greater⁵ however the default maps may not contain this degree of slope accuracy on a property-specific basis, and therefore your land may be (incorrectly) categorised as highly productive, unless you undertake such a site-specific assessment.

Diversification and subdivision of land captured as a potentially 'inappropriate' activity

The NPS-HPL is highly restrictive in terms of alternative uses of highly productive land. It provides for exemptions to this in order to achieve more housing capacity in certain areas; for example, tier 1 and 2⁶ local authorities may allow urban rezoning of highly productive land in prescribed circumstances, where that rezoning is required to provide 'sufficient development capacity to meet demand' and there are no other practicable and feasible options, and the 'benefits' of rezoning productive land outweigh the 'costs' of its loss⁷. Beyond the provision of urban development capacity, other alternative use and development of highly productive land is to be avoided where it is considered an 'inappropriate' activity. The NPS-HPL provides a relatively prescriptive list of what uses might

⁴ These zones are defined in most district planning instruments, and are the prescribed zones under the National Planning Standards.

⁵ Land Use Capability Survey Handbook 3rd Edition, pp 56 – 66.

⁶ Tier 1 – Auckland, Hamilton, Tauranga, Wellington, Christchurch, Tier 2 – Whangarei, Rotorua, New Plymouth, Napier Hastings, Palmerston North, Nelson Tasman, Queenstown, Dunedin

⁷ Policy 3.6(1) – noting that any consideration of benefits and costs takes into account both tangible and intangible values.

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not automatically be considered 'inappropriate', some examples include where there is a functional or operational need for use of productive land (such as specified infrastructure, mining and aggregate extraction) providing for 'supporting activities', biodiversity enhancement, and retirement of land to improve water quality.⁸ Even such listed activities will need to establish how those minimise or mitigate actual loss, or potential cumulative loss, of productive land across a district, and avoid or otherwise mitigate reverse sensitivity issues.

The prescriptive nature of this list of 'not inappropriate' activities, means that other types of use, development, or diversification, of highly productive land will have high threshold tests to pass for future consenting. For example, adding in a commercial venue to diversify farming income, or subdivision to provide for succession planning, will need to demonstrate how such activities are potentially 'supporting' the primary productive activities on the land, or otherwise establish that:

- The land is not economically viable for at least 30 years (under land based primary production); and
- The development avoids any significant cumulative loss of productive capacity, fragmentation of large and cohesive areas, and avoid or otherwise mitigate reverse sensitivity; and
- The 'benefits' of the use and development outweigh the 'costs'.⁹

In demonstrating the above threshold requirements, significant information will need to be provided, in particular in the form of economic viability assessments to demonstrate the constraints on economic viability of land.¹⁰

Demonstrating that alternative diversification of productive land meets these criteria will be a potentially

costly process for some landowners. The NPS-HPL does not appear to provide for any broad exemptions to enable succession planning and subdivision where, for example, that would overall retain the productive potential or capacity of land, without otherwise having to establish those are either 'supporting activities' or else going through the above alternative tests economics and effects.

Reverse sensitivity

A number of rural industry representative groups submitted on the proposed introduction of the NPS-HPL, noting that one of the significant threats to productive land is the issues arising at the interface between rural and urban areas. Such submissions sought to ensure that production activities on land adjacent to urban areas that are subject to ongoing development and change that is urban in nature, are able to continue. This issue however has not been strongly carried through into the drafting of the NPS-HPL, which provides for some reverse sensitivity policy direction, for example where:

- In the instance of new subdivision and development of Highly Productive Land itself, ensuring this avoids or mitigates reverse sensitivity on surrounding primary production¹¹;
- District plans will require provisions which require avoidance or mitigation of potential reverse sensitivity effects from urban rezoning or rural lifestyle development that could affect primary production on highly productive land¹².

This drafting leaves some gaps in terms of reverse sensitivity protection, for example where use and development of land near to primary industry activities is proposed to change, intensify or expand, but might not fall in the category of 'urban rezoning' or 'rural lifestyle development', such as, a new quarry

⁸ Policy 3.9(2)

⁹ Policy 3.10(1)

¹⁰ Policy 3.10(2)

¹¹ Policy 3.8(2) and 3.9(3)

¹² Policy 3.13(b)

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development or urban infill and subdivision. These examples of new or intensified activities can cause significant issues where they establish in proximity to primary production, and where suitable mitigation measures are not put in place, like non-opposition arrangements or increased setback and buffer distances.

The future after the repeal and replacement of the RMA

Recently announced reform of the Resource Management Act 1991 (**RMA**) is further detailed in our associated article found here: [RM reform legislation introduced to Parliament](#). These reforms include an increased focus on national direction, including through implementation of a 'National Planning Framework (**NPF**)'. The NPF will essentially combine existing (and new) national direction, including the NPS-HPL, meaning, the NPS-HPL will endure under the future planning legislation and will continue to have strong and directive effect at the regional and local levels. Future planning instruments under the new regime will be required to 'give effect' to the NPF, which is a high obligation. The NPF will (potentially) provide an opportunity for clear and coherent national direction to manage conflicts between competing policy issues, outcomes, and any bottom lines.

The NPS-HPL does not currently require improvement or enhancement of productive capacity or soil quality. For example, it does not incentivise or direct regenerative or alternative agriculture uses which could impact upon soil quality itself. Instead, the focus is on alternative uses of highly productive land, beyond 'land based primary production'. Conceptually, the replacement legislation does provide for the ability for central Government to set new targets to improve the state of the natural environment, or set environmental

limits associated with productive land, which could see further direction in this space yet to come.¹³

Want to know more?

If you have any questions, please contact our specialist [Environments, Planning and Natural Resources Team](#)

¹³ Clauses 47 - 53 provide for the NPF to set targets. The purpose of a target is to help improve the state of the natural and built environment,

Targets must be measurable, have a time limit, and be designed to achieve progressive improvement over time (clause 48).