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Office of the Minister for the Environment

Office of the Minister of Agriculture

Chair, Cabinet Economic Development Committee

Proposed National Policy Statement for Highly Productive Land Exposure Draft Testing

Proposal

- 1 This paper seeks Cabinet's agreement to release the proposed National Policy Statement for Highly Productive Land (NPS-HPL) exposure draft, attached as Appendix 1, for targeted consultation. The NPS-HPL will provide greater clarity for local authorities on how they are to manage New Zealand's most productive land for its long-term availability for land-based primary production.

Alignment with government priorities

- 2 The NPS-HPL complements the Labour Party's 2020 manifesto commitment to promote the primary sector based on the "Fit For a Better World" roadmap. The roadmap intends to accelerate productivity, sustainability and inclusiveness of the primary sector to deliver value for all New Zealanders.
- 3 The NPS-HPL also complements:
 - 3.1 the National Policy Statement on Urban Development 2020 (NPS-UD) and its objective to deliver well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing
 - 3.2 the Government Policy Statement on Housing and Urban Development, which will support resilient, sustainable, inclusive, and prosperous communities; and
 - 3.3 the Government's overarching policy objectives for the housing market, particularly to create a housing and urban land market that credibly responds to population growth and changing housing preferences, that is competitive and affordable for renters and homeowners, and is well-planned and well-regulated.

Executive Summary

- 4 In response to the *Our Land 2018* report released in April 2018, the Government stated it would develop a NPS-HPL. The intent of the NPS-HPL is to protect New Zealand/Aotearoa's highly productive land (HPL), which is our best land for growing a range of food and fibre that supports resilient rural communities.
- 5 The NPS-HPL is a proposed regulatory tool under the Resource Management Act 1991 (RMA), providing national direction to prevent further irreversible loss of HPL

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from urban development, rural lifestyle development and reverse sensitivity¹ issues associated with the fragmentation² of HPL. It has been designed to complement the NPS-UD.

- 6 The NPS-HPL will require regional and district councils to identify and map HPL to ensure that it is available for present and future land-based primary production. The NPS-HPL will require councils to avoid zoning HPL as rural lifestyle blocks. It will permit zoning HPL as urban if the community needs the land to meet demand for housing or business land, alternatives are not feasible, and a net benefit test is met.
- 7 This paper seeks Cabinet's agreement to release the NPS-HPL exposure draft for targeted consultation in late October/early November 2021 to test the workability of the policy. This paper is not seeking feedback on policy intent which was agreed ahead of public consultation in 2019 [CAB-19-MIN-0380 refers].
- 8 Officials will provide the final package of advice for the NPS-HPL to Cabinet in March 2022. The intention is for the NPS-HPL to be then gazetted and come into effect 28 days later.
- 9 The Ministerial Oversight Group for the resource management reform has agreed that the policy intent of all national policy statements (as well as other national direction under the RMA) will be transitioned into the National Planning Framework (NPF) in the new resource management system. This will ensure that the NPS-HPL is given appropriate weighting in the NPF.

Background / rationale

- 10 The *Our Land 2018*, *Environment Aotearoa 2019* and *Our Land 2021*³ reports have found that 21 percent of HPL is now occupied by land parcels of less than 40 hectares with a house, and the rate of fragmentation of HPL is much greater than other land in the country. Five percent of HPL has been fragmented for rural lifestyle development as of 2019, an increase of 59 percent since 2002. The amount of general urban development on HPL increased 30 percent in the same period.⁴
- 11 The growth of our towns and cities in recent years has increasingly encroached onto HPL through the rezoning and fragmentation of rural land for urban expansion and rural lifestyle development. This is occurring across the country, and is particularly notable at prominent food growing hubs such as Pukekohe in the Auckland region. In lower-growth areas, rural communities have long been concerned about the

¹ Reverse sensitivity is when a lawfully established existing activity risks receiving complaints from occupants of a new activity because of its proximity. For example, occupants of a new urban development may raise complaints about noise, dust, or smell from existing farming operations. This could result in economic and operational limitations on the farming operation.

² Land fragmentation is the splitting of existing land, typically rural farmland, through subdivision for activities like residential development and urban expansion.

³ Our Land 2021 report is part of New Zealand's environmental reporting series which builds on the statistics from *Our Land 2018* and *Environment Aotearoa 2019*. The *Our Land* series reports New Zealand's land and soil data to illustrate the changes in land use and intensification, and their consequences.

⁴ Curran-Cournane et al, "Cumulative effects of fragmentation and development on highly productive land in New Zealand".

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cumulative loss of HPL to rural lifestyle developments when less productive land can be used to support this housing choice.

- 12 Parts of our food and fibre sectors rely on the availability of HPL in order to continue and increase production, such as vegetable production. While there is a need to enable urban development to address housing and infrastructure pressures, there is also an urgency to prevent further loss of HPL, as land will be unable to be returned to HPL if it is used for urban or rural lifestyle development.

Definition of highly productive land

- 13 HPL is typically flat or gently undulating, has fertile soils, good climate, and/or access to water for growing a range of food and fibre.
- 14 The Land Use Capability (LUC) system classifies land into eight classes based on its long-term potential for sustained agricultural production. Limitations increase in parallel with LUC classes. LUC class 1 land provides good climate, soil, and gradient, making it the most versatile and suitable for growing the largest range of crops. LUC class 8 land is the least versatile for primary production and is typically used for conservation purposes.
- 15 Soil scientists and primary sector organisations regard LUC class 1, 2 and 3 as HPL. This accounts for 15 percent of New Zealand's land cover and is often located on the fringes of our towns and cities⁵.

Lack of clarity in the RMA to manage and protect highly productive land

- 16 The RMA provides the regulatory framework to manage the use of land and soil. Part 2 of the RMA, Purpose and principles, specifically mentions safeguarding the life-supporting capacity of soil in section 5(2)(b), and references its effective use and development, and its finite characteristics, as relevant considerations under section 7(b) and 7(g).
- 17 While other provisions in Part 2 have been expanded and clarified through national direction, the provisions relating to soil and HPL have not. This lack of clarity on how HPL should be managed has resulted in uncoordinated urban expansion over, and fragmentation of, HPL. Councils, primary sector organisations across New Zealand and the soil science community have raised concerns about the cumulative and irreversible loss of HPL from urban expansion and fragmentation for rural lifestyle developments.
- 18 The NPS-HPL is proposed to protect HPL from further fragmentation, through providing councils with national direction on how to manage this valuable resource.

The proposed National Policy Statement for Highly Productive Land (NPS-HPL)*Policy intent*

- 19 The focus of the NPS-HPL is to protect HPL from inappropriate subdivision, use and development through regional policy statement and district plan provisions. This would

⁵ Ministry for the Environment and Statistics New Zealand, "Our Land 2021," p19.

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require regional councils to identify and map HPL⁶ within their region, and to ensure it is available for present and future land-based primary production.

- 20 The NPS-HPL will complement:
- 20.1 the National Policy Statement on Urban Development 2020 (NPS-UD) and its objective to deliver well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing
 - 20.2 the Government Policy Statement on Housing and Urban Development to support resilient, sustainable, inclusive, and prosperous communities; and
 - 20.3 the Government's overarching policy objectives for the housing market, particularly to create a housing and urban land market that credibly responds to population growth and changing housing preferences, that is competitive and affordable for renters and homeowners, and is well-planned and well-regulated.

Policy development

- 21 Public consultation on the NPS-HPL occurred from August to October 2019. Officials held a roadshow across New Zealand to seek feedback on the NPS-HPL alongside proposed national direction for freshwater and urban development. This included public meetings, hui with tangata whenua and workshops with councils.
- 22 About 90 percent of the 250 submissions received indicated their support for the intent of the NPS-HPL to better protect and manage HPL.
- 23 Eight iwi/Māori organisations submitted on the proposed NPS-HPL. Feedback centred on ensuring customary activities and papakāinga were provided for. The draft NPS-HPL now explicitly provides for the provision of papakāinga, marae and ancillary community facilities, dwellings, and associated infrastructure on Māori land as appropriate use of HPL. The draft NPS-HPL also provides for matters of national importance (as set out under section 6 of the RMA) on HPL, which include:
- 23.1 the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga – section 6(e); and
 - 23.2 the protection of protected customary rights – section 6(g).
- 24 Following public consultation, officials undertook further policy development and held workshops with councils, primary sector organisations and Manaaki Whenua Landcare Research to address concerns raised. Officials also met with Property Council New Zealand before and during public consultation.
- 25 Officials have undertaken an assessment of how the NPS-HPL would impact mana whenua and Treaty settlements and commissioned further cost-benefit analysis of the impacts of the NPS-HPL on councils and landowners.
- 26 In March 2021, officials provided the Minister for the Environment and the Minister of Agriculture with a draft recommendations report (required under section 46A of the RMA). Ministers approved the draft recommendations as the basis for the exposure draft (attached as Appendix 1).

⁶ LUC class 1, 2 and 3 land will be the transitional definition of HPL while local authorities identify and map HPL based on LUC class 1-3 and other factors.

IN CONFIDENCE*Impact on councils and landowners*

- 27 Regional councils will have up to three years to identify HPL in their regional policy statements. Territorial authorities will then have up to two years to amend their district plans to give effect to the NPS-HPL.
- 28 The impacts on landowners will primarily occur on land that is identified as HPL. The landowner will be prevented from subdividing the land for lifestyle subdivisions and in some circumstances will not be able to develop the land for purposes other than land-based primary production. Some landowners of non-HPL may benefit from an increase in demand for development that is diverted from HPL areas. In terms of land area, the largest impact will be rural lifestyle development that is redirected away from HPL.
- 29 Cost-benefit analysis covering the impacts on landowners and councils has been undertaken and will be reflected in the final regulatory impact statement and final advice to Cabinet.

Interaction with urban growth

- 30 The NPS-HPL complements the NPS-UD objective to deliver well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing. This is achieved by ensuring that HPL is protected for land-based primary production, while allowing for co-ordinated urban growth where appropriate.
- 31 The NPS-HPL will therefore provide for urban expansion on to HPL under some circumstances. Should new urban expansion be required, councils will be required to consider whether:
- 31.1 the rezoning from rural to urban is required to provide sufficient development capacity under the NPS-UD to meet demand for housing or business land; and
 - 31.2 there are no other reasonably practicable and feasible options⁷ within the same locality and market; and
 - 31.3 there are net benefits from the urban rezoning compared to retaining the HPL for primary production.
- 32 The most significant impact of the NPS-HPL, in terms of land area, will be the strong avoidance policy for rural lifestyle development on HPL. In effect, this will mean that any new rural lifestyle development can only occur on land that is not HPL.

Interaction with the proposed National Policy Statement for Indigenous Biodiversity

- 33 The NPS-HPL provides for the protection, maintenance, and restoration of indigenous biodiversity as an appropriate use of HPL. This will ensure that any significant natural areas identified on HPL can be identified and regulated under the proposed National Policy Statement for Indigenous Biodiversity (NPS-IB).

⁷ The wording 'reasonably practicable' is aligned with the requirement to assess reasonably practical options in RMA evaluations (under section 32). The additional reference to 'feasible' options aligns with the NPS-UD definition of feasible.

IN CONFIDENCE**Exposure draft consultation**

- 34 Should Cabinet agree, officials will undertake targeted consultation on the exposure draft over a three-week period from late October 2021. The purpose of the exposure draft consultation process is to test the workability of the drafting, and to ensure it achieves the policy intent. Officials do not intend to revisit policy intent during this process.
- 35 Officials will be consulting with a range of targeted stakeholders, including high and low growth councils, primary sector organisations, and non-governmental organisations. Targeted consultation will be undertaken with iwi/Māori groups that submitted on the NPS-HPL.
- 36 The exposure draft consultation will include scenario testing with councils to ensure that the NPS-HPL will enable councils to continue to deliver the objectives of the NPS-UD by providing sufficient development capacity to meet demand.
- 37 The exposure draft provides for water quality and quantity to be considered under certain circumstances when councils identify highly productive land. Exposure draft testing will also focus on whether this provision is necessary.
- 38 The exposure draft provides for water quality and quantity to be considered under certain circumstances when councils are identifying highly productive land. Officials will test with stakeholders during the exposure draft process whether these provisions are necessary.
- 39 Officials expect moderate interest from stakeholders and iwi/Māori groups given the current progression of resource management reform, and given that some time has passed since the NPS-HPL was publicly consulted on in 2019. However, many of the stakeholders have been kept up-to-date on key changes as the policy has developed.
- 40 There is currently a heightened sensitivity to new regulations in the rural space. While feedback on the NPS-HPL to date has generally been positive, it is important to note that the NPS-HPL will result in land use restrictions for some farmers and growers.

Next steps

- 41 The following presents the indicative timeframe for the development of the NPS-HPL:

Stage and step	Indicative timeframe
Exposure draft consultation	Late October to early November 2021
Finalisation of Regulatory Impact Statement (RIS), Section 32 Evaluation Report and final recommendations report	November to February 2022
Final NPS-HPL and analysis for Cabinet consideration	March 2022
Gazettal	March 2022
Implementation	28 days following gazettal

IN CONFIDENCE**The NPS-HPL will transition into the proposed Natural and Built Environments Act**

- 42 The proposed Natural and Built Environments Act (NBA) will replace the current RMA. The NBA will require the development of a National Planning Framework (NPF) to perform the equivalent role of the current national policy statements and environmental standards under the RMA.
- 43 While the form of all national direction under the RMA will need to change as it is transitioned into the NPF, the Ministerial Oversight Group for the resource management reform has agreed that the policy intent of existing national direction will remain.
- 44 The NBA exposure draft, currently being considered by the Environment Select Committee, proposes the protection of HPL as an outcome under proposed section 8(m)(iii). This will ensure that the NPS-HPL is given appropriate weighting in the new Act.

Financial Implications

- 45 There are no financial implications for the exposure draft testing process described in this paper. Wider financial implications of the NPS-HPL will be detailed in the Regulatory Impact Statement (RIS) and provided to Cabinet in March 2022.

Legislative Implications

- 46 Section 46A of the RMA outlines the process for developing a National Policy Statement. It requires the Minister for the Environment to choose between using a board of inquiry or an alternative process. The Minister for the Environment chose an alternative process under section 46A(3)(b) that meets the statutory requirements of section 46A(4).
- 47 Under section 24(a) of the RMA, the Minister for the Environment may issue a national policy statement made in accordance with section 46A(3).
- 48 Subject to Cabinet approval later this year, the NPS-HPL will take effect in accordance with section 52(3).

Impact Analysis**Regulatory Impact Statement**

- 49 A RIS is currently in development and will be provided with the final advice to Cabinet.

Climate Implications of Policy Assessment

- 50 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal.

Population Implications

- 51 There is no direct implication on gender, children, seniors, disabled people, women, veterans, and ethnic communities associated with the NPS-HPL.

IN CONFIDENCE**Human Rights**

- 52 There are no human rights implications in this proposal and there are no inconsistencies with the New Zealand Bill of Rights 1990 and the Human Rights Act 1993. The NPS-HPL aims to improve people's economic, environmental, social and cultural wellbeing which will have a positive contribution to the New Zealanders' human rights.

Consultation

- 53 This paper has been prepared by the Ministry for Primary Industries and the Ministry for the Environment.
- 54 The following have been consulted: Department of Conservation, Department of Internal Affairs, Kāinga Ora – Homes and Communities, Land Information New Zealand, Ministry of Business, Innovation and Employment, Ministry of Defence, Ministry of Education, Ministry of Housing and Urban Development, Ministry of Social Development, Ministry of Transport, Te Arawhiti, Te Puni Kōkiri, The Treasury, and Waka Kotahi New Zealand Transport Agency.
- 55 The Department of the Prime Minister and Cabinet has been informed.
- 56 No significant concerns were raised during agency consultation. Changes have been made to better align the wording in the exposure draft with wording in the NPS-UD as suggested by the Ministry for Housing and Urban Development and Treasury.
- 57 Officials will undertake further cross-agency consultation on the final package of advice for the NPS-HPL ahead of final Cabinet approval.

Communications

- 58 The communications material to support implementation will be provided alongside the final advice to Cabinet.
- 59 Subject to final Cabinet approval in March 2022, officials will publish the NPS-HPL in the New Zealand Gazette, publicly notify local authorities, provide a summary of recommendations and Minister's decision to those who had made submissions and present a copy of the statement to the House of Representatives.

Proactive Release

- 60 Officials intend to proactively release this paper within 30 business days of final decisions being taken by Cabinet later this year.

Recommendations

The Minister for Agriculture and Minister for the Environment recommend that the Committee:

- 1 **note** that the Our Land 2021 'state of the environment' report has shown that New Zealand is losing its most productive land due to land fragmentation from rural lifestyle subdivision and urban expansion
- 2 **note** that the National Policy Statement for Highly Productive Land (NPS-HPL) is required to prevent further irreversible loss of highly productive land from urban development, rural lifestyle development and reverse sensitivity issues associated with the fragmentation of highly productive land

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- 3 **note** that the NPS-HPL is national direction under the Resource Management Act 1991 (RMA), and will require councils to identify and protect highly productive land from inappropriate subdivision, use and development; and specifically it will:
 - 3.1 require councils to avoid zoning highly productive land as a rural lifestyle blocks, except in limited circumstances; and
 - 3.2 permit rezoning highly productive land as urban if the community needs the land to meet demand for housing or business land, alternatives are not feasible, and a net benefit test is met
- 4 **note** that the NPS-HPL has been designed to complement the National Policy Statement on Urban Development 2020 (NPS-UD)
- 5 **note** that public consultation on the NPS-HPL held from August to October 2019 demonstrated a high level of support for its objective to better manage highly productive land
- 6 **note** that the NPS-HPL exposure draft has been developed and is attached to this Cabinet paper (see Appendix 1)
- 7 **agree** to release the exposure draft at Appendix 1 for targeted consultation
- 8 **agree** to delegate authority to the Minister for the Environment and Minister of Agriculture to make appropriate textual, editorial, design and technical changes to the exposure draft before consultation
- 9 **note** that officials will test the NPS-HPL exposure draft in October and November 2021 with local councils, primary sector organisations, non-governmental organisations and iwi/Māori groups
- 10 **note** that the exposure draft consultation will include scenario testing with councils to ensure that the NPS-HPL will enable councils to continue to deliver the objectives of the NPS-UD by providing development capacity and enable responsive planning
- 11 **note** that final advice on the NPS-HPL will be provided to Cabinet in March 2022, and that the NPS-HPL will take effect 28 days after it is gazetted
- 12 **note** that the NPS-HPL will be transitioned into the National Planning Framework under the Natural and Built Environments Act in the new resource management system.

Authorised for lodgement

Hon David Parker
Minister for the Environment

Hon Damien O'Connor
Minister of Agriculture

Appendix 1: The National Policy Statement for Highly Productive Land (NPS-HPL) exposure draft

Proactively released under the Official Information Act

Draft National Policy Statement for Highly Productive Land 2021

Draft for internal consultation

V 11 as at 3/8/2021

Authority

This National Policy Statement was approved by the Governor-General under section 52(2) of the Resource Management Act 1991 on [to come], and is published by the Minister for the Environment under section 54 of that Act.

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Part 1: Preliminary provisions

1.1 Title

- (1) This is the National Policy Statement for Highly Productive Land 2021.

1.2 Commencement

- (1) This National Policy Statement comes into force on [to come].
- (2) See clause 3.3(1) and Part 4 for timeframes for complying with this National Policy Statement.

1.3 Interpretation

- (1) In this National Policy Statement:

Act means the Resource Management Act 1991

commencement date means the date on which this National Policy Statement comes into force, as identified in clause 1.2(1)

highly productive land means land that has been mapped in accordance with clause 3.2 and is included in an operative regional policy statement (but see clause 4.2 for the meaning that applies during the transitional period identified in clause 4.1)

inappropriate, in relation to the subdivision, use, or development of highly productive land, has the meaning in clause 3.7(2)

land-based primary production means agricultural, pastoral, horticultural, or forestry activities that are reliant on the soil resource of the land

long-term means at least 30 years

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 site mapping that uses the Land Use Capability classification

Māori lands means land that is any of the following:

- (a) Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):
- (b) any Māori reservation established under Te Ture Whenua Māori Act 1993 or its predecessors:
- (c) Treaty settlement land, being land held by a post-settlement governance entity where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):
 - (i) as part of redress for the settlement of Treaty of Waitangi claims; or
 - (ii) by the exercise of rights under a Treaty settlement Act or Treaty settlement:

- (d) former Māori land or general land (as defined in Te Ture Whenua Māori Act 1993) owned by Māori that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Māori owners or their successors and remains in their ownership:
- (e) general land (as defined in Te Ture Whenua Māori Act 1993) owned by Māori that was previously Māori freehold land, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967, but remains in the ownership of the same whanau or hapū

productive capacity, in relation to land, means the capacity of the land to support land-based primary production:

- (a) based on an assessment of:
 - (i) whether the land will remain productive in the long term; and
 - (ii) physical constraints (such as topography and location of waterways); and
 - (iii) legal constraints (such as size of land parcel, consent notices, covenants and easements); but
- (b) not taking into account any potential production capacity that could be provided by:
 - (i) the addition of nutrients to the land; or
 - (ii) capital investment in the land

rural zoned refers to land in any of the following zones:

- (a) general rural zone:
- (b) rural production zone:
- (c) rural lifestyle zone

specified infrastructure means any of the following:

- (a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):
- (b) regionally significant infrastructure that is identified as such in a regional policy statement or regional plan:
- (c) any public flood control, flood protection, or drainage works carried out:
 - (i) by or on behalf of a local authority, including works carried out the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or
 - (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:
- (d) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990

strategic planning document means any non-statutory growth plan or strategy adopted by a local authority deed

urban rezoning means changing from a rural zone to an urban zone

urban zoned refers to land in any of the following zones:

- (a) low density residential, general residential, medium density residential, large lot residential, and high density residential:
 - (b) settlement, neighbourhood centre, local centre, town centre, metropolitan centre, and city centre:
 - (c) commercial, large format retail, and mixed use:
 - (d) light industrial, heavy industrial, and general industrial:
 - (e) any special purpose zone.
- (2) Terms defined in the Act and used in this National Policy Statement have the meanings in the Act, unless otherwise specified.
 - (3) Terms defined in the National Policy Statement on Urban Development 2020 and used in this National Policy Statement have the meanings in the National Policy Statement on Urban Development 2020, unless otherwise specified.
 - (4) A reference in this national policy statement to a **zone** is:
 - (a) a reference to a zone as described in Standard 8 (Zone Framework Standard) of the National Planning Standards; or
 - (b) for local authorities that have not yet implemented the Zone Framework Standard of the National Planning Standards, a reference to the nearest equivalent zone.

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Part 2: Objective and Policies

2.1 Objective

Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.

2.2 Policies

Policy 1: Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production.

Policy 2: Highly productive land is mapped and included in regional policy statements and district plans.

Policy 3: The use of highly productive land for land-based primary production is prioritised and supported.

Policy 4: The urban rezoning of highly productive land is restricted.

Policy 5: The zoning of highly productive land for rural lifestyle development is avoided.

Policy 6: The subdivision of highly productive land is avoided unless the productive capacity can be maintained or improved, or the subdivision is considered to be not inappropriate under clause 3.7.

Policy 7: Highly productive land is protected from inappropriate new use, and development.

Policy 8: The continued operation of existing uses on highly productive land is enabled, provided the loss of highly productive land is minimised to the greatest extent practicable.

Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

Part 3: Implementation

3.1 Outline of Part

- (1) This Part sets out a non-exhaustive list of things that local authorities must do to give effect to the objective and policies of this National Policy Statement, but nothing in this Part limits the general obligation under the Act to give effect to that objective and those policies.

3.2 Mapping highly productive land

- (1) Every regional council must map as highly productive land any land in its region that:
 - (a) is in a rural zone; and
 - (b) is predominantly LUC 1, 2, or 3 land; and
 - (c) forms a large and geographically cohesive area; and
 - (d) is not constrained from supporting land-based primary production as a result of:
 - (i) water quality or quantity constraints, assessed as described in subclause (5); or
 - (ii) chemical contamination that means the land cannot be used for land-based primary production.
- (2) The following land must not be mapped as highly productive land if the land is, at the commencement date:
 - (a) zoned as rural lifestyle; or
 - (b) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or
 - (c) identified, in a strategic planning document, and at a site-specific level, as an area suitable for commencing urban development over the next 10 years.
- (3) Regional councils may map other land that is in a rural zone, but is not LUC 1, 2, or 3 land, as highly productive land if:
 - (a) 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, and climate of the area; and
 - (b) the land is not subject to either of the permanent or long-term constraints described in subclause (1)(d).
- (4) Regional councils must undertake the mapping required by this clause:
 - (a) in collaboration with all relevant territorial authorities; and
 - (b) at a level of detail that identifies individual parcels of land or, where appropriate for larger sites, parts of parcels of land.
- (5) The assessment of possible water quality or quantity constraints referred to in subclause (1)(d) must:

- (a) be prepared by a suitably qualified person; and
- (b) establish whether the water quality or quantity issues are permanent or long term, taking into account any feasible methods to improve water quality and quantity (including through efficiency improvements and water storage options); and
- (c) consider whether there is a total water scarcity issue, or whether there are any mechanisms currently available to address the constraint through the reallocation of water within a freshwater management unit or part of a freshwater management unit (as defined in the National Policy Statement for Freshwater Management 2020).

3.3 Identifying highly productive land in regional policy statements

- (1) As soon as practicable, and no later than 3 years after the commencement date, every regional council must identify in a proposed regional policy statement, by way of maps, all the land in its region that is required by clause 3.2 to be mapped as highly productive land.
- (2) The identification of highly productive land in regional policy statements may be sequenced over the 3 years following the commencement date.
- (3) At the same time as (or as soon as practicable after) a regional policy statement that identifies highly productive land becomes operative, every relevant territorial authority must identify the highly productive land in its district, using equivalent maps.
- (4) All maps of highly productive land in proposed regional policy statements, regional policy statements, and district plans must be updated as necessary.

3.4 Restricting highly productive land from urban rezoning

- (1) Tier 1, 2, and 3 territorial authorities may allow urban rezoning of highly productive land only if the urban rezoning is for the purpose of complying with the National Policy Statement on Urban Development 2020 because:
 - (a) urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land; and
 - (b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and
 - (c) there are net benefits from the urban rezoning as compared to retaining the land for land-based primary production.
- (2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider:
 - (a) a range of reasonably practicable options for providing the required development capacity, including:
 - (i) greater intensification in existing urban areas; and
 - (ii) urban rezoning of land that is not highly productive land; and

- (b) how to minimise the spatial extent of the urban rezoning of highly productive land to the greatest extent practicable.
- (3) The assessment of net benefit required by subclause (1)(c) must be based on evidence that includes the following:
- (a) an assessment of the environmental, social, cultural, and economic costs and benefits of rezoning the land as urban, including the long-term costs associated with the loss of land-based primary production, over at least 30 years; and
 - (b) consideration of tangible and intangible values.
- (4) In subclause (1)(b), development capacity is **within the same locality and market** if it:
- (a) is in or close to a location where a need for additional development capacity has been identified through a housing and business assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development; and
 - (b) is for a market for the types of dwelling or business land that the additional development capacity is required for (as determined, for a tier 1, 2, or 3 local authority, by a housing and business assessment in accordance with the National Policy Statement on Urban Development 2020).
- (5) If urban rezoning of highly productive land occurs under subclause (1), local authorities must take measures to minimise the spatial extent of the urban rezoning of the highly productive land to the greatest extent practicable.
- (6) Territorial authorities that are not tier 1, 2, or 3 local authorities may allow urban rezoning of highly productive land only if:
- (a) the urban rezoning is required to provide sufficient development capacity to meet expected demand for housing or business land in the district; and
 - (b) there are no other reasonably practicable and feasible options for providing the required development capacity; and
 - (c) there are net benefits from the urban rezoning as compared to retaining the land for land-based primary production.

3.5 Avoiding zoning highly productive land for rural lifestyle

- (1) Territorial authorities must avoid zoning highly productive land as rural lifestyle, except where:
- (a) the overall productive capacity of the highly productive land will be enhanced, when considered on a district-wide basis; and
 - (b) there are no other options available within the district to provide for a rural lifestyle zone on land that is not highly productive land; and
 - (c) additional land is required for rural lifestyle purposes to provide a recipient zone for lots under transferable development rules.

3.6 Avoiding subdivision of highly productive land

- (1) The subdivision of highly productive land in general rural or rural production zones is inappropriate, and territorial authorities must avoid it, except where:
 - (a) the applicant demonstrates that the subdivision will maintain or enhance the overall productive capacity of the land over the long term; or
 - (b) the subdivision is for a purpose that clause 3.7 identifies as not inappropriate, in which case that clause applies to it; or
 - (c) the subdivision results in a minor boundary adjustment.
- (2) Territorial authorities must include objectives, policies, rules, and methods in their district plans to:
 - (a) recognise and minimise the cumulative effects of subdivision on the availability and productive capacity of highly productive land in their districts; and
 - (b) avoid subdivision for rural lifestyle on highly productive land except where it can be demonstrated that:
 - (i) the overall capacity of the subdivided land will be maintained or enhanced; and
 - (ii) further subdivision will be avoided.

3.7 Protecting highly productive land from inappropriate new subdivision, use, and development

- (1) Territorial authorities must include objectives, policies, rules, and methods in their district plans to avoid other inappropriate new subdivision, use, or development of highly productive land.
- (2) A new subdivision, use, or development on highly productive land is inappropriate unless:
 - (a) at least one of the exceptions in subclause (3) or (4) applies to it; and
 - (b) the subdivision, use, or development minimises the loss of highly productive land to the greatest extent practicable.
- (3) A new subdivision, use, or development on highly productive land is not inappropriate if it:
 - (a) supports land-based primary production on the land; or
 - (b) addresses a very high risk to public health and safety; or
 - (c) provides for a matter of national importance under section 6 of the Act; or
 - (d) relies on, needs, or makes use of the soil resource of the land for land-based primary production; or
 - (e) is on Māori lands and relates to the provision of papakāinga, marae and ancillary community facilities, dwellings, and associated infrastructure; or
 - (f) provides for the protection, maintenance, restoration, and enhancement of indigenous biodiversity; or

- (g) provides for the retirement of land from land-based primary production for the purpose of improving water quality; or
- (h) is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land.

New specified infrastructure and mineral or aggregate extraction

- (4) A new use or development on highly productive land is not inappropriate if:
 - (a) the use, or development is associated with:
 - (i) specified infrastructure that provides significant national or regional public benefit; or
 - (ii) mineral extraction that provides significant national public benefit that could not otherwise be achieved domestically; or
 - (iii) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved domestically; and
 - (b) there is a functional or operational need for the use, or development to be located on the highly productive land.

3.8 Continuation of existing activities

- (1) Territorial authorities must include objectives, policies, and rules in their district plans to provide for:
 - (a) the continuation of existing activities that are located on highly productive land but not associated with land-based primary production; but only where the adverse effects of those activities on the highly productive land are no greater in scale than they were before the commencement date; and
 - (b) activities by requiring authorities (as defined in section 166 of the Act) that result in the expansion of existing activities onto highly productive land, or changes to the intensity or scale of effects of existing activities on highly productive land; but only where the extent of the expansion and the adverse effects of any changes are minimised to the greatest extent practicable.
- (2) In this clause, **existing activity** means an activity that, at the commencement date:
 - (a) is a consented or designated activity; or
 - (b) has existing use rights under the Act; or
 - (c) is a permitted activity under the district plan or a national environmental standard.

3.9 Supporting productive uses

- (1) Territorial authorities must include objectives, policies, and methods in their district plans that:
 - (a) prioritise the use of highly productive land for land-based primary production over other uses, except as provided in this National Policy Statement; and
 - (b) encourage opportunities that maintain or increase the productive capacity of highly productive land; and

- (c) require consideration of the cumulative effect of any subdivision, use, or development on the availability and productive capacity of highly productive land in their district.

3.10 Managing reverse sensitivity effects

- (1) Territorial authorities must include objectives, policies, rules, and methods in their district plans that:
 - (a) identify typical activities and effects associated with land-based primary production that should be anticipated and tolerated in a productive rural environment; and
 - (b) require the avoidance of any subdivision, use, or development on highly productive land that is incompatible with land-based primary production unless the subdivision, use, or development demonstrates that it will not result in reverse sensitivity effects that constrain land-based primary production on the highly productive land; and
 - (c) require the avoidance if possible, or otherwise the mitigation, of any potential reverse sensitivity effects from urban expansion or rural lifestyle development that could affect land-based primary production on highly productive land (where mitigation might involve, for instance, the use of setbacks and buffers).

Part 4: Transitionals and timing

4.1 Transitional period

- (1) In this Part, **transitional period** means, for each local authority, the period between the commencement date and the date on which all the maps of highly productive land, as required by this National Policy Statement, are made operative in the local authority's relevant regional policy statement.

4.2 Meaning of highly productive land during transitional period

- (1) During the transitional period, this National Policy Statement applies (with all necessary modifications) as if references to highly productive land were references to land that:
 - (a) is zoned general rural or rural production; and
 - (b) is LUC 1, 2, or 3 land; but
 - (c) is not, at the commencement date:
 - (i) zoned as rural lifestyle; or
 - (ii) identified in a published future development strategy as land suitable for commencing urban development over the next 10 years; or
 - (iii) identified, in a strategic planning document, and at a site-specific level, as an area suitable for commencing urban development over the next 10 years.

4.3 Time by which National Policy Statement is to be implemented

- (1) The Objective and Policies of this National Policy Statement apply from the commencement date and, for the purpose of implementing that Objective and those Policies, territorial authorities must have regard to Part 3 of this National Policy Statement during the transitional period and until all required changes are notified in their district plans.
- (2) As soon as practicable, and no later than 2 years after the end of the transitional period, every territorial authority must notify changes in a proposed district plan to give effect to this National Policy Statement (using a process in Schedule 1 of the Act).
- (3) Territorial authorities must include the maps of highly productive land in their district plans (as required by clause 3.3(3)) as soon as practicable, and no later than 2 years after the end of the transitional period.
- (4) The inclusion of the maps of highly productive land in district plans is an amendment referred to in section 55(2) of the Act (which means the territorial authority must make the amendment without using a process in Schedule 1 of the Act).