Te whakahaere i te whakamahinga me te whanaketanga o ngā whenua whai hua

Managing the use and development of highly productive land

Potential amendments to the NPS-HPL: Evaluation report under section 32 of the Resource Management Act 1991

Ministry for the Environment
Manatū Mō Te Taiao

Ministry for Primary Industries
Manatū Ahu Matua

Te Kāwanatanga o Aotearoa
New Zealand Government

Disclaimer

The information in this publication is, according to the Ministry for the Environment's best efforts, accurate at the time of publication. The Ministry will make every reasonable effort to keep it current and accurate. However, users of this publication are advised that:

- the information does not alter the laws of New Zealand, other official guidelines, or requirements
- it does not constitute legal advice, and users should take specific advice from qualified professionals before taking any action based on information in this publication
- the Ministry does not accept any responsibility or liability whatsoever whether in contract, tort, equity, or otherwise for any action taken as a result of reading, or reliance placed on this publication because of having read any part, or all, of the information in this publication or for any error, or inadequacy, deficiency, flaw in, or omission from the information in this publication
- all references to websites, organisations or people not within the Ministry are for convenience only and should not be taken as endorsement of those websites or information contained in those websites nor of organisations or people referred to.

This document may be cited as: Ministry for the Environment. 2024. *Potential amendments to the National Policy Statement for Highly Productive Land: Evaluation report under section 32 of the Resource Management Act 1991*. Wellington: Ministry for the Environment.

Published in August 2024 by the
Ministry for the Environment
Manatū mō te Taiao
PO Box 10362, Wellington 6143, New Zealand
environment.govt.nz

ISBN: 978-1-991140-31-9 (online)

Publication number: ME 1842

Contents

Tables

Part 1: Executive summary

This section 32 report (s32 report) has been prepared to assess amendments to the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) that will enable:

- specified infrastructure on highly productive land (HPL)
- intensive indoor primary production and greenhouses on HPL.

These amendments have been progressing through the statutory process, as required by section 46A (and section 53) of the Resource Management Act 1991 (RMA). These sections require preparation of an s32 report to evaluate:

- the objective for consistency against the RMA
- the proposed provisions for efficiency, environmental, cultural, social, and economic costs and benefits.

This report should be read alongside our 2022 report, *National Policy Statement for Highly Productive Land: Evaluation report under section 32 of the Resource Management Act*, which provides a full evaluation of the objective and policy framework of the NPS-HPL.

Part 2 of the report focuses on the statutory context and process, and on the objective of the amendments. This section includes an assessment of the scale and significance of the proposal. In general, these amendments are considered low to medium scale, and low to medium significance.

Part 2 also describes the methodology, approach and details of the evaluation, including how these elements meet the requirements in section 32 of the RMA. Part 2 outlines the key limitation of the analysis, as well as discussing the available data and the degree of detail of the assessment.

Part 3 of the report contains the key evaluative sections. This includes evaluation of the objective of the amendments against the purpose and principles of the RMA, through which the objective is assessed as consistent.

Part 3 also contains an evaluation of the specific changes proposed, which finds the following.

- Enabling development of specified infrastructure, subject to a functional and operational need test, is the most efficient and effective option – while noting this will result in some loss of HPL.
- Enabling intensive indoor primary production and greenhouse activities is the most efficient and effective option – while noting this will result in some loss of HPL.
- For both proposed amendments, the analysis suggests the benefits of the change – in environmental, economic, social and cultural terms – outweigh the costs. Similarly, the risks associated with acting, including in the face of some uncertainties, outweigh the risks of not acting.

This evaluation concludes that the proposed amendments to the NPS-HPL appropriately achieve the purpose of the RMA with respect to HPL.

Part 2: Introduction and statutory context

The proposed amendments

The Minister for Resource Management Reform and Minister for Agriculture, with the consent of Cabinet, decided to propose amendments to the National Policy Statement for Highly Productive Land 2022 (NPS-HPL), to enable:

- new specified infrastructure on highly productive land (HPL)
- intensive indoor primary production[1] and greenhouses[2] on HPL.

The responsible ministers (in this case the Minister Responsible for RMA Reform and the Minister of Agriculture) have had particular regard to this section 32 report before confirming the amendments.

The need for amendment is associated with two specific issues.

- Issue 1: The lack of a clear consent pathway for the development or construction of new specified infrastructure on HPL in clause 3.9(2)(j)(i) of the NPS-HPL.[3]
- Issue 2: The lack of a pathway for developing and relocating intensive indoor primary production and greenhouses on HPL.

The amendments are proposed to address these two issues by:

- (Issue 1) enabling specified infrastructure and associated activities on HPL
- (Issue 2) enabling intensive indoor primary production and greenhouses on HPL.

Structure of this report

Part 1 of this report contains the executive summary, which provides a high-level overview of the report, the analysis and its conclusions.

---

1 Ministry for the Environment. 2019. *National Planning Standards*. Wellington: Ministry for the Environment. p 60.

2 Greenhouse activities means the growing of plants inside structures that are predominantly enclosed by glass or other transparent material, regardless of reliance on the soil resources of the land.

3 National Policy Statement for Highly Productive Land 2022, clause 3.9:

> …
>
> (2) A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:
>
> …
>
> (j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:
>
> …
>
> (i) the maintenance, operation, upgrade or expansion of specified infrastructure.

Part 2 contains information about the process to amend the NPS-HPL, and the functions of the section 32 report (s32 report), including:

- the background to the amendment process and descriptions of the other documents that have been prepared alongside the s32 report
- a brief overview of the NPS-HPL, including the current relevant provisions
- an introduction to the proposed amendments
- a description of the role and requirements of this s32 report
- a description of the approach to the analysis in this report.

Part 3 contains the actual analysis required by s32 of the Resource Management Act 1991 (RMA), including:

- a description of the objective of the proposal
- an assessment of that objective against the purpose and principles of the RMA
- an assessment of the efficiency and effectiveness of the proposal against the objective.

Background

These amendments were initiated by the previous Government, with consultation occurring between 5 September and 31 October 2023. This means the statutory decision to consult was made by the previous Minister for the Environment, but the final decisions have been made by the Minister of Resource Management Reform undertaking the statutory role of the Minister for the Environment.

This report is an evaluation of the proposed amendments to the NPS-HPL prepared in accordance with s32 of the RMA. The report should be read alongside the other documents that are required by the RMA or have otherwise been prepared to support this process, including:

- *Managing the use and development of highly productive land: Potential amendments to the NPS-HPL – Discussion document* (the discussion document)
- *Interim Regulatory Impact Statement: Potential amendments to the National Policy Statement for Highly Productive Land* (the interim regulatory impact statement)
- Final Regulatory Impact Statements
- *Potential amendments to the National Policy Statement for Highly Productive Land: Report on submissions and recommendations*, prepared in accordance with section 46A(4)(c)
- relevant briefings and Cabinet papers,[4] which will be proactively released shortly after the publication of this report.

A further range of documents produced during the preparation of the NPS-HPL itself remain relevant for these amendments, and are available through the websites of the Ministry for the Environment and the Ministry for Primary Industries.

[4] These are the mechanisms by which the relevant Ministers receive advice (including statutory reports) and make decisions.

The National Policy Statement for Highly Productive Land

The NPS-HPL is a national policy statement made under the RMA, which came into effect on 17 October 2022. The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act. A national policy statement may also state objectives and policies that must be included in policy statements and plans.

The regulatory effect of the NPS-HPL is that decision-makers must have regard to its relevant provisions when determining resource consents and plan changes. The NPS-HPL provides for the management of HPL under the RMA. The NPS-HPL objective is to ensure there is HPL available for land-based primary production, both now and in the future. It achieves this objective by:

- addressing the incremental loss of HPL through urban rezoning and fragmentation of rural land for lifestyle purposes
- managing the establishment or expansion of uses that do not rely on the soil resource.

The NPS-HPL recognises that a range of activities will still have to be undertaken on HPL, and that prohibiting these from occurring would be inconsistent with the purpose of the RMA. Clause 3.9 of the NPS-HPL contains a range of activities that are 'not inappropriate' on HPL and provides a consent pathway for these activities, subject to various restrictions and mitigations.

This s32 report analyses two proposed amendments to the NPS-HPL that relate to clause 3.9. The amendments relate to specified infrastructure, intensive indoor primary production and greenhouse activities – effectively seeking to add activities to the list that may be able to occur on HPL, subject to appropriate restrictions.

Requirement for a section 32 report to amend a national policy statement

Role of a section 32 report

The relevant minister can prepare a national policy statement to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA.

The RMA contains a range of statutory provisions that describe the purpose and content of a national policy statement and the requirements that must be met to make or amend such a regulatory instrument.

Other documents prepared to support this amendment process contain details of the RMA requirements (largely contained in sections 45 to 54), which will not be repeated here. However, a broad overview of the statutory requirements that result in this s32 report is as follows.

- Section 53 states that the Minister may review, change or revoke a national policy statement by following one of the processes under section 46A(1).
- Under section 46A(1), the Minister must establish an officials-led process under section 46A(3)(b), including:

  - giving notice of the proposal
  - conducting a consultation and hearing submissions
  - commissioning the preparation of a report and recommendations arising from that consultation.
- Section 52 sets out the requirements that must be fulfilled before making a national policy statement, and section 53 sets out the requirements that must be met before amending or revoking a national policy statement. Requirements in both of these circumstances include the preparation of a s32 evaluation report.
- Section 32(5) specifies that the evaluation report should be made available as soon as practicable after the proposal is made.

Because ministers are required to have particular regard to the s32 report in making national direction, a draft report and briefing were prepared before ministers made indicative policy decisions. The final s32 report was presented to ministers at the time they confirmed their policy decisions and Cabinet authorised the amendments.

Requirements for a section 32 report

The purpose of s32 of the RMA is to ensure all statements, standards, regulations, plans or changes are robust and evidence-based, and that the proposed objectives are the best way to achieve the purpose of the RMA (outlined in the box below) while ensuring provisions are appropriate, efficient, effective and achieve the objectives.

> **5 Purpose**
>
> (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
>
> (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
>
> (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
>
> (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
>
> (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In achieving this purpose, all those involved in exercising functions and powers under the RMA are required to:

- recognise and provide for the matters of national importance identified in section 6
- have particular regard to other matters referred to in section 7
- take into account the principles of te Tiriti o Waitangi | Treaty of Waitangi (te Tiriti) as required by section 8.

The requirements of the evaluation report are described in full in section 32 of the RMA. In broad terms, evaluation of a proposal (including a proposed national policy statement) must identify whether:

- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA
- the provisions of the proposal are the most appropriate way to achieve those objectives based on an assessment of efficiency, effectiveness, options, benefits, costs and the risks of acting or not acting when there is uncertain or insufficient information.

The approach taken to preparing this section 32 report

Scale and significance of the proposal

Section 32(1)(c) of the RMA requires evaluations to contain a level of detail that corresponds to the scale and significance of the anticipated effects of the proposal. This evaluation of scale and significance for the proposed NPS-HPL amendments is provided in table 1.

Table 1: Assessment of the scale and significance of the issues and proposed amendments

Issue	Scale	Significance
Specified infrastructure	**Low** Although the NPS-HPL applies nationally, specified infrastructure uses relatively little land, and relatively little HPL in particular. Locally, the issue may be more significant, but this is provided for through the process of territorial authorities giving effect to the NPS-HPL (in particular clause 3.9) in a way that considers local needs and approaches. Worst-case cumulative loss of HPL from specified infrastructure (over the next 25 years) is expected to be 22,800 ha, less than 1% of the HPL resource[5] – noting that much of that loss will be driven by solar farms and is likely to be partially reversible. This rate of loss is low compared to lifestyle development, which national environmental monitoring data shows is the high-scale issue for HPL (as summarised in the *Our land* reports).	**Medium** Providing appropriate infrastructure is necessary for people's wellbeing, generally, as all people use a range of infrastructure services daily (both directly and indirectly). However, existing infrastructure is already provided for, and not all infrastructure is located on HPL. Overall significance is assessed as medium because some new infrastructure will have a range of benefits. Some infrastructure projects may even be very significant – either nationally, or to a particular region or group. The proposed amendments will enable a range of other smaller infrastructure projects. In aggregate, these are likely to be beneficial, and undue limitations on these projects will have a broad impact. The loss of HPL is assessed to have low significance, given that it is a small area and there will still be sufficient HPL. Individual changes or development will still have some impact, however.
Intensive indoor primary production and greenhouses	**Very low** Although the NPS-HPL applies nationally, intensive indoor primary production and greenhouses are expected to use relatively little HPL – even less than specified infrastructure. The total area of greenhouses in Aotearoa New Zealand is estimated to be around 310 ha	**Low** The impact is high for some people – primarily owners or developers of intensive indoor primary production and greenhouses – but this group is very small. The wider impact on the population is low due to the relatively small nature of the

[5] More evidence and analysis are available on page 39 of the Regulatory Impact Statement.

Issue	Scale	Significance
	(120 ha tomatoes and 190 ha other vegetables). Although estimates for intensive indoor primary production have been harder to obtain, they are expected to be similar.[6]	intensive indoor primary production and greenhouse industry, and the ability to substitute the industry's products with alternative methods of production. Impact is only expected to be significant for a small number of people, and the projected area of affected HPL is expected to be small, so broader significance is low.

The relatively low scale and significance have informed the remainder of this report and the evaluation supporting the amendments. This report has also relied on:

- analysis produced during the development of the original NPS-HPL
- new analysis informed by information from submitters
- other published information, such as reports produced by the Productivity Commission, Te Waihanga | New Zealand Infrastructure Commission, government agencies and industry bodies.

Methodology

Approach to assessing efficiency, effectiveness and other reasonably practicable options

Section 32(1)(b)(ii) of the RMA requires proposed provisions to be assessed for their efficiency and effectiveness in achieving the policy objectives, and the approach to this assessment in this report is outlined below.

Efficiency

Assessing efficiency involves considering whether the proposed amendments to the NPS-HPL are likely to achieve the objectives at the lowest total cost to all members of society, or to achieve the highest net benefit to all of society.

Consistent with section 32(2)(a) of the RMA, this assessment of efficiency focuses on the benefits and costs (environmental, economic, social and cultural) anticipated from the implementation of the proposed amendments.

Section 32(2)(b) of the RMA states that costs and benefits should be quantified where practicable. This quantification has not been practicable in this evaluation, due to:

- limitations of available data
- the site-specific nature of the activities affected by these amendments
- assumptions necessary to assess changes from the baseline (ie, benefits and costs without the amendments).

[6] More evidence and analysis are available on page 40 of the Regulatory Impact Statement.

Instead, this report uses relative qualitative assessments of costs based on the original cost-benefit analysis and on the regulatory impact statement. This approach provides enough certainty to estimate the direction and significance of any cost (or benefit) but not the magnitude.

Effectiveness

For the purposes of section 32, 'effectiveness' refers to how successful the provisions are likely to be in meeting the desired outcomes expressed in the policy objectives. The assessment of effectiveness for each proposed amendment is therefore focused on how likely it will be to achieve the policy objectives of the NPS-HPL.

Assessment of reasonably practicable options

Section 32(1)(b)(i) of the RMA requires identification of reasonably practicable options to achieve the objectives, as part of assessing whether the proposed provisions are the most appropriate. 'Reasonably practicable' is not defined in the RMA, but can include options that:

- are both regulatory and non-regulatory
- are targeted towards achieving the stated objectives
- are within the Ministry's resources, duties and powers
- represent a reasonable range of possible alternatives.

The courts have interpreted the term 'appropriate' option to apply to a method that is suitable, but not necessarily superior.[7] Although the most appropriate option does not need to be the best option, the section 32 evaluation must demonstrate that it will meet the objectives of the proposal in an efficient and effective way.[8] Case law has also confirmed that the requirement to identify reasonably practicable options will always involve at least two options – as there is always a choice to be made between doing nothing (status quo) and doing something.[9]

Accordingly, in line with the RMA requirement, this report includes consideration of potential alternative options to achieve the objectives of this proposal and of the NPS-HPL.

---

7 *Rational Transport Soc Inc v New Zealand Transport Agency*, CIV-2011-485-2259 (HC), 15 December 2011 at [45].

8 See Ministry for the Environment. 2017. *A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017*. Wellington: Ministry for the Environment. section 3.2, pp 15–16.

9 *Whakatane District Council v Bay of Plenty Regional Council*, CIV-2007-463-000606 (HC) at [40(iii)].

Part 3: Evaluation of the proposed amendments to the NPS-HPL

This section has drawn on the following sources:

- regulatory impact statements
- analysis of consultation submissions
- Treaty impact analysis.

For the sake of accessibility, this assessment generally does not restate information found in those sources, which should be read alongside this s32 report.

Objective of the proposal

Requirement to define an objective of the proposal

As this is an amending proposal, section 32(3) of the RMA sets the requirements for assessment. The objective of the proposal must be assessed against the purpose of the RMA, and the provisions of the proposal must be assessed against both the existing objective of the NPS-HPL and the objective of the proposal.

As this proposal does not have an objective, for the purpose of an assessment an objective must be defined.

Determining the objective of the proposal

Section 32(6) of the RMA defines the objectives of a proposal as:

> (a) for a proposal that contains or states objectives, those objectives
>
> (b) for all other proposals, the purpose of the proposal.

This proposal does not state or contain objectives, nor does it amend either the objective or the policies of the NPS-HPL. Therefore, clause (b) of the above definition requires the assessment to be undertaken against the purpose of the proposal.

The consultation discussion document and the interim regulatory impact statement provide guidance on the purpose of this proposal. Both documents state a problem definition which, in summary, is that the NPS-HPL does not provide (adequate) pathways for the development of new specified infrastructure, intensive indoor primary production and greenhouses on HPL, which could pose undue limitation on these industries to develop on HPL, should they need to locate on such land.

The discussion document and interim regulatory impact statement outline the context for the problem definition, which includes:

- the provisions of the existing NPS-HPL
- the barriers the existing provisions impose on specified infrastructure, intensive indoor primary production and greenhouses development
- the consequent costs (assessed against the benefits of having these barriers in place).

For example, the ambiguity in the pathway for specified infrastructure may lead to inconsistent application of provisions in the NPS-HPL relevant to new specified infrastructure. This risks delaying construction of infrastructure and may lead to inconsistencies with other national direction. The existing ambiguity could also result in inconsistent application of the NPS-HPL in consent decisions and local government plans.

In addition, the lack of a consent pathway for intensive indoor primary production and greenhouses has imposed limitations on these industries for development and expansion on HPL. This is particularly the case in districts with high proportions of HPL and where these industries are already established. This lack of a consent pathway also hinders the primary sector from diversifying production methods and improving its resilience.

The discussion document and interim regulatory impact statement were framed around a problem definition, which must be redefined as an objective for assessment. However, given that the problem definition is clear, and the amendments proposed are relatively narrow, the objective of this proposal can be defined as simply 'addressing the problem definition'.

As the proposal has only one purpose, we have not assessed if an alternative objective would be more beneficial. The assessment of alternative objectives for the NPS-HPL overall was undertaken in the original s32 report,[10] and the general picture in that regard has not changed.

Statement of the objective of this proposal

> The objective of this proposal is to provide appropriate pathways for the development of new specified infrastructure, and new or expanded intensive indoor primary production and greenhouses on highly productive land.

This objective is only used for the purpose of the s32 evaluation. As described above, the objective is based on the problem definition or issues described in the discussion document and interim regulatory impact statement that accompanied the consultation.

The specified infrastructure and intensive indoor primary production and greenhouses described in the objective can still be treated as separate 'issues', as each issue has discrete provisions. This s32 report will evaluate the issues individually, for consistency with the discussion document, submissions and recommendations report, and regulatory impact statements.

We have not considered alternatives to this statement of the objective of the proposal, as there is no significantly different way to describe the purpose of the proposal, given how targeted the amendments are.

[10] Ministry for the Environment. 2022. *National Policy Statement for Highly Productive Land: Evaluation report under section 32 of the Resource Management Act.* Wellington: Ministry for the Environment.

Evaluation against the purpose of the Resource Management Act 1991

Section 32(1) requires evaluation of whether the objective of the proposal is the most appropriate way to achieve the purpose of the RMA. This section addresses the following two questions:

- Is the objective of the proposal consistent with the purpose (and principles) of the RMA, specifically sections 5 to 8?
- Are there other ways to achieve the objective of the proposal, instead of amending the NPS-HPL, that are more consistent with the purpose of the RMA?

Assessment of the proposal against the purpose of the Act

This section assesses the objective of the proposal against the purpose and principles of the RMA. For brevity, the purpose and principles are not reproduced in full in this report. Table 2 provides a breakdown of the assessment against each relevant provision.

Since consultation on these amendments, changes have been made to the RMA as a result of the enactment, and then repeal of, the Natural and Built Environment Act 2023, the Spatial Planning Act 2023, and other RMA amendment Bills. These changes do not impact this analysis.

Table 2: Assessment of objective of the proposal against the purpose and principles of the RMA

Section	Assessment for clarifying a consent pathway for new specified infrastructure on HPL	Assessment for introducing a consent pathway for intensive indoor primary production and greenhouses on HPL
5 – Purpose	The objective of the proposal is considered to be consistent with section 5 because specified infrastructure is important in enabling people to meet their social and economic wellbeing. The requirement in clause 3.9(2)(j) of the NPS-HPL – to meet a functional or operational need test – ensures the development of specified infrastructure will meet the requirements of section 5(2). 'Specified infrastructure' captures the breadth of infrastructure activities that may need to be established on HPL. Further enabling these activities may result in inconsistencies with subsections 5(2)(a) and (b), as this may contribute to reduced availability of HPL for land-based primary production. Existing provisions in clause 3.9(2)(j)(i) enable specified infrastructure to some extent (eg, the ability to use a designation to enable an activity on HPL). However, these designations do not capture all energy generation sources. This omission will not enable Aotearoa to meet renewable energy targets, the purposes of which are to enable people and communities to provide for their social and economic wellbeing in a less environmentally	The objective of the proposal is considered to be consistent with section 5 because intensive indoor primary production and greenhouses produce products that enable people to meet their social and economic wellbeing. However, providing for these activities may result in inconsistencies with subsections 5(2)(a) and (b), as the industries could impact the availability of HPL resource for land-based primary production, by using HPL for activities that do not rely on the soil resource. Regarding the section 5(2)(b) stipulation to safeguard the life-supporting capacity of air, water, soil and ecosystems, the proposed amendments may contribute to this safeguarding. This is because intensive indoor primary production and greenhouses produce significant food and goods, and they generally enable better and more controlled management of the impacts of production. The measures in clause 3.9(3) of the NPS-HPL will enable environmental impacts to be managed and ensure that the

Section	Assessment for clarifying a consent pathway for new specified infrastructure on HPL	Assessment for introducing a consent pathway for intensive indoor primary production and greenhouses on HPL
	impacting way (particularly compared with fossil fuel energy). For other types of specified infrastructure, an amendment would further clarify that activities associated with the lifecycle of infrastructure are provided for in the NPS-HPL, which will benefit the communities relying on the infrastructure itself.	development of intensive indoor primary production and greenhouses will still meet the requirements of section 5(2), as these activities produce primary products that would otherwise need soil. In addition, intensive indoor primary production and greenhouses often form part of a primary production system which is managed as a whole to achieve the sustainable management requirements outlined in section 5(2).
6 – Matters of national importance	The proposed amendments would not create a conflict with section 6, as development on HPL is not covered by the matters of national importance described in this provision.	The proposed amendments would not conflict with matters of national importance in section 6. Any future impact on section 6 matters would continue to require assessment.
7 – Other matters	Confirming an appropriate pathway for specified infrastructure is likely to promote: • the efficient use and development of natural and physical resources (section 7(b)) • any finite characteristics of natural and physical resources (section 7(g)) • the effects of climate change (section 7(i)) • the benefits to be derived from the use and development of renewable energy (section 7(j)). The proposed amendments achieve this by enabling efficient use and development of HPL (and other resources where specified infrastructure makes use of those, such as sunlight hours for solar farms), while ensuring consideration of the finite characteristics of HPL and the resilience effects of HPL in a changing climate. Development of specified infrastructure will not occur without controls. For example, decision-makers will still need to implement policies that ensure that activities occurring on HPL demonstrate: • how actual loss or potential cumulative loss of HPL in the district is minimised or mitigated • how any actual or potential reverse-sensitivity effects on land-based primary production activities from the use or development are avoided, or otherwise mitigated. Where infrastructure is associated with renewable energy (as are some current proposals, such as solar farms) these proposals also relate to the benefits of enabling renewable energy. The amount of	Confirming a pathway and enabling decision-making authorities to consider applications made under this consent pathway would specifically promote: • the efficient use and development of natural and physical resources (section 7(b)) • any finite characteristics of natural and physical resources (section 7(g)) • the effects of climate change (section 7(i)). The proposed amendments promote efficient use and development of HPL by enabling an activity associated with primary production, while ensuring consideration of the finite characteristics of HPL and the resilience of the primary sector in a changing climate. Although the amendments may result in reduced availability of HPL to land-based primary production, this cost has been weighed against overall benefits relating to efficient resource use (eg, via intensive primary production). The possible reduction in HPL availability has also been assessed against the opportunity to diversify the primary sector and increase its resilience. Decision-makers will still need to implement policies that ensure that activities occurring on HPL demonstrate: • how actual loss or potential cumulative loss of HPL in the district is minimised or mitigated • how any actual or potential reverse-sensitivity effects on land-based primary production activities from the

Section	Assessment for clarifying a consent pathway for new specified infrastructure on HPL	Assessment for introducing a consent pathway for intensive indoor primary production and greenhouses on HPL
	HPL expected to be used by solar farms by 2050 is approximately 0.6%[11] of the resource. This is considered acceptable when weighed against the reduction in carbon emissions resulting from renewable energy uptake.	use or development are avoided, or otherwise mitigated.
8 – Treaty of Waitangi	These amendments will preserve Māori rights to develop and so will have minimal (if any) impact on te Tiriti and Māori rights and interests under the NPS-HPL.	These amendments will preserve Māori rights to develop and so will have minimal (if any) impacts on te Tiriti and Māori rights and interests under the NPS-HPL. The consent pathway will be available to Māori producers who own general land and to general land owned by Māori.

In general terms, decision-making authorities must have regard to sections 5 to 8 of the RMA, as appropriate, when considering any applications or statutory actions – including resource consents and plan reviews or plan changes. Therefore, decision-makers will have to balance applicable actions relating to HPL as appropriate, and the NPS-HPL needs to provide appropriate pathways for these activities, such as through these amendments.

Assessment of alternative options

Other options were also considered to achieve the objective of the proposal, and assessments of these options are outlined below.

Making changes to other guidance

At the time of this consultation, the Government was also considering making changes to the National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG) and the National Environmental Standards for Electricity Transmission Activities 2009 (NES-ET). Given that the specified infrastructure issue is (currently) most significant for development of renewable energy, this was potentially an alternative way of achieving the objective (for the specified infrastructure issue).

This option was not pursued, because it would have resulted in an inconsistency between the NPS-REG and NES-ET and the NPS-HPL. Including specific provisions in the two national direction instruments for electricity would have provided a pathway for some types of infrastructure on HPL, even though the NPS-HPL did not explicitly allow this. This inconsistency would have required decision-making on plans and consents to balance the objectives and requirements of the two instruments. Not only would this fail to achieve the objective of this proposal, it would have risked incoherent or inconsistent decision-making.

In addition, trying to address an issue that relates to HPL through the NPS-REG and NES-ET would have left a gap for types of infrastructure not covered by those instruments. For example, telecommunications infrastructure, irrigation infrastructure and roads would all still have been subject to the status quo requirements (about which issues have been raised).

[11] Estimates and further analysis available on page 39 of the Regulatory Impact Statement.

Addressing the issue through non-statutory means

Officials considered an approach that retained the status quo but attempted to achieve the objective through non-statutory means, such as advocacy or guidance. This approach was deemed to provide insufficient certainty and to be more costly and inefficient than changing the NPS-HPL.

Non-regulatory options (such as implementation guidance and support for councils) were considered insufficient to address the issues for intensive indoor primary production and greenhouses. The implementation guide published in March 2023 on the NPS-HPL went some way to address concerns from these industries.[12] However, current provisions in the NPS-HPL relevant to the development of both industries would not extend to the development of commercial scale operations, nor to the development of new operations on HPL. Under the status quo, there is no consent pathway for some primary production industries to test functional or operational need to locate on HPL, which could make adapting to climate change and decarbonising the industries more challenging.

Other options considered for intensive indoor primary production and greenhouses

Two other options were considered, but not recommended, for the issue of providing a consent pathway for intensive indoor primary production and greenhouses, as outlined below.

Amend the definition of land-based primary production

Amending the definition of land-based primary production to provide for non-soil-reliant activities would enable the development and relocation of intensive indoor primary production and greenhouses.

This option could potentially open pathways in the NPS-HPL to accommodate other food-producing activities and primary production activities that could locate in other parts of the rural environment that are not HPL. This option was not recommended, as it was not considered appropriate to expand the definition of land-based primary production to include non-land-based production methods.

Provide an 'open' pathway for intensive indoor primary production and greenhouses

This option would provide an open pathway to enable intensive indoor primary production and greenhouses without any requirements for territorial authorities to manage HPL and put in place supporting policies. Such a pathway would allow for the development and relocation of intensive indoor primary production and greenhouses on HPL.

This option would address the concerns raised by stakeholders about their inability to adapt to climate-related risks and challenges around energy requirements. This option, however, could risk uncoordinated development of intensive indoor primary production and greenhouses on HPL where alternative locations could have been used, and where functional or operational tests have not been met.

---

[12] Ministry for the Environment. 2023. *National Policy Statement for Highly Productive Land: Guide to implementation*. Wellington: Ministry for the Environment.

This option would be inconsistent with requirements in the NPS-HPL to ensure HPL is protected and the productive capacity of the soil is maintained (such as clause 3.9(3), which directs territorial authorities to take measures to ensure that any use or development on HPL minimises or mitigates and avoids loss of HPL). This option would also be inconsistent with the pathways the NPS-HPL provides for other non-land-based primary production (which are subject to tests).

Evaluation of the provisions of the proposal against the objectives

Issue 1: Specified infrastructure

This section addresses the provisions related to specified infrastructure. As required by section 32(1)(b) of the RMA, the proposed amended provisions are assessed against:

- the objectives of the proposal (as defined above)
- any relevant objectives of the existing NPS (as the NPS-HPL only has one objective, this is the only relevant objective).

The assessment comprises three parts, which have been considered in sequence and are discussed below.

- Other reasonably practicable options for achieving the objectives must be identified.
- The efficiency and effectiveness of the provisions in achieving the objectives must be assessed.[13]
- The reasons for selecting the provisions must be summarised.

The proposed provisions, and other reasonably practicable options

We have identified three options that address the specified infrastructure issue, and therefore are appropriate for achieving the relevant part of the objective.

Option 1 – Status quo

This option would retain clause 3.9(2)(j) as currently written, in regard to specified infrastructure.

Option 2 (proposed provisions) – Amend clause 3.9(2)(j) to enable any activity associated with specified infrastructure on HPL, provided it has a functional or operational need to locate on HPL

This option enables any activity associated with specified infrastructure on HPL, but still requires the infrastructure (and by implication, the activities) to demonstrate a functional and operational need to locate on HPL. For the reasons described below, this option is preferred.

Decision-makers will still need to meet the requirements in clauses 3.9(3) and 3.9(4), as those are not being changed and will still apply for specified infrastructure. These requirements minimise and mitigate the loss of HPL, and they require territorial authorities to include in their plans appropriate detail on how this is to be achieved.

[13] Although section 32(1)(b)(ii) does not explicitly require assessment of the efficiency and effectiveness of the alternative options, this has been included to demonstrate that the preferred option is the most effective.

Option 3 – Add 'construction' to clause 3.9(2)(j)

This option, which was included in the discussion document, would add the word 'construction' to clause 3.9(2)(j)(i). The effect of this would be to enable construction of specified infrastructure, while relying on the existing words in clause 3.9(2)(j)(i) ("maintenance, operation, upgrade, or expansion") to enable any other activities associated with specified infrastructure. Therefore, this option would be less enabling of infrastructure than Option 2, while otherwise being similar.

Assessment against the relevant objectives

Table 3 provides an assessment of the proposed provisions and other options for addressing Issue 1, as described above. As required by the RMA, the three options are each assessed against the objective of the proposal (as per section 32(1)(b)(i)) and against any relevant objectives of the NPS-HPL (as per section 32(3)).

Table 3: Assessment of options for specified infrastructure against relevant objectives

Option/provision	Assessment against objective of the proposal	Assessment against objective of the NPS-HPL
Option 1 – Status quo	This option does not achieve the objective. As described in the supporting documents, the status quo does not explicitly enable development of new specified infrastructure on HPL, resulting in significant barriers for these developments.	The status quo is consistent with the objective of the NPS-HPL.
Option 2 (proposed provisions) – Amend clause 3.9(2)(j) to enable any activity associated with specified infrastructure on HPL, provided it has a functional or operational need to locate on HPL **Preferred option**	This option would directly achieve the objective of the proposal, by providing a clear, simple provision that specifically enables specified infrastructure. This meets the 'enabling' component of the objective. The pathway is 'appropriate', because new infrastructure will still be subject to requirements to demonstrate a functional and operational need to locate on HPL, and territorial authorities will still be required to minimise or mitigate loss of HPL. This ensures that: • specified infrastructure has a demonstrated need to locate on HPL to deliver the infrastructure service • no appropriate alternatives exist that do not locate on HPL.	This option may result in the reduction of HPL available for land-based primary production, although provisions aimed at protecting HPL and minimising the loss of HPL will still apply. For example, the functional and operational needs test and the requirements in clauses 3.9(3) and 3.9(4) will still apply, therefore, adequately protecting HPL to ensure it meets the needs of future generations, by requiring territorial authorities to ensure that any loss of HPL is minimised or mitigated. Notably, the requirement to minimise loss of availability will ensure that infrastructure only uses the minimum amount of HPL necessary for the purpose of providing the infrastructure service. A range of measures are also available to territorial authorities to minimise the loss of productive capacity – for example, imposing conditions which protect the primary production activity in an ongoing way. Some infrastructure may support increases in productive capacity, which may be beneficial. For example, water storage and irrigation infrastructure may enable more effective use of HPL (if this is appropriate in the context of other national direction and relevant limits).

Option/provision	Assessment against objective of the proposal	Assessment against objective of the NPS-HPL
		Finally, most infrastructure is already enabled by the NPS-HPL, and this was the intent of the original policy proposal – for example, through the existing provisions for designations. Therefore, we do not anticipate that this provision will result in significantly more HPL being lost than under the status quo, although it does reduce costs of infrastructure development.
Option 3 – Add 'construction' to clause 3.9(2)(j)	Option 3 is considered to achieve the objective of the proposal, as construction of new specified infrastructure would be enabled. Based on feedback from submitters, however, we do not consider it would meet the objective of the proposal as well as Option 2. Construction may be interpreted narrowly, meaning activities associated with the development of specified infrastructure – but not explicitly construction – may still face barriers. For example, if 'new' specified infrastructure required onsite stormwater mitigation (and the onsite stormwater mitigation was not considered specified infrastructure) the stormwater mitigation would not be enabled. The associated activities are necessary for the construction, development, upgrade, maintenance and expansion of specified infrastructure, and Option 2 clarifies that these are included.	The assessment for Option 3 is similar to that for Option 2: the functional and operational needs test, and the requirements to minimise and mitigate the loss of HPL, will continue to apply. The difference is that Option 3 could be interpreted more narrowly. Although such interpretation could potentially result in less loss of HPL (consistent with the objective), Option 3 is not as enabling or adequate in achieving the objective of the proposal (compared to Option 2).

Summary and outcome of assessment against objective of the proposal and objective of the NPS-HPL

On balance, we consider Option 2 the preferred option as it clearly achieves the objective of the proposal and is reasonably consistent with the objective of the NPS-HPL.

Although Option 2 could result in applications that are less consistent with the objective of the NPS-HPL than Option 1, this will vary on a case-by-case basis. Some proposals may result in net maintenance of HPL, or still enable land-based primary production to occur (eg, agrivoltaics), and other proposals may result in a net loss of HPL.

We have rejected Option 3 as it is less consistent than Option 2 with the objective of the proposal.

Enabling all activities associated with infrastructure on HPL will better provide for such infrastructure, which is known to contribute positively to economic and social wellbeing. Enabling activities for renewable energy generation will also contribute to the reduction of carbon emissions and support Aotearoa New Zealand's transition to renewable energy.

We acknowledge this amendment may result in some HPL becoming unavailable for land-based primary production, but protections to ensure the loss of HPL is minimised or mitigated will be retained (such as the measures required by clauses 3.9(3) and 3.9(4)).

Finally, to ensure HPL is protected for future generations, we must be confident that cumulative loss of HPL is managed appropriately. As noted above, we have no specific evidence that indicates a loss of HPL to infrastructure generally. We note that environmental monitoring and reporting indicates the vast majority of the loss of HPL is driven by lifestyle block development, so we consider the impact of infrastructure development on the loss of HPL to be marginal.

Assessment of effectiveness and efficiency

As required by the RMA, table 4 provides an assessment of the efficiency and effectiveness of the three options for addressing Issue 1 (as per section 32(1)(b)(ii) and section 32(3)). The assessment considers the environmental, social, cultural and economic costs and benefits, including opportunities for economic growth and employment (as per section 32(2)).

As described in part 2 of this report, the assessment has been carried out in a level of detail appropriate to the scale and significance of the proposal. It has not been practical to quantify the exact costs and benefits of the proposal, given its expected low significance and low scale overall. However, analysis has drawn upon available information, which included published reports and information derived from infrastructure providers (especially from solar farm developers), network operators and primary industry stakeholders. We also note that we have used the previous cost-benefit analysis – prepared for the development of the NPS-HPL – to guide the *relative* assessment of the costs and benefits of the options. Table 4 includes qualitative assessments of the costs and benefits.

Table 4: Efficiency and effectiveness assessment for specified infrastructure

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
Option 1 – Status quo	Under the status quo, HPL is protected while specified infrastructure is not enabled to its full extent. **Environmental benefits** No change – status quo **Social benefits** No change – status quo **Cultural benefits** No change – status quo **Economic benefits** No change – status quo	Under the status quo, HPL is protected while specified infrastructure is not enabled to its full extent. In the current state, applicants continue to have significant costs imposed, as outlined in the Assessment of the relative risks of acting or not acting section below. **Environmental costs** No change – status quo **Social costs** No change – status quo **Cultural costs** No change – status quo **Economic costs** No change – status quo
Option 2 (**Preferred**)– Amend clause 3.9(2)(j) to enable any activity associated with specified infrastructure on HPL, provided it has a functional or	**Environmental benefits** Benefits associated with the development of new infrastructure. The exact benefits depend on the infrastructure developed, but will generally relate to more efficient use	**Environmental costs** Small/marginal cost due to an additional loss of HPL. Infrastructure generally is not recognised as a major driver of HPL loss (compared to other uses). The greatest potential loss is likely to

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
operational need to locate on HPL	of resources. Increased efficiency of resource use reduces effects on the environment if the efficiency gained results in a lower overall use of HPL resource. **Social benefits** Benefits derived from the use of any new infrastructure on HPL. For example, connection between communities can be enabled through telecommunications or transport infrastructure. **Cultural benefits** Unknown, but could be positive. Infrastructure generally leads to benefits for communities. **Economic benefits** Indeterminate, but positive. The previous cost-benefit analysis for the NPS-HPL recognised its short-term financial costs, which were balanced against the long-term benefit of protecting HPL. This proposal will ease the path for activities of high economic value (ie, infrastructure) that improve capital stock and productivity, at the cost of a small loss of HPL. Given the high value of the infrastructure activities being enabled, the benefit is assessed as positive. This option is therefore extremely likely to enable economic growth and employment in aggregate, although no quantitative assessment has been undertaken.	result from the development of solar farms, which is: • partially reversable • based on worst-case estimates of likely demand for electricity and uptake of solar generation, and of full location of solar on HPL • still less than 1% of HPL resource. This option results in only a marginal change from status quo – as some infrastructure is already enabled (for example, expansion or infrastructure undertaken by designations). Provisions will remain that require the infrastructure developer and/or applicant to demonstrate a functional and operational need to operate on HPL. Other provisions requiring HPL loss to be minimised or mitigated will also be maintained. **Social costs** Some costs from loss of HPL. Social costs are considered small for the same reasons as environmental costs. The social costs arising from the loss of HPL are described in full in the previous s32 assessment and original cost-benefit analysis. Given this provision is unlikely to be a major driver of loss, these costs are considered small. **Cultural costs** Some costs from loss of HPL. Cultural costs are considered small for the same reason as environmental costs. The cultural costs arising from the loss of HPL are described in full in the previous s32 assessment and original cost-benefit analysis. Given this provision is unlikely to be a major driver of loss, these costs are considered small. **Economic costs** None expected. The value of HPL already considers the opportunity cost of its conversion to other uses. If it is economically worthwhile to acquire and use HPL, these economic costs have been accounted for. Although, in some cases, minor economic costs and transaction costs will occur, these are expected to be outweighed by the benefits.
Option 3 – Add 'construction' to clause 3.9(2)(j)	**Environmental benefits** Same as Option 2. Note, however, that relative benefits are likely to be slightly lower. By	**Environmental costs** Same as Option 2. Note, however, that relative costs are likely to be slightly lower. By enabling only

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
	enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Social benefits** Same as Option 2. Note, however, that relative benefits are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Cultural benefits** Same as Option 2. Note, however, that relative benefits are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Economic benefits** Same as Option 2. Note, however, that relative benefits are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities.	construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Social costs** Same as Option 2. Note, however, that relative costs are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Cultural costs** Same as Option 2. Note, however, that relative costs are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities. **Economic costs** Same as Option 2. Note, however, that relative costs are likely to be slightly lower. By enabling only construction – and not other supporting activities – Option 3 would less clearly and effectively enable infrastructure activities.

Summary and outcome of efficiency and effectiveness assessment

Option 2 is considered the most efficient and effective option. On balance, the economic and social benefits of infrastructure development are considered to outweigh the environmental costs arising from the potential loss of HPL through Option 2.

Option 2 enables people and communities to realise the significant economic benefits from infrastructure development, along with associated social benefits and potential cultural benefits. Option 1 may have some environmental benefits – if the infrastructure results in higher productivity that increases efficient resource use – but it will also have a marginal environmental cost in loss of HPL.

Option 2 is preferred over Option 3, as it more clearly enables infrastructure development, reducing transaction and consenting costs and providing certainty that necessary supporting activities can occur. The benefits of the additional infrastructure enabled under Option 2 are considered to outweigh the costs and impact.

Option 1 is rejected, as the status quo is unduly limiting of infrastructure development.

Assessment of the relative risks of acting or not acting

This assessment is required where there is uncertain or insufficient information (as per section 32(2)(c)).

For Issue 1, the primary risks of acting (undertaking the amendments for specified infrastructure) are that:

- the environmental effects are more severe than anticipated
- the loss of HPL is higher than expected, resulting in greater cumulative loss than anticipated
- information gaps mean that some costs and benefits have not been accounted for.

The primary risk of not acting is that specified infrastructure proposals continue to be delayed or prevented, continuing the ongoing economic and social costs of the status quo and preventing the benefits of infrastructure from being realised. This is a medium-significance risk, and informs our overall assessment of scale and significance, given the likely benefits of infrastructure.

In this case, we consider that the risk of not acting outweighs the risk of acting. Despite uncertainty around the rate of any loss of HPL, long lead times and high capital requirements will limit the rate of any infrastructure development, and ongoing monitoring will enable revision of the policy position if necessary. Acting will also ensure the community receives the benefits of infrastructure, avoiding the significant opportunity cost of projects being delayed or not proceeding.

Summary and reasons for decision on Issue 1: Specified infrastructure

As described above, the option evaluated as the best provision to address Issue 1 is:

> **Option 2** – Amend clause 3.9(2)(j) to enable any activity associated with specified infrastructure on HPL, provided it has a functional or operational need to locate on HPL.

After assessment, Option 2 is considered to be the option that:

- best meets the objectives of the proposal and the objectives of the NPS-HPL
- is the most efficient and effective means of achieving those objectives.

As required under section 32(1)(b)(iii) of the RMA, this s32 report has provided the reasons for its position on Issue 1 in the summary boxes beneath table 3 and table 4, which will not be duplicated here.

Issue 2: Intensive indoor primary production and greenhouses

This section addresses the provisions related to intensive indoor primary production and greenhouses. As required by section 32(1)(b) of the RMA, the proposed amended provisions are assessed against:

- the objectives of the proposal (as defined above)
- any relevant objectives of the existing NPS (as the NPS-HPL only has one objective, this is the only relevant objective).

The assessment comprises three parts, which have been considered in sequence and are discussed below.

- Other reasonably practicable options for achieving the objectives must be identified.
- The efficiency and effectiveness of the provisions in achieving the objectives must be assessed.[14]
- The reasons for selecting the provisions must be summarised.

The proposed provisions, and other reasonably practical options

We have identified two options that address the intensive indoor primary production and greenhouses issue, and therefore are appropriate for achieving the relevant part of the objective.

Option 1 – Status quo

This option would retain clause 3.9(2)(j) as currently written, meaning that intensive indoor primary production and greenhouses would not be enabled.

Option 2 (proposed provisions) – Amend clause 3.9 to enable intensive indoor primary production and greenhouses

This option enables intensive indoor primary production and greenhouses on HPL. For the reasons described below, this option is preferred.

These activities will not need to meet a functional or operational needs test. However, decision-makers will still need to meet the requirements in clauses 3.9(3) and 3.9(4), as those are not being changed and will still apply for intensive indoor primary production and greenhouses. These requirements minimise and mitigate the loss of HPL, and they require territorial authorities to take measures to ensure this is achieved – through detailed provisions in their plans and/or by imposing resource consent conditions.

This option also includes consequential amendments necessary to give effect to the change, including insertion of new definitions.

Assessment of the proposed provisions, and other reasonably practical options, against the relevant objectives

Table 5 provides an assessment of the proposed provisions and other options for addressing Issue 2, as described above. As required by the RMA, the two options are each assessed against the objective of the proposal (as per section 32(1)(b)(i)) and against any relevant objectives of the NPS-HPL (as per section 32(3)).

Table 5: Assessment of options for intensive indoor primary production and greenhouses against relevant objectives

Option/provision	Assessment against objective of the proposal	Assessment against objective of the NPS-HPL
Option 1 – Status quo	This option does not achieve the objective.	The status quo is consistent with the objective of the NPS-HPL.

[14] Although section 32(1)(b)(ii) does not explicitly require assessment of the efficiency and effectiveness of the alternative options, this has been included to demonstrate that the preferred option is the most effective.

Option/provision	Assessment against objective of the proposal	Assessment against objective of the NPS-HPL
	As described in the supporting documents, the status quo does not explicitly enable development of intensive indoor primary production and greenhouses on HPL, resulting in significant barriers for these developments	
Option 2 (proposed provisions) – Amend clause 3.9 to enable intensive indoor primary production and greenhouses **Preferred option**	This option directly achieves the objective of the proposal, by providing a clear, simple provision that specifically enables intensive indoor primary production and greenhouses. This meets the 'enabling' component of the objective. The pathway is 'appropriate' because of the continuing requirements for territorial authorities to minimise or mitigate loss of HPL. This ensures that intensive indoor primary production and greenhouses are appropriately managed.	This option is broadly consistent with the objective of the NPS-HPL, although not completely. The objective of the NPS-HPL requires HPL to be protected for future generations. The amendment will result in some loss of HPL as a result of enabling intensive indoor primary production and greenhouses. However, benefits will arise from additional intensive production, and the area of HPL expected to be used by these industries is small,[15] and is unlikely to significantly affect the availability of HPL for land-based primary production. Intensive indoor primary production systems rely on the soil resource to different degrees. They therefore vary in their consistency with the definition of 'land-based primary production', which is what the NPS-HPL seeks to protect and enable on HPL. Some intensive indoor primary production systems are integrated as part of a larger primary production system (eg, an indoor cow barn that uses feed from, and disposes effluent to, a surrounding farm). Others are almost completely independent of the soil resource (eg, a hydroponic greenhouse that supplies all nutrients independently of any local soil), and they only exist in a rural zone because they are primary production activities. This means intensive indoor primary production activities will vary in their consistency with the objective of the NPSHPL. In aggregate, Option 2 will result in the establishment on HPL of more activities that do not rely on the soil resource. Although some intensive indoor primary production activities may already occur as 'supporting activities' under clause 3.9(2)(a), amending the provision will be more enabling than the status quo. This

[15] More evidence and analysis available at pages 39 to 41 of the Regulatory Impact Statement.

Option/provision	Assessment against objective of the proposal	Assessment against objective of the NPS-HPL
		means Option 2 is partially inconsistent with the objective of the NPS-HPL, but the extent of this inconsistency depends on the (unknown) degree to which intensive indoor primary production activities depend on the soil resource. Other perspectives gained from consultation indicated that a key focus of the NPS-HPL is protecting the land resource for food and fibre production, so this change would support the overall intent of the NPS-HPL. Some submitters noted that buildings are a component of land-based primary production, and that the area would continue to be used for food and fibre production. This argument is tenuous, however, given the deliberate narrowing of the NPS-HPL in its development to focus on issues associated with the HPL resource, rather than all primary production. Intensive indoor primary production activities will not be required to meet a functional or operational needs test. However, existing controls to sustain the potential of HPL to meet the needs of future generations will still apply – such as the requirements in clauses 3.9(3) and 3.9(4), which require territorial authorities to minimise the loss of HPL.

Summary and outcome of assessment against objective of the proposal and objective of the NPS-HPL

Option 2 is preferred to Option 1, but this decision is finely balanced.

Both the objective of this proposal and the objective of the NPS-HPL are consistent with the purpose and principles of the RMA. The two objectives compete with each other for these options that deal with Issue 2, so the relevant assessment is which option best gives effect to both objectives as a whole.

Although Option 2 is somewhat inconsistent with the objective of the NPS-HPL, this is offset by the benefits provided by the amendment and its consistency with the objective of the proposal. On the other hand, Option 1 (status quo) is not consistent with the objective of the proposal, but it is consistent with the objective of the NPS-HPL. On balance, Option 2 is preferred, as it is overall more consistent with the objectives.

This decision is made with caution, as any option cannot result in so much loss of HPL that it fundamentally undermines the objective of the instrument it is contained in – particularly given the objective of the NPS-HPL has statutory effect, which it will retain. On that note, clause 3.9 of the NPS-HPL already provides for non-land-based primary production activities, which are not considered to be inconsistent with the objective of the NPS-HPL. In this case, Option 2 will not fundamentally undermine the objective of the NPS-HPL because of the small

amounts of potential HPL loss, and therefore should not be rejected. This option being preferred simply reflects the inherent tensions that occur when managing and protecting resources in an RMA context.

Assessment of the effectiveness and efficiency of the proposed provisions, and other reasonably practical options

As required by the RMA, table 6 provides an assessment of the efficiency and effectiveness of the three options for addressing Issue 2 (as per section 32(1)(b)(ii) and section 32(3)). The assessment considers the environmental, social, cultural and economic costs and benefits, including opportunities for economic growth and employment (as per section 32(2)).

As described in part 2 of this report, the assessment has been carried out in a level of detail appropriate to the scale and significance of the proposal. It has not been practical to quantify the exact costs and benefits of the proposal, given its expected low significance and low scale overall. However, analysis has drawn upon available information, which included published reports and available data on existing intensive indoor primary production and greenhouse operations, and information from primary industry stakeholders. We also note that we have used the previous cost-benefit analysis – prepared for the development of the NPS-HPL – to guide the *relative* assessment of the costs and benefits of the options. Table 6 includes qualitative assessments of the costs and benefits.

Table 6: Efficiency and effectiveness assessment for intensive indoor primary production and greenhouses

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
Option 1 – Status quo	Under the status quo, HPL has a higher degree of protection, and intensive indoor primary production and greenhouses are not enabled. **Environmental benefits** No change – status quo **Social benefits** No change – status quo **Cultural benefits** No change – status quo **Economic benefits** No change – status quo	Under the status quo, HPL has a higher degree of protection, and intensive indoor primary production and greenhouses are not enabled. **Environmental costs** No change – status quo **Social costs** No change – status quo **Cultural costs** No change – status quo **Economic costs** No change – status quo
Option 2 (proposed provisions) – Amend clause 3.9 to enable intensive indoor primary production and greenhouses	**Environmental benefits** Likely very minimal. The only environmental benefits anticipated as a result of this option are where intensive indoor primary production: • results in the economic displacement of land-based primary production • is better able to internalise or manage its environmental impact (eg, an indoor dairy farm being better able to manage nitrogen discharges). **Social benefits**	**Environmental costs** Small and/or marginal cost due to an additional loss of HPL. Loss is considered small for the following reasons. • Intensive indoor primary production and greenhouses were not recognised as major drivers of HPL loss (compared to other uses) before the NPS-HPL came into force. • This option results in only a marginal change from status quo, as some types

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
	Likely very minimal. The only social benefits expected are those arising from any increased employment opportunities (compared with land-based primary production) and flow-on effects of those. **Cultural benefits** Unknown, expected to be marginal or nil. Cultural benefits could arise, as primary production generally leads to benefits for communities. **Economic benefits** Indeterminate, but positive. The previous cost-benefit analysis for the NPS-HPL recognised its short-term financial costs, which were balanced against the long-term benefit of protecting HPL. This proposal will ease the path for activities of high economic value (ie, intensive indoor primary production) that improve capital stock and productivity, at the cost of a small loss of HPL. Given the high value of the production activities being enabled, the benefit is assessed as positive. However, the economic benefits from enabling intensive indoor primary production activities are likely to be smaller than those that occur as a result of enabling infrastructure activities. This option is likely to enable economic growth and employment in aggregate, although no quantitative assessment has been undertaken.	of intensive indoor primary production are already enabled through the supporting activities pathway. • Provisions require the applicant to meet the definitions of intensive indoor primary production and greenhouses and assess the effects (including positive effects) of the proposal on the HPL resource and land-based primary production. • Existing provisions requiring HPL loss to be minimised or mitigated will remain. • Intensive indoor primary production and greenhouses will enable efficient primary production with a small footprint. This will ensure enough HPL is available for primary production that is required to be land-based, while still meeting the needs of consumers. Although the above environmental costs exist, they will be mitigated by the existing requirements in clauses 3.9(3) and 3.9(4) (noting that there won't be a requirement to meet a functional or operational need test, as this is impractical for intensive indoor primary production and greenhouses). **Social costs** Some costs from loss of HPL. Social costs are considered small for the same reason as environmental costs. The social costs arising from the loss of HPL are described in full in the previous s32 assessment and original cost-benefit analysis. Given this provision is unlikely to be a major driver of loss, these costs are considered small. Establishing an intensive indoor primary production system may have social costs – for example, arising from the need to manage discharges associated with the system, or from loss of connection to traditional farming activities. However, these social costs are associated with system establishment for intensive indoor primary production, rather than occurring as a result of enabling this activity on HPL. They are therefore not considered to arise as a result of this option and are best managed through the relevant plan or consent process. **Cultural costs** Some costs from loss of HPL.

Option	Environmental, social, cultural and economic benefits	Environmental, social, cultural and economic costs
		Cultural costs are considered small for the same reason as environmental costs. The cultural costs arising from the loss of HPL are described in full in the previous s32 assessment and original cost-benefit analysis. Given this provision is unlikely to be a major driver of loss, these costs are considered small. **Economic costs** None expected. The value of HPL already considers the opportunity cost of its conversion to other uses. If it is economically worthwhile to acquire and use HPL, these economic costs have been accounted for. Although, in some cases, minor economic costs and transaction costs will occur, these are expected to be outweighed by the benefits.

Summary and outcome of efficiency and effectiveness assessment

Option 2 is considered more efficient and effective than Option 1, because Option 2 will result in economic and social benefits at the cost of a small loss of HPL. This small loss of HPL may also be partially offset by reduced demand for HPL, as intensive indoor primary production often produces the same products that would otherwise be produced on HPL, but does so more efficiently (eg, by having a greater output per area).

This decision is low certainty. Limited evidence was available to quantify either the costs or the benefits, and submissions were generally short of data to enable quantification of the costs and benefits. In addition, environmental monitoring and other data sources, such as the National Monitoring System, do not provide appropriate data to enable quantification of costs and benefits.

Assessment of the relative risks of acting or not acting

This assessment is required where there is uncertain or insufficient information (as per section 32(2)(c)).

For Issue 2, the primary risks of acting (undertaking the amendments for intensive indoor primary production and greenhouses) are that:

- the environmental effects are more severe than anticipated
- the loss of HPL is higher than expected, resulting in greater cumulative loss than anticipated
- information gaps means that some costs and benefits have not been accounted for.

The primary risk of not acting is that intensive indoor primary production and greenhouse proposals do not occur on HPL, which will continue to prevent economic benefits that could arise from these proposals.

In this case, we consider that the risk of not acting outweighs the risk of acting. Despite uncertainty around the rate of any loss of HPL, ongoing monitoring will enable revision of the policy position if necessary. However, we note that this assessment is relatively evenly balanced, reflecting the relatively lower benefits of intensive indoor primary production and greenhouses (compared to infrastructure development).

Summary and reasons for decision on Issue 2: intensive indoor primary production and greenhouses

As described above, the option evaluated as the best provision to address Issue 2 is:

> **Option 2** – Amend clause 3.9 to enable intensive indoor primary production and greenhouses (subject to specific tests).

After assessment, Option 2 is considered to be the option that:

- best meets the objectives of the proposal and the objectives of the NPS-HPL
- is the most efficient and effective means of achieving those objectives.

As required under section 32(1)(b)(iii) of the RMA, this s32 report has provided the reasons for its position on Issue 2 in the summary boxes beneath table 5 and table 6, which will not be duplicated here.