

## National Policy Statement- Highly Productive Soils (NPS-HPL) Assessment

### Strategic Background

Both areas forming the subject land were intended to be developed for urban housing within life of the former Hastings District Plan and strategy documents, as identified in the application submitted.

- Area 1 land, proposed to be primarily occupied by housing, was previously zoned “*General Residential*” under the Hastings District Plan 2013.
- Area 2 land, to be utilised in part of housing and primarily for stormwater/flood mitigation and resilience to address historical recorded flooding in the area (subject site and wider residential area) was assessed as an intended urban growth area.

### Considered Assessment

The objective (Part 2 Section 2.1) of the NPS-HPL is that “*highly productive land is protected for use in land based primary production, both now and for future generations*” and similarly Policy 1 which seeks to *recognise highly productive land as a resource with finite characteristics and long term values for land-based primary production.*

The Hastings District contains primarily a mix of Class 1-3 soils in the vicinity of 500,000 hectares. Accordingly, any expansion of the urban development, particularly in line with the meeting the requirements and mandate of the NPS-Urban Development (NPS-UD) will, unavoidably involve the use of Class 1 to 3 soils. This site represents a very small and insignificant amount of land area within the context of the overall land resource pool.

The subject land is classified at a very high level by Land Mapping as Class 2. This classification has not been mapped in detail and does not assess this classification or define it based on limiting factors of the site, including but not limited to its inability to obtain water, a relatively high-water table, its proximity to urban activities (reverse sensitivity), site size, and drainage.

Policy 2: *The identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management and urban development* is very relevant in terms of how these and other national policies, particularly the NPS- Urban Development, all work together in this ‘integrated’ fashion.

It is critical that a decision maker looks to provide a pathway rather than puts up barriers which will result in the unsustainable use of resources and economic and social benefits which directly underpin Part 2 of the Resource Management Act. Avoid policies and enabling policies can work together to ensure that appropriate and considered outcomes are reached, particularly between the competing needs and legislative direction of the NPS-UD and the NPS-HPL.

Policy 3: *Highly productive land is mapped and included in regional policy statements and district plans.*

This has not happened. Under the NPS- HPL **highly productive land** means:

*land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated*

*as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).*

**Identified for future urban development means:**

*(a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or*

*(b) identified:*

*(i) in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and*

*(ii) at a level of detail that makes the boundaries of the area identifiable in practice*

Part 3 which implements the NPS-HPL and its Objectives and Policies sets out a number of matters (via clauses) that local authorities must do to give effect to the objectives and policies. These processes have yet to commence, and these are critical to ensure Policy 2 is given effect to. For example, Clauses 3.2, 3.3 and 3.4.

Clause 3.5 requires mapping no later than 3 years from the NPS 's commencement which is a long time to wait for this process to occur in the context of a documented shortfall in housing that has been detailed in the application.

The Hastings District Council do not yet have mapped *highly productive mapping* completed nor has it completed its *Future Development Strategy* in accordance with the above. As identified earlier, the HPUDS strategy being the last completed strategy is long outdated and no longer properly recognises the critical shortfall in housing that exists in the Hastings District and wider Region.

The NPS-UD requires Councils to be responsive to growth, with a balancing act between enabling growth and protecting finite physical resources like highly productive land in a manner that achieves the RMA's purpose of sustainable management.

*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.*

This application does seek to enable urban development on land that contains some highly productive land. At a district-wide level, the Council has taken a very protective approach to managing productive land in the Plains Productive zone by imposing a heavily restrictive 12-hectare minimum lot size and in the Rural zone with a 20-hectare minimum site size (primarily LUC class 1-3 land). The intention of this approach is to minimise the risk of land fragmentation in locations where productive uses can be best accommodated. However, this does not prevent consideration of rural land being developed for another use.

While productive land is involved in this application, it provides an opportunity to address another critical resource management issue for the district, being a lack of housing capacity

available to meet short to medium term needs. If approved, this Clive development could supply a meaningful contribution to urban growth capacity. Given that significant other parts of the Plains Production zone are protected for productive uses, on balance, it is considered that enabling the use of land in Clive for residential development is an appropriate alternative to its diminishing rural use.

The NPS-UD requires Council to not only provide for well-functioning urban environments, but also sufficient development capacity to meet the needs of people and communities. To be “sufficient” development capacity must be:

- *plan-enabled* (land zoned for short and medium-term demand and future urban zoned for long term demand)- which it cannot show, hence the fast-track resource consent approach taken by this application; and
- *infrastructure-ready; and feasible and reasonably expected to be realised.* A stage 2 application can confirm the land is “Infrastructure-ready”. There appears adequate existing development infrastructure to support the development of the land as shown in the application, where additional upgrades could be required, the applicant accepts that they will be required to provide and fund these upgrades.

We believe Clause 3.10 of the NPS-HPL provides a pathway for the consideration of the application (and consistency with Policies 4-9 of the NPS- HPL) as *the subdivision, use, development can avoid any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and will avoid the fragmentation of large and geographically cohesive areas of highly productive land* with only approximately 0.0026% of the available LUC Class1-3 soils in the District involved; and will allow for the avoidance of reverse sensitivity effects on surrounding land based primary production by virtue of the sites characteristics and a shifting of the current interface away from the present urban edge (housing and school).

### *3.10 Exemption for highly productive land subject to permanent or long-term constraints*

*(1) Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 if satisfied that:*

*(a) there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years; and*

*(b) the subdivision, use, or development:*

*(i) avoids any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and*

*(ii) avoids the fragmentation of large and geographically cohesive areas of highly productive land; and*

*(iii) avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-based primary production from the subdivision, use, or development; and*

*(c) the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*

*(2) In order to satisfy a territorial authority as required by subclause (1)(a), an applicant must demonstrate that the permanent or long-term constraints on economic viability cannot be addressed through any reasonably practicable options that would retain the productive capacity of the highly productive land, by evaluating options such as (without limitation):*

*(a) alternate forms of land-based primary production:*

*(b) improved land-management strategies:*

*(c) alternative production strategies:*

*(d) water efficiency or storage methods:*

*(e) reallocation or transfer of water and nutrient allocations:*

*(f) boundary adjustments (including amalgamations):*

*(g) lease arrangements.*

*(3) Any evaluation under subclause (2) of reasonably practicable options:*

*(a) must not take into account the potential economic benefit of using the highly productive land for purposes other than land-based primary production; and*

*(b) must consider the impact that the loss of the highly productive land would have on the landholding in which the highly productive land occurs; and*

*(c) must consider the future productive potential of land-based primary production on the highly productive land, not limited by its past or present uses.*

*(4) The size of a landholding in which the highly productive land occurs is not of itself a determinant of a permanent or long-term constraint.*

*(5) In this clause: landholding has the meaning in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 long-term constraint means a constraint that is likely to last for at least 30 years*

The applicable LUC maps showing the subject land as LUC2 are enclosed to this response.

Notwithstanding, there will be an unavoidable loss of Class 2 soils, this site has previously been zoned residential or identified for future urban and therefore reasonably expected to be lost to any form of productive use.

This application continues a desire to see this land used for compact urban expansion within clearly identifiable physical boundaries, based on- a minimal loss of soils (the overall area of rural land in Hastings district), its proximity to the existing urban area of Clive, an ability to *avoid, remedy and or mitigate* surface flooding within the existing urban area and additional recreation benefits resulting from a large open spaces, walkways, cycleway connections and landscaping.

The site has fundamental permanent limitations to its ongoing use. These include

- An inability to secure water for irrigation- which will in time affect its Land Classification
- Its proximity to the existing urban interface- reverse sensitivity issues.
- Its current unmitigated flooding without development.

Please see the attached email from Hawkes Bay Regional Council confirming of a present and future lack of available water for productive purposes to this site. The productive ability of the site without water to irrigate is severely diminished.

A stage 2 application will provide an opportunity to investigate the LUC Classification of this subject site.

Given the makeup of the District's land Resource pool, there are very limited feasible alternative options for growth (including use of Class 7- grape growing gravels protected by the Hastings District Council) that would be exempt from the NPS-HPL, with almost the entirety of flat non-urban land high level mapped under the current District zoning as highly productive. The subject site is considered to be the a realistic alternative to productive use, due to its historical urban identification (zoned and strategic), location and ongoing physical limitations.

The proposed development will enable the provision and extension of critical infrastructure specifically addressing an existing flooding hazard in the Clive Urban Township. The NPS-HPL at section 3.9 also provides an exemption to use of highly productive land in this regard. The intended stormwater management area will add resilience to critical stormwater infrastructure and mitigate a well-documented hazard, to the wider benefit of Clive. This added resilience coupled with the mandated outcomes of the NPS-UD make this development an ideal outcome for the Hastings District Council- increased housing and hazard mitigation.

### *3.9 Protecting highly productive land from inappropriate use and development*

*(1) Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.*

*(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:*

*(a) it provides for supporting activities on the land:*

*(b) it addresses a high risk to public health and safety:*

*(c) it is, or is for a purpose associated with, a matter of national importance under section 6 of the Act:*

*(d) it is on specified Māori land:*

*(e) it is for the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity:*

*(f) it provides for the retirement of land from land-based primary production for the purpose of improving water quality:*

*(g) it is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land:*

*(h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the Act:*

*(i) it provides for public access:*

*(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:*

*(ii) the maintenance, operation, upgrade, or expansion of defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990:*

*(iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand:*

*(iv) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.....*

(underline added)