

## Memorandum

**To:** Fast track consenting – referral to EPA  
**From:** Laurence  
**Date:** 13 Feb 2023  
**Subject:** Harmony - Masterton and Marton solar farms

The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) is relevant to the application as the solar farm will be developed on 'highly productive land' as defined in clause 1.3 of the NPS-HPL and under the transitional provisions of clause 3.5(7) – due to the land not yet being mapped by the regional council. Policy 8 seeks to protect highly productive land from inappropriate use and development.

Part 3 of the NPS-HPL sets out methods to implement policies, including policy 8. Part 3.9 states:

- (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:*
  - (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 ...*

### Specified Infrastructure

Clause 3.9(2) of the NPS-HPL identifies inappropriate activities on highly productive land. It also identifies exceptions, with one being specified infrastructure. The NPS-HPL defines specified Infrastructure is defined in the NPS-HPL as:

- (a) *infrastructure that delivers a service operated by a lifeline utility;*
- (b) *infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan;*
- ...

The Civil Defence Emergency Management Act 2022 defines a lifeline utility as “An entity that generates electricity for distribution through a network or distributes electricity through a network.”. The proposal fits within this definition.

Electricity generation activities are also recognised as regionally significant infrastructure in the Regional Policy Statement for the Wellington Region.

The proposed solar farm is therefore specified infrastructure under the NPS-HPL.

### Functional or Operational need for Solar Farm to be on Highly Productive Land

To proceed through the consenting pathway afforded by 3.9(2)(j)(i) there must be a functional or operational need for the specified infrastructure to be established on highly productive land. Functional need is defined in the NPS-HPL as being “the need for a proposal ... to ... operate in a particular environment because the activity can only occur in that environment.” Operational need



*“means the need .... to operate in a particular environment because of technical, logistical or operational characteristics or constraints.”*

The solar farm needs to be developed on this site because of its proximity to a Transpower substation. The proximity to the substation allows it to be connected to the national grid. There would be significant cost and efficiency implications if the solar farm were to be located further away from the substation. The site also provides generally flat and low flood risk terrain that best meets the operational needs of the solar farm.

#### s 9(2)(h)

#### Guidance

The NPS-HPL December 2022 Guidance Notes note that clause 3.9.3(a) *“is intended to recognise that most land use or development that has a pathway under Clause 3.9(2) will inevitably lead to some loss of the availability and productive capacity of HPL – so an ‘avoid if possible’ test as a starting point was not considered appropriate”*.

The Guidance goes on to provide examples where a use or development can be considered to minimise or mitigate loss of productive capacity. One example is *“co-existing with land-based primary production”* – which the solar farm can do, as it will not preclude carrying out land-based primary production around the activity.

#### Alternative Route

While Clause 3.9(2)(j) provides a clear consenting pathway for the solar farm, another provision within the NPS-HPL which also gives the decision maker the ability to grant this consent application is clause 3.10. Clause 3.10 allows Council to grant consent for the use of highly productive land for other (non-primary production) purposes if certain criteria are met:

- (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*
  - (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*

The proposed solar farm meets the above criteria, as:

- The land will continue to be able to be utilised for land-based primary production purposes; the ability to do so is not lost as a result of this proposal;
- The solar panels will be elevated above the ground allowing sufficient space underneath and around them to continue to graze sheep. Studies have shown that the productive capacity and yield of land that is used for sheep farming purposes is not lost when solar panels are established on that land, and in fact yield can increase. Two articles which confirm this can be found here [New scientist Article](#) and [Frontiers article about herbage yield](#).
- The use of the site for agrivoltics will not result in fragmentation of land. The ability to continue to use neighbouring land for agricultural purposes will not be impacted by the construction and operation of the solar farm. At the end of life of the solar panels (approximately 25-35 years), the panels and associated infrastructure can be easily removed from the site to allow the land to be returned solely to productive use. Therefore long term the land can revert back to an exclusively productive farming use (or alternative primary productive use).
- The proposal will not result in reverse sensitivity effects on surrounding land-based primary production activity. During construction and once operational the solar farm activity will not be adversely impacted by rural activity in surrounding properties.
- The considerable environmental, social, cultural and economic benefits of the proposal are outlined elsewhere in this referral request.

In summary, the proposal is not considered to be contrary to or inconsistent with the NPS-HPL.