

Memorandum

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To: Melissa McGrath
Ministry for the Environment

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SOUTHERN PARALLEL SPORTS COMPLEX – NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND 2022 ASSESSMENT

- 1 This memorandum sets out an assessment of the National Policy Statement for Highly Productive Land 2022 (*NPS-HPL*) for the Southern Parallel Sports Complex (the *Proposal*) at 279 Stranges Road, Lake Hood (the *Land*). The NPS-HPL does not preclude the grant of consent, but must be considered where relevant in any consenting process.
- 2 The following reports are referred to throughout this memorandum and were included as part of the Proposal's fast track application:
 - 2.1 Report titled "Assessment of Potential Loss of Productive Land" dated 22 December 2022 prepared by Victor Mthamo of Reeftide Environmental & Projects (*Mr Mthamo's Report*). Mr Mthamo's Report identifies a range of constraints on land-based primary production applying to the Land.
 - 2.2 Letter dated 7 February 2023 prepared by Ross Polson of Lauriston Farm Improvement Club Incorporated (*Mr Polson's Report*). Mr Polson's Report assesses the economic viability of the Land for land-based primary production.
 - 2.3 Report titled "Re: SPSC Ecological Constraints and Opportunities" dated 8 November 2022 prepared by Tanya Blakely of Boffa Miskell (the *Ecological Report*).

Summary

- 3 The Land, given its rural zoning and LUC 1 status, is 'highly productive land' (*HPL*) for the purposes of the NPS-HPL.
- 4 The Proposal (a multi-disciplinary sports complex including equestrian centre) continues to include a core rural activity and that can only appropriately locate in a rural environment - and which, conversely, would not be appropriate in an urban environment.



- 5 The Proposal is not an orthodox one for the purposes of NPS-HPL but will result in better environmental outcomes (including in relation to productive land) and is not inconsistent with the wider direction provided by the NPS-HPL.
- 6 In particular, it is clear from the objectives and policies of the NPS-HPL that it does not seek to provide absolute protection of highly productive land, nor does it specify that there should be no loss of highly productive land within a region or district in all circumstances.¹ An effort has been made to accommodate proposals such as the present one and there will be some circumstances where a superficial reduction in productive value applying to land will still be appropriate (especially where, for example, any reduction is offset by improvements elsewhere).
- 7 We set out at **Appendix 1** an assessment of the wider objectives and policies of the NPS-HPL against the Proposal. The body of the memorandum demonstrates how the Proposal is capable of being granted consent through either of the following limbs of the NPS-HPL:
- 7.1 Clause 3.9 – Protecting highly productive land from inappropriate use and development; and
- 7.2 Clause 3.10 – Exemption for highly productive land subject to permanent or long-term constraints.

Clause 3.9: Protecting highly productive land from inappropriate use and development

- 8 Clause 3.9(1) provides:
- “Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.”*
- 9 Clause 3.9(2) goes on to say that a use or development is inappropriate except where at least one of the following applies (and the measures in clause 3.9(3) apply, discussed further below). Relevantly to the Land in question these scenarios are where:
- 9.1 it is for the purposes of protecting, maintaining, restoring, or enhancing indigenous biodiversity;
- 9.2 it provides for the retirement of land from land-based primary production for the purpose of improving water quality; and/or
- 9.3 it is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land.
- 10 These exceptions are relevant to the Proposal to varying extents. When taken together the use and development of the Proposal is ‘not inappropriate’, despite being located on HPL. We step through each of these.

¹ NPS-HPL, s 32 evaluation report, at p 6.



The exceptions applying to the Land

- 11 The Proposal *inter alia* provides for the protecting, maintaining, restoring, or enhancing indigenous biodiversity:²
- 11.1 the Proposal will protect, maintain, restore, and enhance indigenous biodiversity on the basis that the waterways on the Land will be enhanced and protected as part of the Proposal; and
 - 11.2 this will include implementing many of the ecological enhancement opportunities identified in the Ecological Report which will be worked through at the consenting stage, including planting of indigenous vegetation particularly around the margins of those waterways; and
 - 11.3 the Proposal will significantly improve the indigenous biodiversity on the Land which to date has been highly affected by farming practices on the Land.
- 12 The Proposal also provides for the retirement of land from land-based primary production for the purpose of improving water quality:³
- 12.1 the Land is located within an 'At Risk' (Orange) Nutrient Allocation Zone. This means that the discharge of nitrate and phosphate needs to be carefully managed to ensure water quality is maintained, and if possible improved, in that zone.
 - 12.2 Mr Mthamo and Mr Polson's Reports confirm that the existing farm system lawfully discharges around 54 kg N/ha/yr into groundwater. This amounts to around 3,500 kg N/yr discharged to groundwater from land-based primary production on the Land. Mr Mthamo considers this to be high, particularly considering the Land's proximity to Lake Hood and the Hakatere/Ashburton River and given the groundwater flow direction.
 - 12.3 The reduction in nitrogen discharge on the Land will be significant. To this extent the Proposal will reduce losses from the Land in a manner that would improve both ground and surface water quality for that nutrient allocation zone.
- 13 The Proposal is a small-scale land-use activity that has no impact on the productive capacity of the Land (and as discussed later in this advice will in fact enhance the productive capacity of adjoining land):
- 13.1 Mr Mthamo's Report considers the Proposal is small scale when considered on a district and regional wide basis. With respect to this, Mr Mthamo's Report is referring to the relative size and coverage of the structures placed on the Land.
 - 13.2 The NPS-HPL defines "productive capacity" as "*the ability of the land to support land-based primary production over the long term, based on an*

² Clause 3.9(2)(e) NPS-HPL.

³ Clause 3.9(2)(f) NPS-HPL.



assessment of physical characteristics... legal constraints... and the size and shape of existing and proposed land parcels."

- 13.3 The Proposal will involve a site coverage of approximately 6.5%. This is low and 'small scale' in the context of the wider Land. The impact the Proposal will have on the underlying soil resource is negligible, compared to more urban developments such as a residential development. It will not prevent *"the ability of the land to support land-based primary production over the long term"*.
- 13.4 This means that should the Proposal, for whatever reason, be discontinued it will be far simpler to revert the Land to an orthodox productive use than if a larger scale urban development was proposed for the Land (emphasising again that the Proposal, even if not productive in an optimised sense, is still a rural activity).
- 13.5 In this respect, the Proposal will have negligible impact on the productive capacity of the Land.

Clause 3.9(3) NPS-HPL

- 14 In addition to the above, for the clause 3.9 exemption to apply, the provisions of clause 3.9(3) must also be met. This provides that territorial authorities must take measures to ensure that any use or development on HPL:
- 14.1 minimises or mitigates the actual loss or potential cumulative loss of the availability and productive capacity of HPL in their district; and
- 14.2 avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.
- 15 With respect to point one, the Proposal minimises the actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in the Ashburton District:
- 15.1 The report of Mr Mthamo concludes that the net proportional reduction in highly productive class soils are insignificant at:
- (a) 0.026% in Ashburton; and
- (b) 0.007% in Canterbury.
- 15.2 In fact, the Proposal will not result in an overall loss of productive capacity of highly productive land in the Ashburton District, because the retirement of this land will enable the previous farmer (who also farms adjoining land) to increase the reliability of his irrigation water. This will significantly increase the overall productive capacity and efficiency of the balance of the farm such that there would be no 'net loss' of productive capacity in the District.



- 16 With respect to the second point, the Proposal avoids or otherwise mitigates any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development:
- 16.1 Mr Mthamo's Report considers that the Land is in fact currently constrained from fully productive use as a result of reverse sensitivity effects from the surrounding area; and
- 16.2 the Proposal itself will not give rise to reverse sensitivity effects on adjoining land-based primary production activities as the development itself is more 'rural' than 'urban' in nature, and the more 'sensitive' activities proposed are setback sufficiently from the Land's boundaries.
- 17 The Proposal therefore meets at least one of the uses/purposes listed in clause 3.9(2) NPS-HPL. Therefore, the NPS-HPL does not preclude the grant of consent for the Proposal.
- Clause 3.10: Exemption for highly productive land subject to permanent or long-term constraints**
- 18 Clause 3.10 provides an alternative exemption that could be relied on to authorise the Proposal.
- 19 Clause 3.10 provides that Council's must only allow highly productive land to be subdivided, used, or developed for non-primary production activities if satisfied the following criteria apply:
- (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 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 rezoning outweigh the long-term costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.
- 20 We step through these tests.



Permanent or long-term constraints, and economic viability of the Land

- 21 The NPS-HPL further provides that in order to satisfy a territorial authority of the requirement in paragraph 19(a) above, 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):⁴

- 21.1 alternate forms of land-based primary production;
- 21.2 improved land-management strategies;
- 21.3 alternative production strategies;
- 21.4 water efficiency or storage methods;
- 21.5 reallocation or transfer of water and nutrient allocations;
- 21.6 boundary adjustments (including amalgamations); and
- 21.7 lease arrangements.

- 22 The advice we have from the consultants, Mr Mthamo and Mr Polson, is that there are (at least) three key long term (and most likely permanent) constraints that apply to the Land:

Poor drainage and high groundwater

- 22.1 Mr Mthamo's report notes that 86% of the Land is poorly drained and artificial drainage would need to be installed to improve productivity. There are limitations with the Land to providing this drainage.
- 22.2 The Land has a relatively high groundwater level (particularly towards the east) that in combination with the poor drainage result in the risk of periods of anaerobic conditions in the soil after heavy rain which has marked effects on productive capacity.
- 22.3 This is a permanent constraint on the productive capacity of the Land.

Moisture deficits and irrigation availability

- 22.4 Mr Mthamo's report sets out the soil moisture deficits for the Land and has estimated the likely volumes of irrigation that would be required.
- 22.5 The Ashburton River/Hakatere catchment is fully allocated, making any new applications to take groundwater for irrigation prohibited activities under the Canterbury Land and Water Regional Plan (CLWRP) and therefore no new water is available for irrigation.
- 22.6 Without irrigation, the Land will never achieve its full productive potential. Dry land farming is not economically viable for this Land, water is essential for

⁴ NPS-HPL, clause 3.10(2).



increased yields and economic activity. Transfer of consents for irrigation purposes is also getting more difficult due to the lack of readily available irrigation consents for sale.

22.7 This will only worsen with time consider that this constraint is likely to change over the next 30 years, particularly given:

- (a) climate change induced increases in irrigation water demand; and
- (b) increasing shortages in consents available for transfer due to demand for these consents and no new consents being granted within the zone.

22.8 The availability of water for irrigation is therefore a long-term constraint on the productive capacity of the Land.

Nutrient limits

22.9 Future nitrogen leaching rates are required to not exceed the baseline rates. Where the leaching rates exceed the baseline rates further nutrient reductions are required.

22.10 As discussed above, the Land is located within an 'At Risk' (Orange) Nutrient Allocation Zone in the CLWRP. The CLWRP requires that baseline nutrient budgets be established based on the farming activities of a particular site during the period 2009-2013. Future nitrogen leaching rates under the CLWRP are required to not exceed the baseline rates with it being likely that further reductions in nitrogen loss are required in the future.

22.11 Mr Mthamo goes on to demonstrate how reductions in nitrogen application reduces crop yield somewhat significantly, and therefore revenue.

22.12 These limits are long-term, if not permanent constraints because:

- (a) As noted in Mr Mthamo's Report this constraint will not change over the next 30 years, particularly given the current observable issues with nutrient concentrations in groundwater are primarily from activities dating between the 1970s and early 2000s, with the effects of the more recent intensification (1980s to present) manifesting over the next several decades. Such that, if anything, the effects will be considerably worse than what the catchment is experiencing now because of this intensification and limits on nutrient use and allocation are likely to become stricter in the future.
- (b) Mitigation measures being implemented in compliance with the CLWRP will unlikely restore the nutrient levels to pre-intensification levels. It is also not unreasonable to expect further policies and regional rules to be tightened to try and reduce the use of nutrients.

Reverse sensitivity

22.13 The Land is bordered by a subdivision and Lake Hood. There are currently constraints to normal farming activity on the Land due to the need to mitigate



the effects of dust, chemical applications, noise and nutrients on those adjoining land uses. Mitigation of these effects usually requires increased setback distances.

22.14 This is a long term constraint for the Land which contributes further to the long term constraints identified above that affect the economic viability of the Land.

Economic viability

- 23 We now move onto demonstrate that these permanent and/or long-term constraints on the land mean that land-based primary production on the Land would not be economically viable for at least 30 years. This is covered by the report of Mr Polson. In his view, 'economic viability' for a farming business could be looked at in two ways, either:
- 23.1 from a rural financiers/advisers point of view who generally consider an 'economic unit' to be a farm property that can meet all of the outgoing of production cost, interest or rental cost, owners reasonable standards of living plus depreciation of all assets employed by the business; and/or
- 23.2 with respect to 'return on capital' (RoC) capable of being generated by the farm property.
- 24 Mr Polson calculates that a farm on that Land (accounting for the highest possible productive use) would result in a net loss of around \$60,900pa which clearly indicates the Land would be too small to be considered an 'economic unit' by rural financiers/advisors.
- 25 With respect to the RoC, Mr Polson considers an appropriate RoC for this type of land to be 4%. Mr Polson has calculated the RoC for the Land as being well under that at 1.1%.
- 26 Mr Polson is therefore of the view that the use of the Land for primary production is not economically viable for at least 30 years. In coming to this conclusion, Mr Polson has considered whether economic viability could be addressed through the reasonably practicable options listed in clause 3.10(2) NPS-HPL.
- 27 With respect to potential boundary adjustments that might assist the economic viability of the Land, Mr Polson considers it unlikely that any adjoining land owners would be interested in amalgamating this block onto their existing farm systems. This is largely due to the Land not being economically viable for productive use, and the costs of infrastructure required to amalgamate the Land into some other farming unit.
- 28 It is further noted that the person selling the land to SPSC is in fact a neighbouring farmer who is no longer interested in farming the Land. The key reason for this is that the current reliability of their irrigation consent is at about 50-60% efficiency. To remove the Land from the farming unit would significantly increase the efficiency of the balance of the farm, resulting in greater yields, increased resilience and economic viability to that farmer.



Avoiding significant loss of productive capacity, fragmentation, and avoid reverse sensitivity effects on surrounding land-based primary production

- 29 We have addressed these points at paragraph 14 to 16 above.
- 30 Agricultural technology and farming techniques have changed substantially over the years such that they now enable land on a range of soils (not necessarily classed LUC 1-3) to be highly productive. Mr Mthamo's Report notes that in his view the change to the Land will not necessarily reduce the district's or the region's agricultural productivity or output. And in fact is likely to increase agricultural productivity on the adjoining farm as noted above.

Benefits and costs analysis

- 31 The reports obtained to date for this proposal clearly demonstrate that the positive environmental, social, cultural, and economic benefits of this project will outweigh the long-term costs associated with the loss of highly productive land for land-based primary production, and substantially so.

Conclusion on NPS-HPL

- 32 The Proposal is not precluded by the NPS-HPL and is capable of grant.

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APPENDIX 1 – ASSESSMENT OF OBJECTIVES AND POLICIES OF THE NPS-UD

NPS-HPL Provision	Comment / Assessment
<p>Objective:</p> <p>Highly productive land is protected for use in land-based primary production, both now and for future generations.</p>	<p>The Proposal is consistent with this objective. Protection does not amount to absolute avoidance. This objective is informed by the policies which lie underneath it, which provide for certain activities on HPL as being appropriate.</p> <p>In any case, the small footprint of the Proposal will mean that the Land is not prevented from supporting land-based primary production in the future.</p>
<p>Policy 1:</p> <p>Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production.</p>	<p>The Proposal is consistent with this policy. There is no doubt that the Land is HPL, and that HPL resource is finite and holds a range of values for land-based primary production. The Proposal does not deny this.</p>
<p>Policy 2:</p> <p>The identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management and urban development.</p>	<p>This policy is not particularly relevant to this Proposal, but rather applies to regional council in their mapping and management of HPL within their region.</p>



Policy 3: Highly productive land is mapped and included in regional policy statements and district plans.	 This policy is not particularly relevant to this Proposal, but rather applies to regional council in their mapping of HPL within their district.
Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.	 The Proposal is consistent with this policy. This Proposal will allow adjoining farming activities to increase productivity and economic viability in a way that prioritises and supports those farming activities to ensure they are able to continue.
Policy 5: The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.	 This policy is not relevant as the Proposal does not seek urban rezoning, it is for a resource consent.
Policy 6: The rezoning and development of highly productive land as rural lifestyle is avoided, except as provided in this National Policy Statement.	 This policy is not relevant as the Proposal is not for a rural lifestyle activity.
Policy 7: The subdivision of highly productive land is avoided, except as provided in this National Policy Statement.	 This policy is not relevant as the Proposal does not seek to subdivide the Land.



<p>Policy 8:</p> <p>Highly productive land is protected from inappropriate use and development.</p>	<p>The Proposal is consistent with this policy in that the Proposal is an appropriate use as set out in the NPS-HPL and will not affect the underlying productivity of the Land.</p>
<p>Policy 9:</p> <p>Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.</p>	<p>The Proposal is consistent with this policy in that it will manage reverse sensitivity effects (if any) so as not to constrain land-based primary production on surrounding HPL.</p>