

**To the Ministry for the Environment
Ministry of Primary Industries:**

**Feedback by
Suburban Estates Ltd**

In the matter of the

The Proposed National Policy Statement on Highly Productive Land

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Overall Position

We question whether protection of HPL is a significant national issue, given that the relationship between urban development, rural subdivision and the status of rural land as highly productive is so variable across NZ.

The definition of what comprises HPL is far from an exact science, is influenced by many factors not just soil type and is likely to change over time. It should be defined at the district not regional level, thus securing a contestable, responsive and flexible planning response including provision for private plan change requests relating to HPL. It should not include a 'blanket' all Class 1-3 land.

A key way in the Canterbury context to reduce loss of HPL is to make ample provision for large lot residential and rural residential living opportunities, of which there is currently a significant undersupply – due to the focus on smart growth (urban consolidation and urban intensification). At the moment those wanting more space often have no option but to look to 4 ha rural lifestyle blocks which are far larger than they need or want.

We are concerned that the NPS-HPL is not well aligned with the NPS-UD and other national policy on protecting and enhancing water quality. We suggest the two NPSs could be combined to achieve better integration.

We are overall supportive of the intent behind both the NPS-HPL and NPS-UD. We wish to ensure that the associated planning processes are fair, rigorous and responsive and do not result in multiple, unnecessary and overly complex planning layers and processes which will create significant added costs and delays for development.

Submission

1.0 Suburban Estates Ltd (SEL)

SEL are an experienced developer of over 50 years, who have developed over 1600 sections since 2010. In the past we have successfully obtained zone changes for land which has included versatile soils (defined as Land Use Capability Class 1 and 2 land). None of the land SEL has ever developed was being (at that time) utilised for economic rural use, it was always hobby farmed (horses etc). In our experience, particularly at and close to the rural/urban boundary, there is rarely a direct or clear relationship between the land use capability class and the actual or potential productive use of the land. Generally the land parcels are too small¹, land values too high for economic production and

¹ 4 ha is the minimum permitted lot size for rural subdivision in the Greater Christchurch area. This is too small to support economic farming.

potential reverse sensitivity issues with neighbouring urban uses limit any realistic prospect of intensive production.

We are mindful of good soils BUT are also aware of research which proves the amount of soils for production is not affected by land development. We understand that the NPS-HPL has been prompted by concerns regarding loss of elite market gardening soils in South Auckland to urban development. We question whether a nationwide response is necessary to this 'local issue' given that the relationship between urban development, rural subdivision and the status of rural land as highly productive is so variable across NZ.

In the Greater Christchurch context the majority of land is Land Use Capability Class 1-3. Class 1-3 land is not a scarce resource. The majority is held in 4 ha parcels (the minimum lot size in the rural zones surrounding Christchurch) which is too small for economic farming. This land is not highly productive despite its LUC status and is in effect used for rural lifestyle purposes (as reflected in the NPS-HPL definition of Rural Lifestyle – lots in 0.2 – 8 ha size range which we support).

We set out our key concerns/comments on the proposed NPS-HPL below. We start with the section 5.5 Interpretation definition of HPL – as we consider this is the single most concerning feature of the NPS-HPL and we strongly oppose it.

Our overall over-riding concern is to ensure that the NPS-HPL does not have perverse adverse outcomes, contrary to the purpose of the NPS-HPL. **It must not result in areas being protected where there is no need to protect and/or the cost of protection is higher than the benefits of enabling development. A blanket protection could lead to a further restriction in land supply for urban growth and an increase in land prices, directly contradicting the government's affordability policy.** In the Greater Christchurch context, it could 'push' development well beyond the edge of existing townships which are for the most part surrounded by LUC 1-3 land, contrary to existing urban consolidation objectives.

2.0 Section 5.5 Interpretation – Definition of HPL & Rural Lifestyle

We strongly oppose part b. of the proposed definition of HPL. This is the 'interim' definition of HPL which will apply until HPL is defined by regional councils within 3 years of the NPS-HPL being gazetted (in our opinion HPL should be defined by district councils in accordance with criteria and overall policy guidance set at regional level).

We request that b. be deleted in its entirety. The productivity of land is influenced by a wide range of factors not just soil type - the proposed interim definition will result in land being protected as HPL where it clearly is not and cannot function as such. The definition will include, for example a 2 ha parcel which contains 50% i.e. 1 ha of Class 1, 2 or 3 soils.

The definition is inconsistent with the proposed definition of 'rural lifestyle development' (which we support) which includes land in parcels up to 8 ha in area regardless of soil type.

There is no need for an interim definition of HPL given that the NPS-HPL objectives are to be implemented from the date when the NPS-HPL is gazetted. This gives a clear directive that HPL is to be protected from inappropriate subdivision, use and development.

The exclusion from the definition of HPL under c. should also include rural lifestyle areas that have been identified as a future rural lifestyle zone in a district plan or proposed district plan; and preferred future urban and rural lifestyle areas identified in an adopted non statutory planning document approved under the Local Government Act prior to the NPS-HPL being gazetted. This is

necessary given that significant investment decisions have been made in reliance on such documents, and productive potential has already been considered as a factor in determining their suitability for urban or rural lifestyle use. In the Greater Christchurch context, some future urban areas not yet zoned were first identified in the Canterbury Regional Policy Statement Change 1 notified in 2007 (including land at Kaiapoi owned by SEL).

We support the definition of Rural Lifestyle as lots in the 0.2 – 8ha size range. Lots within this size range are well below the minimums necessary for economic farming, even where comprising LUC Class 1-3 land.

3.0 Overall purpose of the proposed NPS-HPL

- We support the stated overall purpose of the NPS-HPL, including that the objective is not to provide absolute protection of highly productive land. However, we are concerned that the proposed provisions will not achieve the stated overall purpose for the reasons outlined below.
- We seek that the stated overall purpose is made explicit in the NPS-HPL.

3.0 Alternative option for achieving overall purpose – ‘high level’ objective and policy framework in NPS or Regional Policy Statement, HPL defined in District Plans.

- An alternative approach for achieving the overall purpose would be to add the following as a matter of national importance under s6 of the RMA:-

The protection of highly productive land from inappropriate subdivision, land use and development

Regional policy statements would provide the overall ‘high level’ objective and policy framework for protection of HPL, and criteria for defining HPL. HPL should be defined in district plans for the reasons outlined in this submission.

4.0 Definition of HPL and by whom?

As outlined above, we consider that HPL should be defined in district plans, not at the regional level. This is critical to ensure that its status as HPL can be contested, there is flexibility for responding to changed circumstances, and to enable private plan change requests for developments on HPL.

Contestability is critical given that:-

- the definition of HPL is not absolute. It depends on many factors, which are locationally specific and ‘subjective’ requiring a judgement as to their relevance and importance – as evidenced by the complex criteria listed in the NPS-HPL which it acknowledges include more ‘subjective’ optional criteria (availability of water and water quality issues and constraints – which in some circumstances restricts or prohibits intensive production; access to labour and transport routes; availability of supporting infrastructure; current land cover and uses and associated benefits).
- the availability and feasibility of alternative options for enabling urban or rural lifestyle growth, including intensification is not absolute and requires value judgements – in the Greater Christchurch context, greenfield growth is restricted in the recently approved Our Space growth strategy in favour of CBD and inner city intensification notwithstanding slow uptake, lack of demand (especially for CBD residential), questionable development feasibility and resistance from existing communities concerned with adverse amenity effects.

- In the context of the above, whether or not there is a shortage of development capacity to meet demand, which therefore justifies use of HPL, is not absolute (as required by proposed Policy 3).

If HPL is defined at the regional level, any changes can only be initiated by regional councils, at their initiative or in response to territorial authority requests which they support. The ten yearly review of regional plans and regional policy statements is simply too slow to respond to changed circumstances including market needs, or other meritorious proposals. This can only be effectively achieved if private plan changes to district plans are possible.

4.0 Objectives and Policies

We consider that if the proposed NPS-HPL objectives and policies are to be retained, then the role for regional councils in implementing the NPS-HPL would be to provide and maintain appropriate data bases including attributes that contribute to HPL eg. soil quality, climate data, and economic assessment of the contribution of HPL to the regional economy.

The following amendments are sought if the objectives and policies are to be retained.

Objective 3:

Delete:-

- ~~Avoiding uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process.~~

This is in direct conflict with the NPS-UD proposal to direct local authorities to consider private plan change requests for out of sequence locations and locations outside areas identified for urban development (in FDSs) where particular conditions are met – which we strongly support.

Policy 1: Identification of highly productive land:

Amend:

HPL excludes:

- Urban **and rural lifestyle** areas; and*
- Areas that have been identified as future urban **and rural lifestyle zones** in district plans, **and preferred future urban and rural lifestyle areas identified in an adopted non statutory planning document approved under the Local Government Act prior to the NPS-HPL being gazetted.***

*Policy 3: New urban **and rural lifestyle** development on highly productive land*

Amend Policy heading as above. Amend as below.

*Urban **and rural lifestyle** expansion must not be located on highly productive land **which is significant for its ability to sustain food production** unless:*

- ~~*There is a shortage of development capacity to meet demand (in accordance with NPS-UDC methodologies and definitions);*~~
- ~~*b. it is demonstrated to be the most appropriate option based on a consideration of:...*~~

Rationale:

Highly production land should only be considered for protection if it is significant for its ability to sustain food production. a. is not necessary if the cost:benefit analysis required under b. establishes that this is the most appropriate option.

Policy 4: Rural subdivision and fragmentation

Delete:-

- c. ~~directing new rural lifestyle development away from areas of highly productive land.~~

And replace with:-

- c. **Making ample provision for large lot (0.1-0.3 ha) and rural residential living opportunities (in 0.3 – 1 ha size range) to meet demand**

Rationale:

Criteria for consideration of rural lifestyle development is better addressed under Policy 3 as above. In the Greater Christchurch context, smart growth planning (urban consolidation and intensification along transport routes) has resulted in **no** provision for large lot residential and very limited provision for rural residential opportunities. Needs of families, including intergenerational families, are simply not being met, and those wanting more space often have no option but to purchase 4 ha blocks, which are hard to manage and maintain (given the scarcity of large and rural residential lots they are highly priced). Further rural fragmentation will be reduced if realistic provision is made for large lot and rural residential living opportunities.

Policies 5-7

These relate to reverse sensitivity effects, and consideration of private plan change requests and resource consents. We do not consider national policy direction is necessary. The listed matters are already considered as a matter of course in the context of plan change and resource consent applications.