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Water and Land Use Policy Team

Ministry for the Environment

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**Feedback regarding: Managing the use and development of highly productive land: Potential amendments to the National Policy Statement for Highly Productive Land (NPS-HPL)**

We appreciate the opportunity to provide feedback to the potential amendments to the NPS-HPL.

There are two issues with which feedback is being sought. They are that there is no 'clear consent pathway' for two types of development: new specified infrastructure on highly productive land ('HPL'); and secondly, for developing and relocating intensive indoor primary production and greenhouses on HPL.

Our view is that given the two issues are relatively similar in that both seek a 'clear consent pathway' to particular outcomes, we believe that the amendments should be treated consistently. That is, that the NPS-HPL is amended to allow clear consent pathways for resolving both issues and the respective outcomes obtained; **or**, that the NPS-HPL is not amended until further information can be obtained on both issues.

**Issues for discussion**

Issue 1: The lack of clear consent pathway for construction of new specified infrastructure on HPL in clause 3.9(2)(j)(i). [In particular the construction of more renewable energy infrastructure i.e. solar farms]

Clause 3.9(2)(j)(i) states:

*A use or development of HPL is inappropriate except where at least one of the following applies to the use or development, and the measures in sub-clause (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 HPL: (i) the maintenance, operation, upgrade, or expansion of specified infrastructure:*

Options: amend the clause, or, leave as is.

Government's preferred option and why [taken from consultation document]:

*The preferred option is to amend the NPS-HPL to clarify how new specified infrastructure should be provided for on the HPL. Amend clause 3.9(2)(j)(i) to provide a consent pathway for the use and development of new specified infrastructure by including the word 'construction.'*

*It provides a simple solution for a needed pathway, achieves balance between protecting HPL and providing local needs; improves alignment with national direction, provides scope for councils to address the increased need for REG on HPL and is the simplest method to address the issue.*

New Zealand needs to build a substantial amount of renewable energy capacity over the next 15 years to support a 100% renewable energy option. Government has set into law a target for net zero greenhouse gas emissions by 2050 (except for biogenic methane). A Transpower Monitoring Report (2023) suggests that the amount of HPL that could potentially be used for solar farms based on current applications stands at less than 1% of all HPL (if all were located on HPL).

Effect of amendment:

This would provide for development pathway for renewable energy generation (REG) on HPL and for infrastructure needed at pace. This amendment would make it easier to develop solar farms on HPL rather than lower grade industrial area or urban areas. Rural land is cheaper and easier to develop solar and doesn't affect the soil resource – although it does decrease the potential of land based primary production.

Issue 2: The lack of clear consent pathway for developing and relocating intensive indoor primary production and greenhouses on HPL.

Context for this issue: The definition of land based primary production in the NPS-HPL prioritises HPL for use in land-based production, activities that use and rely on the soil. The National Planning Standards, however, provide a wider scope for activities as 'primary production.' Some stakeholders have argued that the NPS-HPL should specifically allow for their activities (such as intensive indoor primary production and greenhouses) because they are identified as operations that ought to occur in the rural environment.

Under the current NPS-HPL primary sector stakeholders have indicated that viable options for these activities are now limited to rural zoned land that are not HPL, particularly in districts where rural zones are predominantly HPL; and that locating intensive indoor primary production and greenhouses on land that is *not* HPL was not economically viable.

We note that historically, intensive primary indoor production and greenhouses have been located on flat land with suitable climate, which is often LUC class 1 to 3 for reasons such as: land is cost effective; closer to labour markets, transport routes, nutrient soil management and discharge infrastructure; land in non-rural areas may be less available and subject to bio-security risks or reverse sensitivity effects, including noise, light pollution, odour and truck movements.

The projected vulnerability of the primary sector as identified in the National Adaptation Plan 2022 to the impacts of climate change may warrant some high value crops such as leafy greens to utilise greenhouses for protection from the elements. Enabling a range of primary production activities also helps enable a more diverse primary sector, which is more inherently more resilient to natural disasters and economic shocks.

Options: Retain the NPS-HPL as currently drafted, or, provide a (bespoke) consent pathway for both intensive indoor primary production and greenhouses in clause 3.9 of the NPS-HPL.

Government approach to proposed options: [taken from consultation document]

*There is limited evidence of the extent of this issue given the short time since the NPS-HPL came into effect. MfE and MPI have no preference for presented (option 2) over maintaining the status quo (option 1) at this time. The issues raised by stakeholders may have merit, climate change resilience and supporting the food production sector need to be balanced against the need to protect HPL (a finite non-renewable resource).*

Effect of retaining status quo: no amendment to the NPS-HPL.

### **Discussion regarding approach to issues:**

#### **1. An inconsistent approach to the issues.**

It appears that expanding renewable energy infrastructure appears to be more important than the potential diversification of the primary sector industry; even

though *both* activities if allowed on HPL would run contrary to the one objective of the NPS-HPL which is: HPL is protected for use in land-based primary production, both now and for future generations.

2. An apparently unbalanced approach to what is considered 'national direction.'

The other perceived inconsistency is what form of national direction is acceptable or more important. The increased flexibility to allow for renewable energy infrastructure is said to align with national direction, particularly with amendments to the NPS REG and NPS-ET, and the Government's climate change commitments including 100% renewable electricity generation by 2030. However, the National Planning Standards (which widely defines 'primary production') is also a form of central Government direction intended to provide national consistency for the structure, form, definitions and electronic accessibility of the Resource Management Act (RMA) plans and policy statements to make them more efficient and easier to prepare and use.

3. The impact of climate change

The far-reaching impacts of climate change are highlighted with these two issues, yet the level of importance seems to lean towards addressing one impact but not the other. To address the climate crisis there is a need to reduce emissions and increase the build and use of renewable energy alternatives. Renewable energy alternatives are key to reducing emissions, and considered to be part of the energy shift that all sectors in New Zealand will need to adjust to. On the other hand, climate change and extreme climate events have highlighted the vulnerability of soil based primary industries to the weather – thereby highlighting the need for more resilient practices. This could be in the form of more innovation, better adaptive practices and seeking alternatives such as greenhouses.

4. The need for more evidence and/or data

Whilst there is data available that may indicate the number of consents being sought to develop renewable energy infrastructure such as solar farms, it is arguable that by allowing the inclusion of the word 'construction' within clause 3.9(2)(j)(i) would lead to applicants applying for only solar/renewable energy infrastructure. On the other hand, the reasoning for retaining the status quo in relation to intensive indoor primary production and greenhouses is to obtain/consider more evidence. This is despite that 'historically'<sup>1</sup> the development of intensive indoor primary production and greenhouses has been

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<sup>1</sup> The statement of what constitutes 'historical' was taken from the Regulatory Impact Statement for Potential amendments to the NPS-HPL.

on land that is often HPL, and that the sectors have established ancillary activities to ensure safe and optimal function of their operations.

### **Potential impact on our District and Council**

Our Council is aware of and supports the national direction for more renewable energy infrastructure, and the imperative need to address climate change through reduced emissions. Our District Plan is generally permissive towards the development of renewable energy infrastructure, although the uptake is low. We also note that there are no applications for any solar farms on our District.<sup>2</sup>

We note that some Councils who contributed to the Regulatory Impact Statement for these proposed amendments had different key priorities that influenced their feedback. For instance, we noted that urban councils did not consider amendments necessary whereas those with larger areas of HPL were more supportive of revisiting the clause 3.9 exceptions. Our Council, similarly, must consider the HPL in our district, and how we can align with national priorities.

Our District has various pockets of HPL around the district, with over half located in the eastern side of the Western Bay of Plenty. This is also home to a significant percentage (approximately half) of the New Zealand kiwifruit industry. The agriculture, forestry and fishing sector are the biggest driver of the economy in our District (mainly kiwifruit and avocado production) contributing almost 20% to the District's Gross Domestic Product (GDP). These sectors also contribute significantly to the local economy, jobs and community. It is therefore important to us that there is flexibility within the NPS-HPL to ensure that there is opportunity to diversify, adapt and pursue activities that can further these sectors. This is not only about economic growth, but also (perhaps more importantly) building more resilient crops/practices that contribute to food security. The need for climate resilience was highlighted earlier this year when millions of crops including maize, kiwifruit and avocado were lost to storms and hail events.

These proposed amendments to the NPS-HPL may seem to address different issues for different reasons, but as we've outlined above, we believe they are both linked to a similar issue of climate change, and basically seek better outcomes for our communities, just in different ways. It also appears that because these issues have been raised by stakeholders only one year into the NPS-HPL being operative, it highlights the practical application of the NPS-HPL and how it may need to be changed.

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<sup>2</sup> See Regulatory Impact Statement for Appendix 4 for applications for solar farms.

Therefore, our view is that given the two issues are relatively similar in that both seek a 'clear consent pathway' to a particular outcome, we believe that the amendments should be treated consistently. That is, that the NPS-HPL is amended to allow clear consent pathways for resolving both issues and the respective outcomes obtained; **or**, that the NPS-HPL is not amended until further information can be obtained on both issues.

We thank you for this opportunity to provide feedback on these potential amendments and would be happy to discuss further if needed.

Yours sincerely,



James Denyer

**Mayor**

Western Bay of Plenty District Council