



TE KŌKIRINGA TAUMATA
NEW ZEALAND PLANNING INSTITUTE

FEEDBACK ON POTENTIAL AMENDMENTS TO THE NATIONAL POLICY STATEMENT - HIGHLY PRODUCTIVE LAND

31 OCTOBER 2023

Submission of Te Kōkiringa Taumata | New Zealand Planning Institute
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Planning is essential to achieving a better New Zealand

Te Kōkiringa Taumata | New Zealand Planning Institute (NZPI) is the voice of planning in New Zealand. It is the professional organisation representing this country's planners, resource managers, urban designers, and environmental practitioners.

Planners have a critical role in shaping New Zealand's future by helping to develop solutions to key issues, such as population growth, infrastructure needs, pressure on natural resources and environments, demographic change, and transport.



INTRODUCTION

1. Te Kōhiringa Taumata | New Zealand Planning Institute (NZPI) welcomes the opportunity to present this feedback on potential amendments to the National Policy Statement – Highly Productive Land (NPS-HPL). NZPI has been observing implementation of the NPS-HPL over the last year and welcomes amendments to address implementation issues.

SPECIFIED INFRASTRUCTURE

2. NZPI agrees that there is a current gap in the NPS-HPL for the construction of new specified infrastructure that is not covered by a notice of requirement or designation. This gap arises because the list of activities in clause 3.9(2)(j)(i) includes maintenance, operation, upgrade, and expansion, but makes no reference to construction, establishment, building, development or other term that refers to creating new infrastructure.
3. NZPI members, both council planners and consultant planners, have raised the issue of the lack of a clear consent pathway for the construction of new specified infrastructure with NZPI, particularly in relation to telecommunications and solar farms. Solar farms are important to meet NZ's emission reductions targets and to enable the transition to clean electricity generation, so a clear consent pathway is important. In this regard, the interaction of the NPS-HPL and the NPS-Renewable Electricity Generation (NPS-REG) needs to be clear, and NZPI encourages alignment between the work on the amendments to the NPS-HPL and the work on the changes to the NPS-REG that were consulted on earlier this year.
4. As part of preparing this submission, NZPI has discussed implementation issues for solar farms with Clean Energy New Zealand. The submission by Clean Energy New Zealand on the potential amendments to the NPS-HPL provides helpful examples of implementation issues around Aotearoa, and NZPI recommends these examples are given weight when the amendments are considered.
5. In relation to questions 2, 3 and 4 of the discussion document for this consultation, NZPI considers that the NPS-HPL does need to be amended to provide a clear consent pathway for new specified infrastructure, and prefers option 2, which would see the word 'construction' added to clause 3.9(2)(j)(i). We understand this would result in the following amendment:

"The construction, maintenance, operation, upgrade, or expansion of specified infrastructure".

6. Question 1 of the discussion document asks if there are any other issues that could impede the development of new specified infrastructure on HPL. NZPI agrees with the comments made in the Clean Energy New Zealand submission in relation to the interpretation of 'productive capacity' and the requirement to 'minimise or mitigate' losses. NZPI also agrees that education and training of practitioners is an important part of improving implementation.
7. NZPI has made observations relating to the structure of the national direction that could result in more consistent application of the policy intent and smoother consent pathways for specified infrastructure, which we discuss below.



8. The NPS-HPL imposes a strict policy approach to inappropriate development on HPL ('avoid' unless an exception applies), but also appears to leave discretion to territorial authorities on how this is achieved locally, as each territorial authority is required to develop their own objectives, policies and rules to give effect to the policy approach and exceptions in their district plans. However, NZPI has received feedback from members that in reality, there is very little ability to be locally-specific about the application of a strict policy approach with specific, prescribed exceptions. An alternative approach would be to require clause 3.9 to be included directly within district plans without the need for a Schedule 1 process (with some wording modification to make the provisions appropriate for district plans), and to use the NPS or a National Environment Standard to impose rules that give effect to the policy approach in clause 3.9, including the considerations required by subclause (3).
9. We provide an example of this approach for solar farms. The discussion document states that the amount of HPL needed for solar farms is likely to be less than 1 percent of the total HPL in Aotearoa. This should be a sufficient basis for a policy decision at the national level that it is okay to lose this amount of HPL for the benefits provided by solar farms. This would remove the need for case-by-case considerations of whether solar farms are appropriate on HPL and what the extent of loss of productive capacity is in each case. This policy could be stated in the NPS, along with rules that make solar farms on HPL a controlled or restricted discretionary activity, with a focus in the matters of control or discretion on local issues, rather than whether there is a need to mitigate the loss of HPL. This approach requires decision-making at the levels that NZPI considers appropriate: local issues related to a particular project considered at a local level, and national considerations about how much HPL can be given up for nationally important renewable electricity generation made at the national level.
10. We note that NZPI has called for greater national coordination for nationally important issues in our submissions on RM Reform. In the case of solar farms on HPL, national spatial planning that coordinates the location of areas of HPL that can be available for solar farms, combined with some sort of quota or allocation mechanism for those areas, would support the approach identified in paragraph 9 above.
11. If the NPS-HPL were to remain structured as it is, another way to improve consistent application is to include more explanation and examples for the important terms and directions in the provisions within the NPS itself, and not leave this for the guidance document. For example, the list of criteria to consider in the assessment of minimising or mitigating under sub-clause (3) on page 32 of the guidance could be included within the NPS itself.

INTENSIVE INDOOR PRIMARY PRODUCTION AND GREENHOUSES

12. NZPI has received less feedback on Issue 2, compared to Issue 1. However, the explanation in the discussion document and supporting regulatory impact statement make a case for the issues arising from not providing a clear consent pathway for intensive indoor primary production and greenhouses.
13. The discussion document states that providing a specific pathway is considered to be misaligned with the original intent of the NPS-HPL to exclude these activities from HPL. At the same time, the



discussion document identifies that there are limited opportunities to locate these activities on other types of land. NZPI considers that the NPS-HPL should be holistic in its approach and consider how conflicts between competing issues can be resolved, rather than having a singular purpose that may have unintended consequences. Providing a clear pathway for indoor primary production and greenhouses would be a way to resolve one such conflict.

14. The discussion in the regulatory impact statement suggests that intensive indoor primary production and greenhouses are important for feeding our country and the risk to loss of HPL from providing a consent pathway does not appear to be significant. Balancing the loss of HPL from these activities against the benefits of providing for them suggests that an amendment is warranted. On this basis, in response to question 1 of the discussion document, NZPI supports specific provision for these activities as this would provide clarity and be helpful for implementation. In response to question 2, the analysis in the regulatory impact statement suggests the risk of amendment is low.
15. In relation to questions 3, 4 and 5 of the discussion document, NZPI does not support option 1 (status quo) for the reasons specified above, and we do not support option 2 (a pathway under clause 3.9). Providing for indoor primary production and greenhouses as an exception in clause 3.9 of the NPS-HPL suggests that these activities are prima facie inappropriate on HPL. We do not think this should be the starting point for activities that are primary production activities. The tests of operational and functional need and minimising and mitigating the loss of HPL are not appropriate to apply to indoor primary production and greenhouses. These tests are set up for activities that are not primary production. In response to question 5, we consider that the most appropriate amendment to the NPS is to include indoor primary production and greenhouses as part of the definition of land-based primary production, so they are treated in the same way as land-based primary production. This addition could be very specific, for example, *“as well as indoor primary production and greenhouses”*.

CLOSING

16. NZPI would be happy to further discuss the content of this submission.
17. Contact details: Emily Grace, Principal Policy Advisor
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