

Changes to the National Policy Statement for Highly Productive Land 2022

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Introduction

1. The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) provides national direction for the management of highly productive land (HPL) under the Resource Management Act 1991 (RMA).
2. In August, the Minister for the Environment announced a series of amendments to the NPS-HPL under section 53(1) of the RMA. These amendments took effect on Saturday 14 September 2024 and will be of particular interest to those in the primary sector.
3. The amendments have expanded the scope of activities and development that can occur on land that has been designated as HPL. These expansions mean that HPL can now be used for:
 - (a) intensive indoor primary production;
 - (b) greenhouse activities; and
 - (c) construction of new specified infrastructure
4. The effect of these amendments is to remove a significant barrier to obtaining resource consent for these activities on HPL, which does not appear to have been anticipated when the NPS-HPL first came into effect.

Activities which are no longer deemed *inappropriate*

5. The NPS-HPL seeks to protect HPL from inappropriate use and development. It does this by treating all uses of land as inappropriate unless they can meet at least one of a litany of exceptions. The difficulty with this approach is that if the activity was not already permitted by the relevant District Plan and not included in the list of exceptions, then a developer would be effectively barred from carrying out that activity.
6. That proved a significant barrier for the activities described above given that they are generally located in the rural zone, but not included in any of the exceptions. That has now been clarified. Intensive indoor primary production and greenhouse activities are now expressly included in the exceptions to inappropriate activities.
7. Intensive indoor primary production is defined as primary production activities that principally occur within buildings and involve growing fungi, or keeping or rearing livestock (excluding calf-rearing for a specified time period) or poultry.¹ This includes the initial ancillary processing of the commodities that result from the listed activities but excludes the further processing of those commodities into different products. For example, this could include the grading and packing of eggs produced from free-range poultry farming

¹ National Policy Statement for Highly Productive Land 2022 (amended August 2024), definition of *intensive indoor primary production* at 1.3.

8. Greenhouse activities means the growing of plants inside structures that are predominantly enclosed by glass or other transparent material, regardless of reliance on the soil resources of the land.² These types of activities naturally occur in the rural environment but may be reliant on specific soils which are brought onto a site, as opposed to the soil on the land itself.

Expansion of the definition of Specified Infrastructure

9. The allowable activities for specified infrastructure have widened. By way of a refresher, specified infrastructure is infrastructure that:
 - (a) delivers a service operated by a lifeline utility;³
 - (b) is recognised as such in a relevant plan in a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan;⁴ or
 - (c) is public flood control, flood protection, or drainage works.⁵
10. The previous wording of the NPS-HPL meant that it was unclear whether the construction of new specified infrastructure, such as solar farms, was allowed on HPL. An evaluation under section 32 of the RMA⁶ had suggested that new specified infrastructure could otherwise be constructed through a designation or notice of requirement under the RMA.
11. This posed a problem for people wanting to establish small-scale distributed generation, like a backyard solar array or to provide power in remote rural environments. Such activities did not meet the criteria identified above, which are generally reserved for Council's, energy generators or large-scale infrastructure providers.
12. The allowable activities on HPL related to specified infrastructure has been expanded, and allows for:

the development, operation, or decommissioning of specified infrastructure, including (but not limited to) its construction, maintenance, upgrade, expansion, replacement, or removal.

² Ibid, at definition of greenhouse activities.

³ Civil Defence Emergency Management Act 2002, s 4.

⁴ These relevant plans are a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan.

⁵ Carried out in accordance with s 1.3(c) NPS-HPL

⁶ National Policy Statement for Highly Productive Land Section 32 evaluation report under the Resource Management Act, available at URL: : <https://environment.govt.nz/assets/publications/NPS-for-Highly-Productive-Land-Section-32-Evaluation-Report.pdf>

What Does This Mean for You?

13. It is important to note that these changes do not mean that intensive indoor primary production, greenhouse activities, and the construction of specified infrastructure are now permitted on HPL. Instead, these activities are now listed as “not inappropriate”. But even so, these small changes have removed a barrier to obtaining resource consent for these activities which had been causing headaches for developers and infrastructure providers alike.
14. These targeted changes represent the beginning of the Government’s work “to drive primary sector productivity”,⁷ with further changes to the NPS-HPL promised to be announced in the Government’s Housing Phase 2 package.⁸
15. If you would like to discuss any matters in this article, or the use of highly productive land, contact one of our Resource Management experts

⁷ <https://www.beehive.govt.nz/release/rma-reform-phase-two-priorities-and-plan>

⁸ <https://www.beehive.govt.nz/speech/speech-local-government-new-zealand-conference>