



## **Practice and guidance note**

National Policy Statement for Highly Productive Land 2022  
(NPS-HPL) and Subdivision in Southland District

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## Document Revision

Version	Amendment	Amended by	Approved by	Approval date
RC 02.0.02	FINAL		Daniel Kinnoch	10/06/2024

## 1. Introduction

This practice and guidance note provides guidance on the application of the [National Policy Statement for Highly Productive Land 2022](#) (NPS-HPL) in the Southland district specific to subdivision. It specifically addresses:

- i. **Whether a more specific report on Land Use Capability (LUC) classes 1, 2, or 3 land overrides the NPS-HPL:** No, LUC mapping determines the application of the NPS-HPL, with site-specific soil assessments providing additional information for consideration.
- ii. **Application of the permitted baseline:** The permitted baseline is unlikely to apply to subdivision applications under the Southland District Plan (SDP).
- iii. **Application of the receiving environment:** The receiving environment must be considered, however a precautionary approach should be taken when considering the likelihood of change to the environment as a result of permitted activities, and effects on highly productive land under the SDP and NPS-HPL.

## 2. NPS-HPL Context

The NPS-HPL aims to protect highly productive land (HPL) for land-based primary production<sup>1</sup>, both now and for future generations. It achieves this through policies and implementing clauses that direct local authorities to:

- i. **Map HPL:** Environment Southland (ES) is required to identify HPL within their Regional Policy Statement (RPS) and provide maps of all the land in its region that is HPL by October 2025. Once operative, Southland District Council (SDC) is required to insert the maps into the SDP within 6 months.  
  
Currently, the Southland district is in a transitional phase, using a definition based on LUC classes 1-3 within the General Rural Zone as a proxy for HPL<sup>2</sup>. The mapping relied upon is per the New Zealand Land Resource Inventory (NZLRI), with mapping found here.
- ii. **Avoid subdivision and protect against inappropriate land use and development:** The NPS-HPL directs councils to avoid activities that fragment HPL, reduce its productive capacity, or create reverse sensitivity effects on land-based primary production.
- iii. **Provide for appropriate activities:** Certain activities, like those supporting land-based primary production, addressing public health and safety risks, or providing for matters of national importance, may be appropriate on HPL, subject to specific conditions.

<sup>1</sup> Under the NPS-HPL, **land-based primary production** means production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land

<sup>2</sup> Clause 3.5(7) of the NPS-HPL. LUC 1, 2, or 3 land means land identified as Land Use Capability Class 1, 2, or 3, as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification.

### 3. Southland District Plan

Currently the SDP contains a definition of “high-value soils” which aligns with the LUC approach under the NPS-HPL. High-value soils under the SDP are defined as:

“...soils which are known to be highly productive, suitable for multiple uses such as growing a wide range of crops, pasture and forest, and of high versatility for pastoral [farming](#). Classification of soil as ‘high value’ also relates to current and likely future use, and ability to support production in a practical sense. High-value soils include soils classified as Classes 1, 2 or 3 in the New Zealand Land Resource Inventory (NZLRI).”

The SDP has several objectives and policies relating to high-value soils, soil management and productive land value in the General Rural Zone, including:

#### SUB-P4

Recognise the benefits of a compact urban form and infill [subdivision](#) that provides for:

- i. The protection of the [high-value soils](#) in the [GRUZ - General Rural Zone](#).
- ii. The effective connection and efficient use of existing [infrastructure](#), including reticulated utility services and the transport network.

#### SUB-P5

Recognise that [rural-residential subdivision](#) may be appropriate in locations where:

- i. [Allotment](#) size, shape and configuration maintain an open rural character.
- ii. Soils are not identified as being of high value.
- iii. [Sites](#) are not subject to significant risk from [natural hazards](#).
- iv. Integration can be achieved with existing available reticulated utility services and transport [infrastructure](#).
- v. Consolidation can be achieved within and around existing residential areas.

#### GRUZ-O1

[Subdivision, land](#) use and development in the General Rural Zone shall be undertaken in a manner that maintains the life-supporting capacity and productive value of the [land](#) resource.

#### GRUZ-P4

[Subdivision, land](#) use and development shall be undertaken in a manner that:

- i. Promotes sustainable [land](#) use and soil management practices.
- ii. Maintains the life-supporting capacity and productive value of the [land](#) resource.
- iii. Avoids or mitigates erosion, sedimentation and instability of soils, particularly on hill country [land](#).

#### GRUZ-P5

Recognise that [rural-residential](#) activity may be appropriate in locations where:

- i. Soils are not identified as being of high value.
- ii. Integration can be achieved with [infrastructure](#) and transportation networks.
- iii. [Sites](#) are not subject to significant risk from [natural hazards](#).

- iv. **Allotment** size, shape and configuration maintains open rural character.
- v. Consolidation can be achieved within and around existing residential areas and Rural Settlement Areas.

Within the General Rural Zone there are no subdivision rules or performance standards that specify minimum lot sizes. However, the above provisions in the SDP provide for the protection of high-value soils and maintenance of the productive value of land.

Under the SDP, subdivision applications in the General Rural Zone need to be assessed against the NPS-HPL where there is scope to do so. Currently the SDP does not provide scope to consider highly productive land for permitted subdivision under SUB-R1 or controlled activity boundary adjustments under SUB-R2. If there is scope to consider high-value soils and HPL, which includes any fully discretionary or non-complying subdivision activity, then the NPS-HPL must be addressed.

## 4. Specific Land Use Capability Reports

### 4.1. LUC 1, 2, and 3 Classification under NZLRI Applies Despite More Specific Reports

During this transitional phase, the NPS-HPL applies to land identified as LUC 1, 2, or 3 in the NZLRI or through more detailed Council mapping using the LUC classification system. At this stage, more detailed mapping using the LUC classification system does not exist, and therefore the NZLRI must be used.

Even if a site-specific land use capability report is submitted with a subdivision application and presents a different classification, the interim LUC 1, 2, and 3 classification is the determining factor for identifying whether the land (either an entire land parcel or part of a land parcel) meets the definition of HPL under the NPS-HPL, and therefore whether the NPS-HPL must be addressed. This ensures consistency and avoids potential bias for site-specific assessments during the mapping process.

However, a more specific report can be valuable (and may be necessary to support an application) and can be considered under section 104(1)(a) and 104(1)(b)(iii) of the RMA. It can provide additional information about the productive capacity of the land, which is relevant when assessing the potential effects of subdivision, land use and development on HPL.

### 4.2. Minimum Information Requirements for Specific Land Use Capability and Productive Capacity Reports

The direction under the NPS-HPL that subdivision of HPL be “avoided”, apart from the specific exceptions in the NPS-HPL, is intended to provide a stringent approach for any subdivision proposal on HPL to avoid further fragmentation of this finite resource.

Where an applicant seeks to demonstrate that their site is not highly productive and/or is relying on either:

- (a) Clause 3.8(1)(a) of the NPS-HPL and considers the proposed lots will retain the overall productive capacity of the subject land over the long term, or
- (b) Clause 3.10 of the NPS-HPL and considers 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;

then a specific report assessing land use capability and productive capacity should be provided.

As a minimum this should include:

- **Methodology:** A clear explanation of the methodology used for the assessment, demonstrating alignment with the Land Use Capability classification system as outlined in the Land Use Capability Survey Handbook (2009).
- **Soil types and properties:** Detailed information on the soil types present on the site, including their physical and chemical properties, drainage characteristics, and limitations for land-based primary production.
- **Slope and landform analysis:** Assessment of the site's topography, including slope gradients, aspect, and any landform features that may limit productive use.
- **Climate data:** Relevant climatic data, such as rainfall patterns, temperature ranges, and frost risk, should be provided to assess the suitability of the land for various land-based primary production activities.
- **Constraints and limitations:** Identification and analysis of any permanent or long-term constraints on the land, such as erosion risk, flooding, contamination, or limited water availability.
- **Opportunities and options:** Current and potential opportunities for using the land for land-based primary production, including the options detailed under Clause 3.10(2) of the NPS-HPL if relying on Clause 3.10.
- **Mapping:** The report should include clear and accurate mapping that delineates the different LUC classes present on the site, allowing for comparison with the NZLRI LUC mapping, or Council mapping when it exists.

Where an applicant is relying on Clause 3.10 of the NPS-HPL, then economic analysis will also generally need to be provided as part of the evidence base for the impact that the constraint is having on the economic viability of land-based primary production.

### 4.3. Additional considerations

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- **Qualifications and experience:** The report should be prepared by a suitably qualified and experienced professional, such as a certified soil scientist or land resource scientist, with demonstrable expertise in land use capability assessments.
- **Peer review:** Consideration should be given to having the report peer-reviewed by another qualified professional to ensure its accuracy and objectivity. SDC have established a panel of consultant specialists to assist with these peer reviews.

## 5. Permitted Baseline and Subdivision

Council has discretion to apply the permitted baseline to the assessment of the effects on the environment, and effects on persons, of allowing an activity. The permitted baseline allows disregarding adverse effects if a rule or National Environmental Standard permits an activity with that effect.

The SDP provides for subdivision as a permitted activity under SUB-R1 (utilising section 226(1)(e)(ii) of the RMA) where allotments are shown separately on an existing survey plan and comply with a number of criteria, including for access, servicing and flood hazards.

Permitted subdivisions under SUB-R1 arise under a specific set of circumstances and are unlikely to be similar in kind and purpose to subdivision applications to create additional allotments in the General Rural

Zone. The effects of the two types of subdivision, particularly relating to land fragmentation and land productivity, are also unlikely to be comparable. Generally, it is considered that the permitted baseline will not be applicable to subdivision applications in the Southland district.

## 6. Receiving Environment Considerations

### 6.1. Understanding the Receiving Environment

The concept of the receiving environment is essentially a reference to “the environment” when assessing the effects of a proposed activity on “the environment” under sections 95D and 104. The receiving environment refers to the existing and reasonably foreseeable future conditions on and beyond the subject site upon which a proposed activity may have effects. This includes:

- **Permitted activities:** Activities allowed as of right under the relevant planning documents, such as the SDP.
- **Lawfully established activities:** Activities that have been lawfully established through existing use rights or granted resource consents, even if they are not currently operational.
- **Unimplemented resource consents:** Consents granted but not yet implemented, where it is likely they will be given effect to in the future.

### 6.2. Assessing Potential Permitted Activities: 'Non-Fanciful' vs 'Fanciful'

When considering permitted activities as part of the receiving environment, it is important to distinguish between what is 'non-fanciful' and what is 'fanciful' under the SDP General Rural Zone rules.

**Non-fanciful:** These are activities that could realistically occur on surrounding properties as of right, based on the current zone rules and the nature of the surrounding environment.

#### Examples:

- Construction of additional dwellings on existing farms or lifestyle properties, within the limits set by the SDP
- Development of farm buildings and infrastructure necessary for farming activities
- Establishment of home occupations or small-scale visitor accommodation, complying with the relevant performance standards in the SDP
- Undertaking earthworks for activities like farm tracks, drainage, or cleanfill within permitted volumes.

**Fanciful:** These are activities that are theoretically possible under the zone rules but are highly unlikely to occur due to practical limitations, economic considerations, or the specific context of the surrounding environment.

#### Potential examples:

Constructing the maximum number of dwellings allowed on the subject site and every surrounding property, regardless of intent of use for staff accommodation, actual demand, or feasibility.

A realistic assessment of the receiving environment is important for a robust evaluation of potential effects. Focusing on 'non-fanciful' permitted activities ensures that the assessment is grounded in the actual context and avoids hypothetical scenarios. This, in turn, allows for a more informed decision on the proposed activity and its potential impacts on HPL.

### 6.3. Relevance of Receiving Environment in an assessment against the SDP and NPS-HPL

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While the receiving environment must be considered in all resource consent applications, including subdivision, it is important to take a precautionary approach when considering the likelihood of change to the environment as a result of permitted activities, and effects on high-value soils/highly productive land under the SDP and NPS-HPL.

Examples of receiving environment scenarios that are unlikely to be supported by SDC include:

#### Scenario 1: Potential Permitted Activities that Could Occur as of Right

**Proposition:** The SDP permits one dwelling per record of title within the General Rural Zone and additional staff dwellings are permitted dependant on the property size (e.g., up to 3 additional staff dwellings on a 151-300 ha site). Therefore, the effects from permitted additional staff dwellings located on the land area within the proposed new lots created by the subdivision should be considered as forming part of the receiving environment. If the total number of dwellings as a result of the subdivision is the same or less than that permitted under the SDP, the subdivision should be considered to have no adverse effects on high-value soils/highly productive land.

**Issues:** This argument attempts to use the permitted activity rule for additional staff dwellings (intended as farm worker accommodation to support farming activities) to justify subdivision of HPL for rural lifestyle purposes. While it is a valid 'potential' receiving environment, the purpose of the land use rule is to support farming activities and not to enable fragmentation of land through subdivision. Establishing additional staff dwellings to support farming activities is considered unlikely to occur on land that contributes positively to the productive capacity of a farm. Further, the effect(s) of land fragmentation via subdivision on the productive capacity of a site are likely to differ from the effects of a land use activity where the land remains in a single allotment and is available to be farmed as a single unit. The NPS-HPL seeks to avoid fragmentation of HPL and conversion to rural lifestyle living and the effects of subdivision on HPL should be appropriately assessed.

#### Scenario 2: Existing Surrounding Environment

**Proposition:** The surrounding area is already fragmented with numerous lifestyle blocks, so further subdivision of the subject site into lifestyle blocks would be consistent with the character of the existing environment.

**Issues:** This argument disregards the NPS-HPL's objective to avoid further fragmentation of HPL. It also ignores the potential for increased reverse sensitivity effects on any remaining land-based primary production activities in the area. The effects of subdivision on HPL should be appropriately assessed.



## 7. Additional Factors for Subdivision Applications

- Subdivision design: The layout, size, and shape of proposed lots are important in assessing potential fragmentation and reverse sensitivity effects.
- Lot sizes: Consider whether the proposed lots are large enough to maintain the predominant use of the land as land-based primary production and avoid a shift towards rural lifestyle living.
- Mitigation measures: Explore options like setbacks, building platform restrictions, and vegetative buffers to minimise reverse sensitivity effects.
- Alternatives: Consider whether the desired outcomes of the subdivision can be achieved through alternative means, like boundary adjustments or lease arrangements, that do not fragment HPL.

## 8. Conclusion

Subdivision of HPL can have significant adverse effects on the availability and viability of land for primary production, as well as on the rural character and amenity values of the district. The SDP has several objectives and policies relating to high-value soils, soil management and productive land value in the General Rural Zone, and the NPS-HPL provides direction for councils to avoid subdivision of HPL and protect HPL from inappropriate land use and development. This practice and guidance note outlines the key considerations and best practices for assessing applications for subdivision on HPL, in accordance with the NPS-HPL and the SDP.

## 9. Additional Information

This practice and guidance note is intended as guidance and should be considered alongside the SDP, NPS-HPL, its [implementation guide](#), and relevant legal advice. For further information and clarification, please consult with the SDC resource consents team.