

Flowchart - Application of the National Policy Statement of Highly Productive Land 2022 (Amended August 2024) (NPS: HPL) to the Pound Road Industrial Development under the Fast-track Approvals Act 2024 (FTAA)

DEFINITION OF HPL UNDER THE CL 3.5(7)

Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this NPS as it references to HPL where references to land that, at the commencement date:

- (a) is
- (i) zoned general rural or rural production; and
 - (ii) LUC 1, 2, or 3 land; but
- (b) is not:
- (i) identified for future urban development; or
 - (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

IS THE SITE HPL AS DEFINED UNDER CL 3.5(7)?

As stated in the legal memorandum (**Appendix 24**) attached to the Application, the Applicant submits that the NPS: HPL does not apply to the Site, as it does not contain HPL as defined under cl 3.5(7). The portion of the Site classified as LUC 2 is not zoned GRZ or RPZ for the purposes of the NPS: HPL because:

- The District Plan's "nearest equivalent zones" to IG and RP under the NPS are RuBP and RuW — not RuUF; and
- The "nearest equivalent zone" to RuF under the National Planning Standards is RuL, which is excluded under the NPS-HPL.

IF NO - THE NPS: HPL DOES NOT APPLY

IF YES – THE NPS: HPL APPLIES TO CLASS LUC 1, 2 OR 3 AREAS ON THE SITE

IS THE APPLICATION UNDERTAKING URBAN REZONING OF HPL?

As discussed in the **AEE** and **Appendix 23** whilst this proposal is for resource consent rather than 'urban rezoning', the Applicant considers the implementation provisions in the NPS: HPL concerned with rezoning (and cl 3.6 especially) provide helpful guidance to this application (insofar that it proposes to urbanise rural land). Those provisions generally discourage urban rezoning of HPL but allow for exceptions under certain conditions. These include existing urban development plans, council-initiated plan changes, and a lack of alternative options for urban development. These exceptions provide flexibility to accommodate necessary urban growth and development when justified.

IF NO – AN ASSESMENT UNDER CL 3.8 AND CL 3.9 IS REQUIRED

DOES THE APPLICATION MEET THE REQUIREMENTS UNDER CL 3.8 AND CL 3.9 OF THE NPS: HPL?

While that the Application does not meet the requirement of cl 3.8(1) of the NPS: HPL, in accordance with cl 3.8(2) of the NPS: HPL, as shown in the Reeftide assessment in **Appendix 20** the proposed development is appropriate and will not compromise the use of the HPL for land-based primary production, both now and in the future. Additionally, the Applicant has introduced mitigation measures to address potential effects on reverse sensitivity. The conditions proposed in the application specifically exclude residential activities, residential units, visitor accommodation and education facilities from the activities sought in the consent.

Cl 3.9 requires that a territorial authority avoid the inappropriate use or development of HPL. A development HPL is inappropriate except where at least one of the exclusions in 3.9(2) apply.

IF YES – AN ASSESMENT UNDER CL 3.6 IS RELEVANT

DOES THE APPLICATION MEET THE REQUIREMENTS UNDER CL 3.6 OF THE NPS: HPL?

The Applicants consider that the Application meets the requirement of cl 3.6 of the NPS: HPL. The economic and industrial land market assessments in **Appendix 16** and **Appendix 17** have established a need for more urban industrial land, with limited alternatives available. An assessment from Reeftide is also included in **Appendix 20**, which concludes that the proposed development is appropriate and will not compromise the use of the highly productive land for land-based primary production, both now and in the future.

IF YES – THE APPLICATION COMPLIES WITH THE NPS: HPL

IF NO – THE APPLICATION IS REQUIRED TO BE CONSIDERED UNDER CL 3.10

DOES THE APPLICATION MEET THE REQUIREMENTS UNDER CL 3.10 OF THE NPS: HPL?

The subdivision, use, or development of land for activities not otherwise enabled under cl 3.7, 3.8, or 3.9 may only otherwise be enabled under cl 3.10. The Applicant considers that the Application meets the cl 3.10 exception as set out in the **AEE** and **Appendix 23**. The assessment of the site's HPL and Soils (**Appendix 20**) confirms:

- The site is not HPL under either the transitional definition or as preliminarily identified by the regional council in its draft HPL maps.
- There are multiple long-term constraints on the capacity of the site to support primary production activities, including a lack of water for irrigation; and
- The proposed development has positive benefits on the environment, because discharges of contaminants and potential adverse impacts on groundwater would be minimised by the development proposal.

It is concluded that the proposed development of the site is appropriate and will not compromise the availability or use of HPL for land-based primary production, both now and in the future.

IF YES – THE APPLICATION COMPLIES WITH THE NPS: HPL

IF NO – THE APPLICATION DOES NOT MEET THE REQUIREMENTS OF CL 3.10

DOES THE APPLICATION ALIGN WITH THE POLICIES AND OBJECTIVES OF THE NPS: HPL?

The Applicant considers that if the Application does not meet the requirements of the NPS: HPL an assessment must be made against the purpose (policies and objective) of the NPS:HPL. The Applicant considers the Application is in alignment with the purpose (policies and objective) of the NPS:HPL. As further discussed in **Appendix 23** and the **AEE** the policies and objective are concerned with a number of issues that aim to protect HPL for use in land-based primary production, ensuring its availability for future generations, except in the limited circumstances provided for in the NPS:HPL. The Reeftide assessment (**Appendix 20**) concludes that the proposed development is appropriate and will not compromise the current or future use of HPL for land-based primary production. Additionally, economic and industrial land market assessments (**Appendices 16 and 17**) demonstrate a clear need for additional urban industrial land, with limited viable alternatives.

IF YES – THE APPLICATION COMPLIES WITH THE NPS: HPL

IF NO – THE APPLICATION DOES NOT COMPLY WITH THE OVERALL PURPOSE OF THE NPS: HPL

SECTION 85 OF THE FTAA: IS NON-COMPLIANCE WITH THE NPS: HPL (AND ASSOCIATED EFFECTS) AN ADVERSE IMPACT THAT IS SUFFICIENTLY SIGNIFICANT TO BE OUT OF PROPORTION TO THE PROJECT'S REGIONAL OR NATIONAL BENEFITS?

If the Panel ultimately determines that the Application is inconsistent with the NPS-HPL, it must assess the resulting effects within the framework of s 81 of the FTAA. Under s 81, the Panel may only decline the Application in accordance with s 85 of the FTAA. The Applicant submits that, in any scenario, the effects associated with non-compliance with the NPS-HPL would not meet the threshold of being "sufficiently significant" under s 85. Under s 85(4), the Panel may not conclude that an adverse effect meets the threshold of "sufficiently significant" solely because the impact is inconsistent with or contrary to a provision of a specified Act or other document. This means the assessment must relate to the actual loss of HPL, rather than the mere fact of inconsistency with the NPS-HPL. The Applicant considers that any adverse effects associated with the loss of HPL would be minor and proportionate when weighed against the regional and national benefits of the Application. The Reeftide technical assessment (**Appendix 20**) finds that *"the proposed development of the Site is appropriate and will not compromise the use of highly productive land for land-based primary productions, both now and in the future. There are no adverse impacts that reach the threshold of a "sufficiently significant adverse impact" such that they need to be taken into account in terms of an assessment under s 85 of the FTAA2024"*

NO – THE PANEL MUST GRANT THE APPLICATION

YES – THE PANEL MAY DECLINE THE APPLICATION