IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Private Plan Change 95 Pencarrow Estate Pongakawa to the Western Bay of Plenty District Plan

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POST HEARING STATEMENT OF REPLY EVIDENCE OF JOEL PERRY [PEDOLOGY AND LAND PRODUCTIVITY]
ON BEHALF OF KEVIN AND ANDREA MARSH

Introduction

1. My full name is Joel James Perry.

2. I confirm my qualifications and experience as set out in my statement of evidence dated 24 October 2024.

3. In addition to this LandVision Ltd nationally has LUC/LRI mapped in excess of 1.2 million hectares of land at paddock scale (1:5,000 to 1:10,000 scale) and is recognised as leaders in this field.

3. I also confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses, as contained in the Environment Court's Practice Note 2023. I confirm that this evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

4. My reply evidence addresses statements made in the evidence of Mr Stuart Ford on behalf of the Western Bay of Plenty District Council (Land Productivity).

NPS-HPL

5. I am clear that LUC classes 1 to 3 from regional scale mapping (1:50,000) determine whether land is classified as triggering the highly productive land legislation. It is noted that 1:50,000 scale mapping is one sample point every 25 ha.

6. Pencarrow Estate (the PC 95 site) was mapped according to the LRI and LUC Handbook Version 3 at 1:6,000 scale (one sample point per 0.36 ha) to provide reliable data for further analysis that is 'actual' rather than 'assumed' under the NZLRI 1:50,000 regional scale mapping.

NPS-HPL – Clause 3.6

7. Clause 3.6 of the NPS-HPL allows territorial authorities to undertake urban rezoning of highly productive land only if the following criteria are met:

(1) (a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and

(b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment;

(c) the environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.

(2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of **reasonably practicable options** for providing the required development capacity, including:

(a) greater intensification in existing urban areas; and

(b) rezoning of land that is not highly productive land as urban; and

(c) **rezoning different highly productive land that has a relatively lower productive capacity.**

NPS HPL – Productive Capacity

8. Productive capacity is defined under Clause 1.3 of the NPS-HPL as …*the ability of the land to support land-based primary production over the long term,* based on an assessment of:

- **physical characteristics (such as soil type, properties, and versatility); and**
- legal constraints (such as consent notices, local authority covenants, and easements); and
- the size and shape of existing and proposed land parcels.

Response to Mr Stuart Ford's Evidence

9. Mr Ford argues that the LUC status alone is a determinant of productive capacity under the NPS-HPL. In my opinion, this is not correct as an assessment of the LUC is not mentioned at all under the definition of productive capacity in Clause 1.3 pursuant to the NPS-HPL (listed above).

10. Further to this, it is clearly documented in all LUC legends the livestock carrying capacities (stock units per hectare) for each LUC unit for the average and top farmers, the forestry site indexes, and land use suitability. In the BOP LUC Legend[1] for example, the stocking rate of 1w1 and 2s2 for the top farmers is

[1] Blaschke, P.M 1985: *Land use capability classification and land resources of the Bay of Plenty – volcanic plateau region: a bulletin to accompany NZLRI Worksheets.* Water and soil miscellaneous publication number 89.

29 su/ha and 32 su/ha respectively. Clearly the class 2 land in this situation has a greater livestock productive capacity potential compared to the class 1 land.

11. Mr Ford also argues that the versatility of use increases with lower LUC status. This is correct, however, this only applies for arable, pastoral and forestry uses. This does not take into consideration other highly productive horticultural land uses such as kiwifruit, avocados and stone fruit, for which the district is renowned for.

12. What is of more importance in determining a land unit's productive capacity is assessing the soil type, properties and versatility as per the definition in Clause 1.3 of the NPS-HPL. Using actual data from land resource inventory mapping (geology, soils, slope, erosion type and severity, and vegetation) collected on-site at 1:6,000 scale provides for liable analysis.

13. Mr Ford, at no point in his statement of evidence, mentions soil types or properties when determining productive capacity and instead relies on the LUC classification system to determine versatility. This in my opinion does not reconcile with the definition of productive capacity set out in Clause 1.3 of the NPS-HPL.

14. Furthermore, it is my opinion that units of land classified under the LUC classification as having a higher LUC status (LUC 3 over LUC 2) can still have a higher productive capacity. The main determinant for this is the soil type and properties. For example, a well-drained soil on rolling country (such as LUC class 3e) can sustain more highly productive activities than poorly drained soils on flats with a moderately high-water table (such as LUC class 2w). This wetness limitation is more inhibiting as this soil cannot sustain horticultural activities – e.g. kiwifruit and avocados cannot withstand "wet feet". Therefore the productive capacity, under the definition in the NPS-HPL is higher on more versatile soils (such as those found on the LUC class 3e land in this case) than those not as versatile (such as those found on the LUC class 2w land in this case).

15. Mr Ford mentions that my assessment was “conducted listing the LUC status of the sites pursuant to the NZLRI”. I agree with this but more importantly I also acknowledged and compared the soils and potential land uses (versatility) for which each unit can sustain. LUC alone was not and should not be used to determine versatility.

16. Mr Ford in his assessment does not otherwise comment on differences in productive capacity in the locations considered in respect of “reasonably practicable and feasible options” as pursuant to Clause 3.6 (1)b of the NPS-HPL. Except by way of reference to LUC alone which I do not consider adequate.

17. In conclusion, I don’t agree with Mr Ford’s argument to use the LUC classification system alone to determine productive capacity. Firstly this does not reconcile with the definition pursuant to Clause 1.3 of the NPS-HPL. And secondly the LUC classification is not a true representation of versatility and therefore productive capacity. Land classed as LUC class 3 can be more versatile and therefore have a higher productive capacity than land classed as LUC class 2. The main determinant for this is in fact the soil type and properties, for which Mr Ford does not mention.

18. For completeness, I maintain my opinion from my evidence in-chief dated 24th October 2024, that the PC 95 site is inferior in productive capacity (irrespective of scale of mapping) compared to land adjoining Te Puke and Paengaroa and elsewhere in Pongakawa. Loss of these other locations of land, as potential alternative options for adding to development capacity, would be more highly adverse to productive capacity in comparison to the PC 95 site.

Joel Perry

29th November 2024