

21 November 2023

Horizons Regional Council  
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Attention: Lauren Edwards - Kaiwhakamahere Matua Whakaaetanga/Senior Consents Planner

**By Email:** [lauren.edwards@horizons.govt.nz](mailto:lauren.edwards@horizons.govt.nz)

Dear Lauren,

## 1. Introduction

1.1. In the AEE lodged with the Councils on 22 May 2023, it was stated that the Manaaki Whenua Landcare Research Mapping (**MWLR Mapping**) did not classify any of the Mt Munro Site as highly productive land, and that therefore the National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**) was not applicable to the resource consent application. We have since become aware that the application could affect two areas of land identified as Land Use Capability Class (**LUC**) 3 under MWLR Mapping with Rural Zoning under the Tararua District Plan, meaning that the NPSHPL applies.<sup>1</sup>

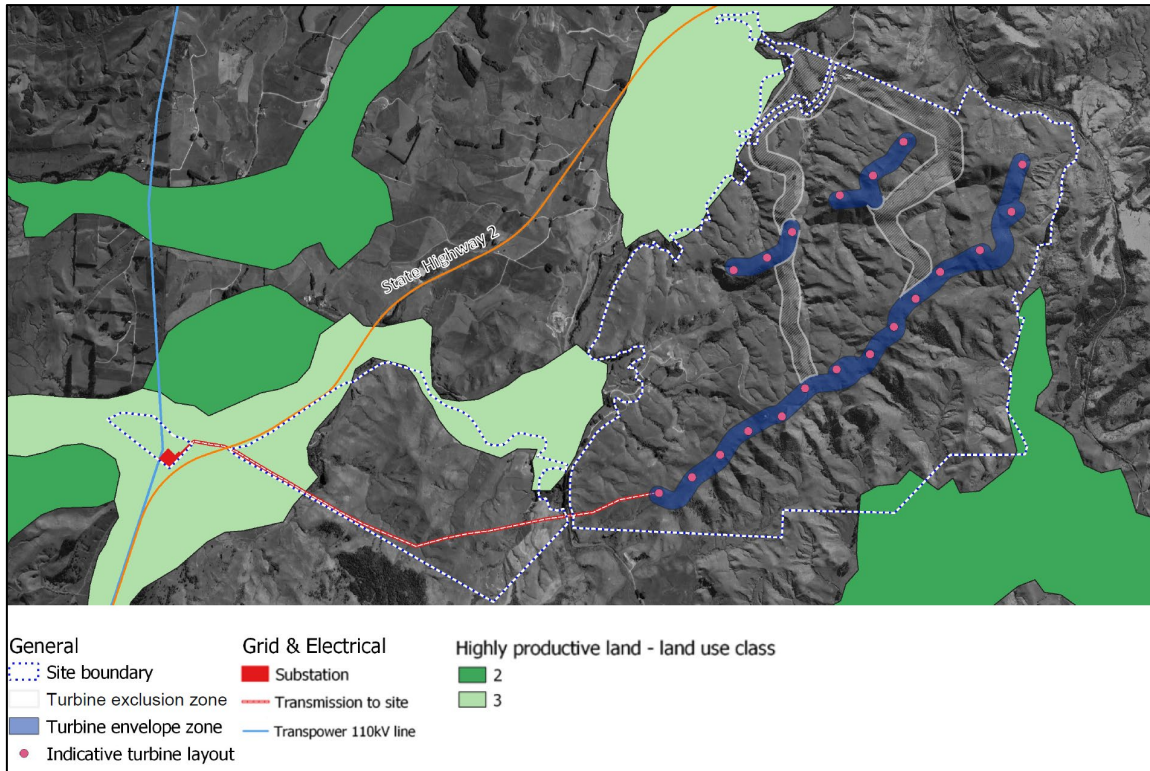
1.2. The parts of the Mt Munro windfarm which would use these areas are:

- Part of the transmission line to the west of the site, crossing over SH2 to the substation (the **Transmission Line Area**) affecting approximately 11.5m<sup>2</sup> of LUC 3;
- The substation area itself, which connects the Mt Munro transmission line to the National Grid line (the **Substation Area**) being approximately 1.25 ha; and
- A small section of the turbine exclusion zone at the north of the site (the **TEZ Area**) but without any earthworks/disturbance (as noted below).

1.3. These HPL areas and the windfarm transmission infrastructure are shown below in Figure 1.

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<sup>1</sup> Until updates are made to a regional policy statement to map highly productive land, a consent authority must apply the NPS-HPL as if references to highly productive land were references to land that is zoned general rural or rural production and is LUC 1, 2, or 3 land.



**Figure 1.** Mt Munro site layout showing the intersection of the Transmission Route (red dotted line), Substation (solid red area), and TEZ (white-bordered area) with areas of LUC land mapped by MWLR<sup>2</sup>.

1.4. Meridian has considered the TEZ Area, and confirms that this can be avoided entirely. No earthworks or disturbance of this area will occur, and so the NPS-HPL will not apply here. An updated site layout map excluding this area is included as **Appendix A** to this letter. We note that there is a small section of LUC 2 land on the broader site as well, but that no activities on, or disturbance of, these areas is proposed.

1.5. An analysis of how the NPS-HPL applies to the Transmission Line Area and the Substation Area is provided below.

## 2. National Policy Statement for Highly Productive Land

2.1. The NPS-HPL came into force on 17 October 2022, and is intended to provide direction to improve the way highly productive land is managed under the RMA. The objective of the NPS-HPL is to protect highly productive land for use in land-based primary production, both now and for future generations. The NPS-HPL also provides for categories of activities that are not land-based primary production but are “appropriate” use and development of highly productive land.

2.2. Caselaw confirms<sup>3</sup> that the NPS-HPL provisions are among the wide range of identified matters that the consent authority must have regard to.

<sup>2</sup> See the figure in Appendix A showing the section of land within the “as-lodged” TEZ which is LUC 3 mapped land. The TEZ will be amended to exclude this area.

<sup>3</sup> *GS Gray and KM Sinclair Gray v Dunedin City Council* [2023] NZEnvC 45 at 202.

### 3. Policies

3.1. *Policies 4 and 8 of the NPS-HPL are of particular relevance to the Mt Munro windfarm, and are discussed below.*

***Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.***

3.2. *Transmission Line Area:* The Mt Munro project provides for the continuation of land-based primary production on the vast majority of the site in the form of pastoral farming under a landowner agreement. The Transmission Line Area will continue to be grazed during the operational life of the windfarm, and could be put to other land-based primary production uses at the end of the windfarm's life. The transmission line infrastructure is by overhead lines suspended between poles, meaning the land area actually used is only approximately 11.5 m<sup>2</sup> and the impact on the productive use of the land is minimal.<sup>4</sup>

3.3. *Substation Area:* The substation facility will take up approximately 1.25 hectares of the approximately 11 hectare record of title<sup>5</sup>. The Substation Area will largely be covered by an aggregate hardstand or concrete base with permanent buildings, and will be permanently removed from land-based productive use. The balance of the parcel will continue to be used for land-based primary production by the neighbouring landowner should resource consents for the windfarm be granted.

***Policy 8: Highly productive land is protected from inappropriate use and development.***

3.4. The transmission line, substation, and the Mt Munro windfarm as a whole, are not "inappropriate" uses of the sections of LUC 3 land identified on the MWLR mapping. These uses are therefore consistent with the purposes of Policy 8 of the NPS-HPL.

3.5. By way of summary, those reasons include:

- The Project falling within the NPS-HPL clause 3.9(2)(j) pathway, specifically that the transmission line and substation are both developments associated with the operation of "specified infrastructure", and have an operational need for to be on the highly productive land;
- The continuation of land-based primary production under and around the transmission line;
- In terms of clause 3.9(3)(a) the use of LUC3 land is minimised to the extent practicable and because it satisfies the "specified infrastructure" requirement the proposal is unlikely to contribute to or give rise to a significant potential cumulative loss of productive capacity of HPL in the district(s); and
- In terms of clause 3.9(3)(b) the natures of the proposed transmission and generation activities are not sensitive to adjacent or nearby land based primary production activities.

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<sup>4</sup> Approximately 1 km of line crosses LUC 3 land, suspended across approximately 10 poles of 1.2 m in diameter, totalling approximately 11.5 m<sup>2</sup> in total.

<sup>5</sup> WN25C/219 described as Section 1 and Section 62 Block XIV Tararua SD

#### 4. Clause 3.9(2): “Inappropriate use and development”

- 4.1. “Inappropriate use and development”, while not defined in the NPS-HPL, is addressed in clause 3.9(2) of Part 3 of the NPS-HPL, which provides direction to territorial authorities regarding implementation.
- 4.2. The ‘specified infrastructure’ exemption in 3.9(2)(j) recognises that the functional or operational needs of specified infrastructure means that they may need to be located on highly productive land.
- 4.3. For such a use or development to be considered “appropriate” in terms of clauses 3.9(2) and (3):
  - It must “be associated with” the maintenance, operation, upgrade, or expansion of “specified infrastructure” (3.9(2)(j)(i)); and
  - There must be a “functional or operational need” for the relevant development to be located on the highly productive land in question (3.9(2)(j)); and
  - Territorial authorities must address the requirements of clause 3.9(3).

#### 5. Specified Infrastructure

- 5.1. The NPS-HPL defines “specified infrastructure” as including:
  - Infrastructure that delivers a service operated by a lifeline utility; and
  - Infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, Regional Policy Statement or regional plan.
- 5.2. The Mt Munro windfarm and its transmission line and substation infrastructure fall within both of these categories of ‘specified infrastructure’.
- 5.3. A lifeline utility has the meaning in section 4 of the Civil Defence Emergency Management Act 2002: Part B(2) “An entity that generates electricity for distribution through a network or distributes electricity through a network.” The proposed wind farm is therefore ‘specified infrastructure’ under this head.
- 5.4. The Project is also regionally and nationally significant:
  - The National Policy Statement for Renewable Electricity Generation 2011 (**NPS-REG**) recognises the national significance of:
    - the benefits of renewable electricity generation; and
    - the need to develop, operate, maintain and upgrade renewable electricity generation activities (which is defined in the NPS-REG to include the construction

and operation of the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid);

- The National Policy Statement on Electricity Transmission 2008 (**NPS-ET**) recognises the national significance of the national grid transmission system, which will include the Substation once ownership and management of this infrastructure is transferred to Transpower New Zealand Limited; and
- Policy 3-2 of the Horizons One Plan states that the regional council and territorial authorities must recognise facilities that generate more than 1 MW of electricity and its supporting infrastructure as being physical resources of regional or national importance.

5.5. Accordingly, the Mt Munro Windfarm overall and both the transmission line and substation areas by themselves, are “specified infrastructure” as defined in the NPS-HPL.

5.6. When read coherently, it is also clear that the NPS-HPL is intended to enable both existing and new activities that are “associated with” specified infrastructure.<sup>6</sup> For example:

- Sub paragraph (j)(i), while not referring explicitly to construction or development, should be read in line with the clauses which sit above it; clauses 3.9(2) and 3.9(2)(j) both refer to “development”, which relates to new infrastructure being constructed or introduced;
- Ministry for the Environment guidance on clause 3.9(2)(j)(i) gives the example of where a new road or transmission line may need to traverse over an area of highly productive land;<sup>7</sup> and
- The continuation of existing activities is provided for under a specific provision of the NPS-HPL, which strengthens the argument that the NPS-HPL exemption for specified infrastructure is intended to apply to both new and existing activities.

## 6. Functional or Operational need

6.1. Clause 3.9(2)(j)(i) requires that there is a “functional or operational need” for the relevant specified infrastructure to be located on highly productive land. These concepts are defined in the National Planning Standards as follows:

***Functional need** means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.*

***Operational need** means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.*

6.2. There is a functional need for windfarms to be located in an area with a high quality wind resource, and within proximity to a national grid connection. The Mt Munro site meets these

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<sup>6</sup> We note that this interpretation aligns with the [independent legal advice](#) which was recently requested by the Fast-Track Consenting Panel appointed to consider the Rangiriri Solar Farm consent application under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

<sup>7</sup> <https://environment.govt.nz/assets/publications/National-Policy-Statement-Highly-Productive-Land-Guide-to-implementation-March-2023.pdf> at page 31

criteria, and the windfarm has a functional need to locate on the site. While no turbines themselves are being located on highly productive land, the transmission system to convey the electricity generated by the windfarm to the national grid system is an integral part of the Project. The site selection process and consideration of alternatives is set out in more detail in section 6 of the AEE.

6.3. The substation and transmission line have an operational need to be in the areas proposed.

- The substation needs to locate immediately next to the national grid transmission line, which passes near the Mt Munro site to the west of SH2. It needs to be located on largely flat land (which means avoidance of highly productive land in this area would not be feasible). The substation ideally needs to be screened from view of SH2, have safe road access (preferably off a side-road), and be outside a high flood hazard area. It also needs to be located as close as practicable to the wind farm site to minimise costs, to minimise the number of landowners and others impacted by the transmission line, and to reduce the complexity of scoping and securing access for a suitable transmission line route.
- The transmission line route and pole locations from the windfarm to the substation were determined after surveying the general area, and taking into consideration the terrain, geological and environmental factors, and ensuring the route is accessible for its construction and maintenance. Importantly, examination of the MWLR Mapping shows that any connection between the windfarm site and the national grid requires that LUC 3 land is crossed at some point.

## **7. Clause 3.9(3) - Minimisation or mitigation, and reverse sensitivity**

7.1. Clause 3.9(3) requires that territorial authorities take measures to ensure that any use or development on highly productive land:

- (a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and
- (b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.

7.2. With respect to (a):

- The area of highly productive land affected by the Transmission Line Area will be minimal given the small footprint of the poles, and the fact that grazing of the area under the line will continue.
- The area used by the substation would be approximately 1.25 hectares in area (i.e. a footprint of approximately 100 x 125 m). This area would mostly be covered in hardstand, and would include a control building up to approximately 30m x 25m in footprint. The Operation and Maintenance/Services Building might also be located on this site, and would have a footprint of 50m by 20m.
- The use of LUC 3 land is minimised to the extent practicable and because it satisfies the “specified infrastructure” requirement the proposal is unlikely to contribute to or give rise to a significant potential cumulative loss of productive capacity of HPL in the district(s).

- The balance of the 11-hectare title will continue to be used for land-based primary production by the current owner (in conjunction with adjacent land).

7.3. With respect to (b), reverse sensitivity effects on existing land-based primary production activities in the area are not expected. The Project will not involve sensitive activities that will conflict with the continued operation of rural land uses.

## 8. Conclusion

8.1. The bulk of the proposed Mt Munro windfarm site does not contain highly productive land and is not subject to the NPS-HPL. The area of the site that is classed as highly productive land is relatively small and the substation and transmission line infrastructure located on it have a functional and operational need to be there.

8.2. The transmission line, substation, and the Mt Munro windfarm as a whole, are appropriate uses of the section of LUC 3 land identified on the MWLR mapping. These uses are consistent with the purposes of Policy 8 of the NPS-HPL, and the specified infrastructure pathway which it provides, and the actual impact on land-based primary production is minimal.

8.3. It should also be noted that LUC 3 is the least productive category of land within the MWLR Mapping system. As an aside, we are aware that the National Party committed during its election campaign to refocussing the NPS-HPL by maintaining protection of the most productive soils, while removing LUC 3 category soils, and understand that it is likely to be supported in these aims by its coalition partners.<sup>8</sup>

Yours sincerely

**Incite**



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<sup>8</sup> [https://assets.nationbuilder.com/nationalparty/pages/17905/attachments/original/1685223022/Going\\_for\\_Housing\\_Growth.pdf?1685223022](https://assets.nationbuilder.com/nationalparty/pages/17905/attachments/original/1685223022/Going_for_Housing_Growth.pdf?1685223022)

**Appendix A: Updated Site Layout Map**

