
**BRIEF OF SECOND SUPPLEMENTARY EVIDENCE OF ELIZABETH JANE WHITE
UFD – URBAN FORM AND DEVELOPMENT (HIGHLY PRODUCTIVE LAND)**

Qualifications and Experience

- 1 My qualifications and experience are set out in paragraphs [1] to [3] of my first statement of supplementary dated 11 October 2022.

Code of Conduct

- 2 I have read and agree to comply with the Environment Court’s Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2014. I have complied with the Code in preparing my evidence. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

- 3 This supplementary statement of evidence relates to recommendations made in a supplementary statement of evidence prepared by Felicity Boyd¹, which updates recommendations made in s42A reports that are impacted by the recent introduction of the National Policy Statement for Highly Productive Land 2022 (NPSHPL). This is because Ms Boyd’s supplementary statement includes recommendations that relate to provisions in Chapter 15: UFD – Urban form and development (UFD-O4, UFD-P4, UFD-P7, and UFD-P8). Ms Boyd also makes recommendations in the relation to the definition of ‘productive capacity’, which is relevant to the UFD Chapter because there are provisions within it which use this term.
- 4 The purpose of this supplementary statement is to confirm that I have reviewed and discussed the recommendations with Ms Boyd and as a consequence support the recommendations, for the reasons briefly set out here and detailed within Ms Boyd’s second supplementary statement.

¹ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022.

Productive Capacity

- 5 Ms Boyd recommends that a definition is included for the term “productive capacity”, reflecting the definition used in the NPSHPL.² This term is used in UFD-P7(6). It is also used in UFD-O4 and UFD-P7(2), but as noted by Ms Boyd, the term in these provisions is not limited to applying to highly productive land; with UFD-O4 referring to productive capacity in the context of primary production in rural areas and UFD-P7(2) referring to the productive capacity of rural areas generally.
- 6 Having considered the use of the term and the proposed definition, I confirm that in my view, the definition is appropriate to apply to these provisions. This is because the definition itself is not limited to highly productive land and can equally be applied to other land; and the definition assists in clarifying the outcome sought (in terms of UFD-O4) and the action required (in terms of UFD-P7).

UFD-O4

- 7 Ms Boyd identifies that clause (2), and to a lesser extent clauses (3) and (4) of UFD-O4 are relevant to the management of highly productive land. She has recommended amendments to clause (2) to ensure it gives effect to the NPSHPL, but does not consider that clauses (3) or (4) require further amendment to give effect to the NPSHPL.³ I agree with her assessment and reasoning. More specifically, I agree that amending clause (2) to direct avoidance, as a first priority, of development of highly productive land in rural areas, is appropriate. While requiring avoidance in the first instance, the direction reflects that the NPSHPL provides exceptions to this priority, which will be identified by territorial authorities as they give effect to both the RPS and the NPSHPL.

UFD-P4

- 8 Ms Boyd identifies that clause (6), and to a lesser extent clause (7)(a) of UFD-P4 are relevant to the management of highly productive land. Ms Boyd recommends the same amendment to UFD-P4(6)⁴ as she recommends to UFD-O4(2), and I agree for the reasons set out above that this is appropriate. In relation to clause (7)(a) she considers

² Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022 at 48-55.

³ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 86-100.

⁴ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 101-107.

that it does require further amendment to give effect to the NPSHPL.⁵ I agree with her assessment and reasoning.

UFD-P7

9 Ms Boyd identifies that clauses (3) and (6), and to a lesser extent clause (4) of UFD-P7 are relevant to the management of highly productive land. She recommends amendments to clause (3) to better align it with the NPSHPL⁶, which I agree are appropriate and better reflect the definition of highly productive land in the NPSHPL. In relation to clauses (4) and (5) she considers that these do not require further amendment to give effect to the NPSHPL.⁷ I agree with her assessment and reasoning.

UFD-P8

10 Ms Boyd identifies that clause (4), and to a lesser extent clause (3) of UFD-P8 are relevant to the management of highly productive land. Ms Boyd recommends the same amendment to UFD-P8(4) as she recommends to UFD-O4(2)⁸, and I agree for the reasons set out above that this is appropriate. In particular, I note that in the Section 42A report for the UFD Chapter, Mr Balderston recommended that “as a first priority” be deleted from this clause. In my view, the deletion of this phrase would not give effect to the NPSHPL. While Policy 6 of the NPSHPL requires avoidance of the rezoning and development of highly productive land as rural lifestyle, this is subject to exceptions in the NPSHPL. Similarly, Clause 3.7 of the NPSHPL directs avoidance of rezoning of highly productive land as rural lifestyle, except as provided in clause 3.10. Clause 3.10 then sets out those exemptions. In my view, directing avoidance of the establishment, development or expansion of rural lifestyle zones in all cases would therefore not give effect to the NPSHPL which provides for exemptions in specified circumstances. I therefore agree with retaining the original reference to avoidance “as a first priority”.

11 In relation to clause (3), Ms Boyd considers that it does require further amendment to give effect to the NPSHPL.⁹ I agree with her assessment and reasoning.

⁵ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 108-109.

⁶ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 112-116.

⁷ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 117-121.

⁸ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 126-131.

⁹ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land). 21 October 2022, at 124-125.

Elizabeth Jane White

21 October 2022