
PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

DATE: 18 April 2018

TOPIC NAME: Rural

SCOPE DESCRIPTION: Preferred Option Report – Intensive Farming RU007

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EXECUTIVE SUMMARY

<i>Issue(s)</i>	<i>The current rules are unnecessarily onerous, complex, and include ambiguous definitions and in some cases they require the duplication of process with the regional authority. Overall the current district plan provisions do not serve the community or the farming industry well and need to be amended to improve outcomes.</i>
<i>Preferred Option</i>	<i>Option 2 - Amend provisions and remove duplication with the Canterbury Regional Air Plan in relation to dust and odour effects.</i>
<i>DPC Decision</i>	<i>The preferred option is endorsed for further development.</i>



1.0 Introduction

The Resource Management Act 1991 (Act) requires Territorial Authorities (among other things) to deal with the effects on amenity values from intensive farming activities. Generally, effects on amenity are caused by odour, dust, noise, and traffic. The responsibility to manage adverse effects on the environment has meant that Territorial Authorities have developed planning provisions within the District Plan framework. These provisions are required under the Act to be reviewed every 10 years to ensure their appropriateness and effectiveness.

However, when addressing adverse effects on air quality there is an overlap in regulatory responsibilities between district and regional councils. While regional councils have a specific duty to control air discharges, district councils are primarily responsible for managing land use activities affecting amenity values. Ideally, such roles are intended to complement each other. It is evident that care needs to be taken to reduce the risk of producing plans containing discrepancies, gaps, or duplication of provisions in addressing air quality matters.

Selwyn is home to the highest number of pork producers in the country, although not the largest volume produced. The current trend is that the overall number of farms producing pork is decreasing, but the volume being produced is being maintained. The Selwyn District is also home to a significant number of poultry farms, with an increasing amount either expanding or becoming established.

This report is meant to serve as an abbreviated summary of the matters covered within the baseline report for this scope. Please consult the baseline report for an in-depth assessment of this scope.

2.0 Summary of Issues

On review of the intensive livestock farming resource consent history the following potential and actual effects were found:

- Construction of large buildings to house stock and feed.
- Manure management in regard to disposal, composting, and effluent ponds and the potential for odour effects.
- Effects from particulate matter from ranging areas, vents, shed cleaning.
- The attraction of pests to the activities.
- Increase traffic movements from typical motor vehicles and heavy vehicles resulting in noise and safety issues.
- Noise from the stock, or from the operation of the activity.
- Effects on nearby sensitive activities, such as residential dwellings, and the potential for reverse sensitivity effects from these sensitive activities.
- Incompatible hours of operations with surrounding land uses.
- Soil contamination as a result of the activity, or the potential hazard of these operations occurring on already contaminated sites.

- Deceased animal disposal and management.
- Fresh water contamination.
- Dust and odour from exposed feed stockpiles.

2.1 Definitions

The current definitions used for intensive livestock production and intensive piggery production are ambiguous and not conducive to good planning outcomes. This ambiguity has resulted in Environment Court proceedings in order to determine the status of an activity, and therefore if a consent is required for the operation.

Intensive Livestock Production - *‘the use of land and buildings for the commercial rearing and management of livestock where the viability of that activity is not dependent upon the soil fertility of the land on which that activity is undertaken’.*

Intensive Piggery Production - *‘means the use of land and buildings for the commercial rearing and management of pigs where the viability of the activity is not dependent upon the soil fertility of the land on which that activity is undertaken.’*

The activities that are commonly considered to fall under this umbrella in the Selwyn District are indoor piggery and poultry units, and those outdoor (or free-range) piggery and poultry operations that rely on off-site feed.

If taking a literal meaning of this definition, any activity which uses land and buildings, and supplements their operation with off-site feed as a result of insufficient soil fertility could be captured under this rule. This could extend to high country sheep stations who commonly supplement their operations with off-site feed.

However, this approach should not be adopted given the findings of the ‘Bates’ Environment Court decision (Bates v SDC [2014] NZEnvC 32). This decision found that rather than include all farms that rely on outside feed into an intensive farm classification, any consideration should take into account what the rule or definition was trying to achieve. In this instance the Operative Plan seeks to manage the activities with significant adverse odour, dust, noise and/or traffic effects. Therefore, a high country station would not be included in this definition due to a lack of significant adverse effect in either of these four aspects.

There has been some conflict with the implementation of this definition arising from its ambiguous nature. This ambiguity stems from the inclusion of the aspect of an activity’s reliance on soil fertility. In essence this means a farm importing stock food is not dependent upon soil fertility, and is therefore an intensive livestock production. The definition does not go into any detail as to what degree this aspect should be considered, i.e. how much of the farm’s operation is reliant on outside feed.

Given the ambiguity arising from these definitions and the related Environment Court case it is recommended that the definitions be amended.

2.2 Rules

2.2.1 Inconsistency between Regional and Territorial Authorities.

The main area of inconsistency is in regard to the assessment of free range poultry activities. This activity is permitted by Environment Canterbury, but requires consent from the Selwyn District Council. The RMA requires district plans to not be inconsistent with regional plans, so therefore if this activity type is deemed by the regional authority to be permitted, subject to meeting the definition, then it would not be appropriate for the territorial authority to have a stricter activity classification.

2.2.2 Complex and onerous controlled activity rule for the expansion of existing intensive piggery activities.

In its present form rule 9.10.1 is seldom used, and through consultation with the industry, this may be due to its complexity and overly onerous requirements, which creates uncertainty in the administration of the plan. This has the potential to adversely affect the primary production capability of the rural area, which is in conflict with the Regional Policy Statement.

An example of this arose through the planning assessment of rule 9.10.1.3 (controls expansion to a 50% stock pig unit (SPU) increase), and rule 9.10.1.2 (nil increase in odour emissions). The primary issue when assessing intensive piggeries is the potential for odour and dust creation. Having a rule that controls the overall stock increase to no more than 50% is not necessary when there is another rule requiring there to be a nil increase in odour emissions. If an activity could demonstrate that there would be a nil increase in odour emissions as a result of the expansion then there should be no concern about the stock number increase. The SPU factor numbers were queried during the Baseline Assessment, with a focus on the empirical evidence to justify these numbers and how accurate they actually are. The reasoning behind this is as pig numbers have stayed the same on farms, stock weights have dramatically increased. Finally in regard to the SPU table, the numbers stated are unwieldy for farmers to use as farms use strict stock number formulas which cannot be amended on an ad hoc basis.

It is also noted that reference to 'international odour emission' standards may not be appropriate due to the research that they are based on applying to non-New Zealand situations, which employ different farming techniques and have different environmental conditions.

Part of this rule required the submission of a report from an independent expert, and that this report would then be reviewed by an SDC appointed independent expert. The industry raises this as an issue due to the significant increase in costs from using two independent experts. It may be appropriate to only require one report, and rely on the expert's self-interest to protect their independent expert status and credibility.

2.2.3 Duplication between Selwyn District Council and Environment Canterbury

Presently, when an intensive farming operation is seeking to establish they are required to obtain a consent from both Environment Canterbury and Selwyn District Council. This situation can and does lead to an overlap in process between the two authorities. This can have significant cost and time implications on applicants, especially if multiple experts need to be enlisted to prepare and support any application. The Selwyn District Council Consents Team also noted that through their interactions with the public there is confusion about when and why a consent is required from both the Selwyn District Council and Environment Canterbury. It is therefore considered that on council should take on the whole responsibility for assessing odour and dust discharges.

In relation to this cross-over of jurisdictions between authorities, this aspect also extends to compliance and monitoring when considering what council should be following up on a complaint. Further to this point Selwyn District Council at the present moment has responsibility to assess the amenity effect from these activities, but lack the equipment and technical expertise to carry this out, whereas Environment Canterbury do possess the required skills. This results in the majority of complaints being passed onto the regional authority.

2.2.4 Miscellaneous

Firstly, the keeping of pigs for self-sufficiency was identified as being a gap within the plan. At the moment the keeping of pigs for domestic purposes could trigger resource consent requirements as an intensive livestock activity, a situation that was not intended. The Canterbury Air Regional Plan does allow for this by setting a threshold of no more than either 25 weaned pigs or six sows for personal production before resource consent requirements will be triggered.

Secondly, if an intensive farmer wanted to establish a residential dwelling within their property, other rules notwithstanding, they would be required to apply for a resource consent if located within 300 metres of intensive farming operation, regardless of if the operation is their own. This is in conflict with the RMA which states that adverse effects being inflicted on oneself should be disregarded.

Finally, the current land use rules dealing with contaminated land restrict the use of land for intensive farming. The reasoning behind this is to ensure no adverse health effects occur from either the direct transfer of contaminants to the animal, or from making any contaminant airborne through soil disturbance. However, if an intensive farming activity included a sealed floor, this would effectively act as a cap over the contaminated land. In a situation such as this the current rule would be unnecessarily restrictive.

3.0 Summary of Operative District Plan approach

3.1 Policy

No policy in the Operative District Plan directly addresses intensive livestock production, but there are policies that indirectly deal with the potential effects of this form of agriculture. These primarily deal with soil health and loss, general amenity and character, and amenity effects such as noise, glare, and dust. Furthermore, there is considerable emphasis placed on avoiding reverse sensitivity in the policy framework. It is relevant to note that there are no specific policies relating to the control of odour. However, this aspect is currently managed under the general amenity policies.

3.2 Definitions

The Operative District Plan contains definitions for intensive livestock production and intensive piggery production. The key qualifier is whether the activity is dependent upon the soil fertility of the land. In essence, can the land support the requirements of the stock contained on it? No definitions exist for any form of extensive farming.

3.3 Township Rules

The Township Volume renders all intensive livestock operations within a Living (Rule 10.3.5) or a Business 1, 1A & 3 Zone (Rule 22.2.4.3) as non-complying activities. The non-complying status of these types of activities in the Living and Business Zones would suggest that these activities should be avoided in these areas unless under certain unique situations.

3.4 Rural Rules

Within the Rural Volume it is anticipated that intensive livestock operations occur in the Rural Zone, provided that any significant adverse amenity effects are avoided. As such the activity status is more lenient than those for the Living or Business Zones. Within the Rural Zone, there are only two relevant rules, one for the expansion of existing piggery operations, and a general intensive livestock production rule for new or expanding activities. There are no specific rules for poultry production (extensive (free-range), or intensive), and herd homes.

For piggery activities seeking to expand there is a controlled activity status. However, in order to be classified under this rule (9.10.1) the expansion shall not result in an increase in odour emissions, and shall not exceed a 50% increase in equivalent stock units. The conditions of this rule are quite restrictive, and few consents have been issued under this rule. Matters of control have been limited to amenity effects caused by odour, dust, noise and traffic, effectiveness of mitigation, the location of the odour causing buildings, positive effects, and monitoring and review conditions. On review of the matters of discretion it would appear that the first three matters primarily deal with the same aspect of an activity that being the effects and resultant mitigation.

The general intensive livestock production rule (9.10.3) classifies all new sites or expansions not covered by the controlled activity rule to be a restricted discretionary activity. As per the Bates' decisions ([2014] NZEnvC 32, [2016] NZEnvC 63), this encompasses all livestock production activities that utilise the land or buildings which require off-site feed for their viability. Primarily this includes piggeries, poultry sheds and some free range operations, and although not traditionally captured by the SDC, herd homes, including calf rearing barns. The matters of discretion are the same as rule 9.10.1, although there is not the same discretion over the location of any buildings.

3.5 Reverse Sensitivity Buffer

In addition to the rules controlling intensive livestock production, there are provisions (Rule 3.13.1.5) in the District Plan controlling the construction of any 'sensitive activity' near an existing lawfully established intensive livestock production operation. A sensitive activity is considered to be an activity that has aspects that are particularly vulnerable to various effects such as dust and odour. Activities could include things such as residential dwellings and community centres.

These provisions require a buffer of 300 metres between the edge of buildings, enclosures or yards which contains the intensive livestock production operation and any new residential dwelling (or other 'sensitive activity') as a means to minimise reverse sensitivity effects on the intensive farming activity.

4.0 Summary of relevant statutory and/or policy context and other background information

4.1 Canterbury Regional Policy Statement (RPS)

The provisions within Chapters 5 and 6 seek to ensure the protection of existing intensive livestock production activities from reverse sensitivity effects while managing the location of these types of activities and the potential for significant adverse effects. The objectives and policies seek to avoid incompatible land-uses being based near each other to minimise reverse sensitivity issues. It is noted that the rural economy makes up a significant component of the economic and social well-being of Canterbury, and therefore needs to be protected from incompatible land uses.

The provisions in Chapter 14 seek to maintain and improve air quality, and to protect activities with air discharges from encroachment from incompatible development. It is noted that people and communities should be free from unpleasant effects on air quality.

These aspects have been addressed in the current District Plan through setbacks from sensitive activities to intensive livestock production, and through the assessment during the resource consent process of the amenity effects caused by activities of this nature.

4.2 Canterbury Air Regional Plan (CARP) – October 2017

Definitions

Environment Canterbury has opted to include definitions for both extensive and intensive pig, and poultry farming activities in the CARP.

A common feature across the definitions is whether the activity will maintain ground cover. All 'extensive' or 'free range' activities require the maintenance of permanent vegetation ground cover. By including this attribute, the intention is to keep stock densities low, reducing the likelihood of dust and odour discharges. To meet the extensive definitions set by Environment Canterbury there is a requirement to adhere to industry standards, and that either, no fixed buildings are used (Pigs), or the requirement for access to open air runs (Poultry).

Both intensive farming definitions include a minimum stock number, and specify that the operation primarily occurs within a building or closely fenced runs.

By having a definition for extensive/intensive pig and poultry farming, it provides clarity as to where a particular activity sits on the spectrum and if resource consent requirements have been triggered. On review of the definitions there is a clear delineation between what could be considered an 'extensive' farm and an 'intensive' farm. An extensive farm would be considered to involve outdoor operations, with low stocking densities, grass cover being maintained, with low amounts of dust and odour being discharged from the activity. Whereas, an intensive farm would primarily consist of an indoor high stock density operation which has the potential to capture some free range farming operations.

Rules:

Rules 7.3 – 7.5, and 7.65 – 7.71 are the most relevant rules located within the CARP. These rules cover the discharge of contaminants to air from pig, poultry, and cattle in certain circumstances.

Extensive piggeries and free range poultry farms are not covered within the CARP and are therefore considered permitted activities. Only intensive pig/poultry, and cattle barns are captured by the CARP. Despite this, the CARP does include protections against non-listed activities through rules 7.3-7.5 which act as 'catch-all' rules to provide a safety net to capture activities that cause an adverse effect, but have not been provided for elsewhere in the Plan. The threshold for consent is if an activity has caused an adverse effect, which escalates to a non-complying activity if there is an offensive or objectionable effect.

Rules 7.65- 7.71 detail the provisions for each individual intensive farming activity, including those lawfully established prior to June 2002.

While the Regional Council focusses on the effects of the discharge and the sensitivity of the receiving environment, they lack the jurisdiction to control the placement of 'sensitive activities' near discharges, which is managed by the Territorial Authority. The CARP seeks to manage air quality, while the District Plan seeks to address nuisance effects caused by the discharge of contaminants.

4.3 Ministry for the Environment – Good Practice Guide for Assessing and Managing Odour 2016 & Good Practice Guide for Assessing and Managing the Environmental Effect of Dust Emissions 2016

These guides set out the roles and responsibilities of councils for assessing and managing odour and dust discharges under the Act. Regional councils have the responsibility to manage air quality, while district councils are required to manage land uses which have the potential to discharge odour and dust which cause amenity effects, such as intensive farming. Under Section 15 of the Act unless a regional rule specifies that any non-industrial or trade premises discharge requires consent, it is permitted. District councils also have the responsibility to manage the location of sensitive activities in relation to proximity to discharges.

These requirements can and do lead to regional and district regulation overlap for intensive farming activities. Guidance states that there are two options for exercising these functions, either for the regional council to take control of managing activities that cause effects as a result of odour and dust discharges, or a combined approach where the district council manages the amenity effects arising from emissions associated with any land use, and the regional council dealing with the contaminants of any emissions. To determine the best outcome it is recommended that regional and district authorities collaborate together, as the Ministry encourages that duplication should be avoided.

Whilst it is recognised that in the first instance any significant odour and dust effect should be internalised within the site generating the discharge, this may not always be practical or reasonable to do so. Separation distances between the discharge point/site and neighbouring land uses can be an effective tool to allow the discharge to dilute to a point where any effect is below the threshold to require action. Whether a discharge has an offensive or objectionable effect requires an overall judgement that considers the frequency, intensity, duration, offensive/character, and location of the discharge (FIDOL factors).

5.0 Summary of alternative management responses – Other Districts

The Christchurch City Council, Ashburton District Council, and Waimakariri District Council have setup their provisions to be more restrictive of intensive farming within non-rural zones with the primary activity status being non-complying. When basing an intensive operation within the rural zone these Councils relax their provisions. The Christchurch City Council considers them to be Restricted Discretionary, and the Ashburton District Council, Hurunui District Council, and Waimakariri District Council all consider them permitted activities subject to certain conditions.

The Christchurch City Council, Ashburton District Council, and Waimakariri District Council have provisions restricting the location of intensive operations near sensitive activities. However, these separations vary from council to council.

Authority	Animal Type	Setback to residential dwellings	Setback to residential zones	Reverse sensitive setback-residential to intensive farming
CCC	All	200 metres	N/A	200 metres
ADC	All	400 metres	1200-1500 metres	400 metres
WDC (depends on stock numbers)	Pigs	200-750 metres	N/A	200-750 metres
	Chickens	300 metres	N/A	300 metres
	Cow Barns	100 metres	N/A	100 metres
HDC	All	N/A	N/A	500 metres
SDC	All	Restricted Discretionary	N/A	300 metres
ECan (CARP)	Chickens	200 metres (Restricted Discretionary)	N/A	N/A
	Cow Barns	500 metres (Restricted Discretionary)	1000 metres	N/A
	Pigs	No setback distances included but consent is still required		

Table 1: Council setback distances

All Councils have provisions controlling the location of intensive farming activities other than Hurunui District Council who have intentionally allowed regional council provisions to manage this type of activity.

Regarding definitions, the Hurunui District Council have adopted the same definition used by the Ashburton District Council which includes matters relating to whether feed is brought onto the site, a stocking rate of 15 pigs per hectare for outdoor farms, and provision for herd homes. The Christchurch City Council definition includes the aspect of whether the activity occurs indoors or on a feedlot, has no dependence on soil quality and/or the importation of feed. The Waimakariri District Council definitions only specifies if it has a dependence on soil quality for production.

On review of other authorities in New Zealand, it was clear that there is no concise or consistent definition for intensive livestock production. Terms ranged from factory farming, intensive rural production, intensive feedlot, and among others intensive farming.

Although all of the authorities were seeking to define the same activity, the term used, and the definition for that term differed from authority to authority. Common key attributes were:

- If the activity was primarily indoors, within small enclosures, or wholly outdoors.
- If ground cover is maintained through the operation of the activity
- If the activity relies solely on the soil fertility to supply its needs
- If off site feed is required to supplement the operation.

To a lesser extent the following attributes were used:

- If the land was irrigated
- The stock density rate
- The amount of stock involved
- That the activity be in compliance with industry standards.

6.0 Summary of stakeholder engagement

The following parties provided comments as part of the Baseline Assessment:

- SDC consents and monitoring
- New Zealand Pork
- Environment Canterbury
- Mahaanui Kurataiao Ltd

The discussions with these parties has helped to inform the baseline report, and to determine the preferred option. For further details of these discussions please review the baseline report.

Unfortunately despite attempting to consult with other members of the industry such as Federated Farmers, Dairy NZ, Beef and Lamb NZ, and Poultry Association NZ no responses were received.

7.0 Summary of Options to address Issues

7.1 OPTION 1 (Status Quo)

Retain the status quo

Effectiveness in Addressing Issue:

While being the simplest option, rolling over the suite of existing provisions is not considered to be the most efficient or effective given the issues identified, particularly in relation to the definition of 'intensive livestock production' and the controlled activity rule for the expansion of existing 'intensive piggery production' activities. This review provides an opportunity to make amendments to the Plan, to increase its effectiveness and efficiency.

Risks:

By not addressing the known issues within the Operative District Plan, the adverse implications currently occurring will continue. This will frustrate operators who are seeking to establish new or expand existing activities. Furthermore, the ruling in the Bates' Environment Court case could have unwanted implications by requiring all pig farms that import stock feed to apply for resource consent.

Budget or Time Implications:

None

Stakeholder and Community Interests:

Industry stakeholders wish to see a change in the current planning regime, and do not believe the current provisions are fit for purpose.

The community wish to see protections either created or maintained against unsuitable development near sensitive sites. Wider community engagement is anticipated through the public consultation phase for the Rural Zone chapter.

Recommendation:

As previously stated, this option is not preferred as it does not address the known problems within the District Plan.

7.2 OPTION 2 (Amend provisions and remove duplication with CARP)

Rely on the CARP to address odour and dust emissions from intensive farming activities, rather than duplicating the process in the District Plan. This approach is supported by the independent legal advice received from Adderley Head, attached to this report as Appendix A.

This option will see the maintenance of the 300 metre reverse sensitivity setback, which to date appears to be working in an acceptable manner. However, an amendment to this is proposed, in that the restrictions on residential development within the 300 metre buffer should be removed if the dwelling is located on the same site as the intensive farm.

By adopting a permissive approach to intensive farming, it does pose an issue about how the council will know where these activities are located in order to enforce a 300 metre reverse sensitivity buffer. To resolve this issue, one of the permitted development standards could be that the intensive farm operator is required to supply a location and plan showing the extent of the activity to council, who can then log the location on GIS.

While the Hurunui District Council have adopted the principle of this Option through the method of removing their intensive farming rules, a method of listing the activity as permitted within the plan may be required in anticipation of the more 'activity-based' National Planning Standards.

This option will also include amendments to the current definitions and the creation of new ones, to make them fit for purpose. The intensive farming definition will make an allowance for small scale home production activities. Both definitions will be tied to the maintenance of ground cover which should be assessed on a common sense basis rather than being linked with a yet to be created detailed explanation, industry standard, and/or guide.

Definitions

Extensive farming

Means the keeping, breeding or rearing of stock for commercial purposes, on pasture at a stocking density that sustains the maintenance of pasture or ground cover, including free range poultry farming where the birds have access to open air runs.

Intensive farming

Means the use of land and/or buildings for the commercial production of animals, where the predominant productive processes are carried out within buildings, or closely fenced outdoor runs where the stocking density, or nature of the activity, precludes the maintenance of pasture or ground cover. It excludes pig production for domestic self-subsistence home use which involves no more than 25 weaned pigs or six sows.

Indicative rule format for new extensive or intensive farming activities:

Permitted Rule #	Conditions/ Classification
Extensive Farming	Extensive farming is permitted
Intensive Farming	Intensive farming is considered to be a permitted activity if all of the following matters are met: <ul style="list-style-type: none"> i- Meets the permitted development standards listed in Appendix X (<i>See explanation below</i>) ii- Is not located within a Living or Business Zone
Restricted Discretionary Rule #	
Intensive Farming	Any activity that breaches condition i. is a restricted discretionary activity with the matters of discretion being restricted to those listed in Appendix Y. (<i>Note this will not include a matter to assess the amenity effect from any odour or dust discharge</i>)
Non-complying Rule #	
Intensive Farming	Any activity that breaches ii. is a non-complying activity.

Regarding the restricted discretionary rule and the permitted development standards which trigger this rule (referred to as Appendix X in the above table), these standards will involve general aspects such as noise, transport, lighting, site coverage, location registering etc. rather than dust or odour considerations.

This option would see the removal of a controlled activity rule from the expansion of existing intensive farms. Any expansion would require an additional consent from Environment Canterbury for the discharge component, and the other aspects of the expansion will be assessed under the permitted development standards as would a new activity.

Finally this option would remove the restriction of not allowing intensive farms to be carried out on contaminated land in cases where the activity will be on a sealed surface.

Effectiveness in Addressing Issue:

This option reduces the overlap between the regional and local authority, reducing planning costs and timeframes. Furthermore, it removes any confusion that currently arises from implementing and interpreting the existing plan.

While air quality is an important resource management issue and one that requires an integrated approach between regional and local authorities, issues relating specifically to air quality (dust and odour), rather than general amenity or reverse sensitivity effects, are more appropriately addressed by Environment Canterbury.

Within the rural zone farming activities and their associated effects should generally be expected to occur and therefore there should be an element of tolerance for this activity type. This sentiment is expressed through the creation of an extensive farming definition and rendering this activity type as permitted. This allows those activities that cause little or no effect to occur without needing resource consent.

A common feature across the definitions is whether the activity will maintain ground cover. All 'extensive' or 'free range' activities require the maintenance of permanent vegetation ground cover. By including this attribute, the intention is to keep stock densities low, reducing the likelihood of dust and odour discharge. To meet the definition set by Environment Canterbury there is a requirement to adhere to industry standards, with either no fixed buildings being used (Pigs), or access to open air runs (Poultry).

Both intensive farming definitions include a minimum stock number, and specifies that the operation primarily occurs within a building or closely fenced runs.

By having a definition for extensive and intensive farming, it provides clarity as to where a particular activity sits on the spectrum and if resource consent requirements have been triggered. On review of the definitions there is a clear delineation between what could be considered an 'extensive' farm and an 'intensive' farm. An extensive farm would be considered to involve outdoor operations, with low stocking densities, grass cover being maintained, with low amounts of dust and odour being discharged from the activity. Whereas, an intensive farm would primarily consist of an indoor high stock density operation.

Risks:

While reducing the amount of regulation for farmers to operate under, this option does rely on the regional authority to correctly assess the activity, and make sure that odour and dust discharges are acceptable on a district level.

It is noted that the regional authority does possess the expertise and technical capability to assess odour and dust discharges, and thus it is logical that this responsibility sits with them.

The inclusion of a ground cover clause does create an issue as to how to measure the adequacy of 'ground cover', a view shared by Air Quality Scientist Richard Chilton. The term is subjective, and to rectify this, either a common sense approach would need to be relied on; or for the Plan to adopt an approach where measurable details are included as has happened in the recent Bates' resource consent decision. Whilst a common-sense approach is simpler and in many cases would be used without issue, it is left open to interpretation. Whereas, the detailed based approach provides certainty, it can be very hard to monitor. For the sake of ease and simplicity, it is recommended that the use of 'maintaining ground cover' within the definition should be linked with a common sense approach, rather than a technical explanation supported by an industry standard or guide which has yet to be developed. This would allow the Compliance and Monitoring Officer to assess the individual situation on its merits, and determine if there is sufficient ground cover and if a significant effect is occurring to act as required.

Regarding the inclusion of free range poultry farming as an extensive farming activity, there is a risk from a district council perspective that the removal of planning restrictions may lead to

adverse outcomes which cannot be addressed. However in saying this the CARP's 'catch-all' would be triggered if an adverse effect occurs. Furthermore, the birds will be required to have access to open air runs, which will be required to maintain ground cover. This requirement will ensure that the land area will restrict bird numbers, or else the activity would be considered intensive, triggering resource consent. If flock numbers increase as is the current trend for operations of this nature, then the operator will need to either improve their management techniques or increase the amount of land available to the birds, subsequently increasing the area the effect can be absorbed into. While consideration was given to the potential definition of free range poultry farming as an intensive farming activity given the use of buildings for the production process, it was deemed that if Environment Canterbury have determined, through their permissive stance in the CARP, that there is no significant issue, then it would be inconsistent for the territorial authority to require consent where it was not required at a regional level. There is also a layer of protection within the CARP, where if the activity does cause an adverse effect then the resource consent requirement is triggered.

Another element of risk arises from the reliance on the regional authority to effectively address odour and dust effects. Differences in philosophy or expectations between the two councils could lead to outcomes which are deemed acceptable by the regional authority, but which are not acceptable to the district authority.

Budget or Time Implications:

New provisions will need to be drafted and consulted on.

Stakeholder and Community Interests:

Industry stakeholders may support this option as it removes an additional layer of regulation as they would only need to make an odour and dust assessment against the CARP.

The community may have concerns about an extra layer of planning protection being removed and having a reliance on the regional authority.

Recommendation:

Given the proposed effectiveness and efficiency amendments and the removal of duplication between the regional and district authorities this option is preferred.

7.3 OPTION 3a (Amend provisions and retain full control)

This option is similar to option two with the main difference being that a more streamlined approach to intensive farming would not be taken. Any intensive farm would require resource consent under the district plan, while removing any duplication with Environment Canterbury where possible. This option would see the following amendments:

- Definition amendments as per Option 2.
- Introduction of a permitted rule for extensive farming.
- Amendment of the controlled rule for expanding intensive farms, to reduce complexity, and potential duplication with regional authority processes.

- Amendments to the existing restricted discretionary rule for new intensive farming activities. Includes provisions to remove potential duplication with regional authority processes.
- Maintain the existing 300 metre reverse sensitivity setback, and no stated setbacks controlling the location of intensive farming activities in relation to sensitive activities.
- Making the erection of a residential dwelling within a 300 metre reverse sensitivity buffer permitted as long as the dwelling is erected within the property boundary containing the intensive farm.
- Remove the restriction on allowing intensive farms being carried out on contaminated land in cases where the activity will be on a sealed surface.

Indicated rule format:

Permitted Rule #	Conditions/ Classification
Extensive farming	Extensive farming is a permitted activity.
Controlled Rule #	
Expansion of existing intensive farms	<p>The expansion of an existing intensive farming activity shall be a controlled activity if all of the following conditions are met:</p> <ul style="list-style-type: none"> i- <i>That the expansion will not result in an increase in odour, or dust discharged at the boundary of the property containing the activity. This shall be demonstrated through either; a report provided by a suitably qualified independent air quality expert; or a Certificate of Compliance or Resource Consent granted by the Canterbury Regional Council for any discharge to air.</i> ii- <i>The applicant has prepared a management plan, certified by a suitably qualified independent air quality expert, to deal with activities that have the potential to cause an offensive or objectionable effect from an odour or dust emission. This management plan shall address the following:</i> <ul style="list-style-type: none"> a. <i>Management of sheds and barns</i> b. <i>Effluent collection and storage systems</i> c. <i>Manure application to land systems</i> d. <i>Carcass disposal system</i> e. <i>Compost management</i> f. <i>Landscaping and building design</i> g. <i>Management and maintenance of ground cover where applicable</i> h. <i>Dust suppression measures</i> i. <i>The keeping of monitoring and maintenance records</i> j. <i>Performance review process</i> k. <i>Any consultation with the local community and the operation of a complaints system</i> <p><i>The Council shall exercise control over:</i></p> <ul style="list-style-type: none"> a) <i>Any adverse effects from odour, and dust, on surrounding properties;</i> b) <i>All matters covered by the management plan;</i>

	<ul style="list-style-type: none"> c) <i>The location of any buildings to avoid, remedy, or mitigate potential adverse odour effects associated with any relocation of the odour emission source to another part of the site;</i> d) <i>Any positive effects;</i> e) <i>Any monitoring or review conditions</i>
Restricted discretionary rule #	
Intensive Farming	<p>Intensive farming activities and activities that do not met controlled rule # are a restricted discretionary activity with the matters of discretion being restricted to those listed in Appendix Y. <i>(Note this will include a matter to assess the amenity effect from any odour or dust discharge)</i></p> <p><i>For reference:</i></p> <p><i>The Council shall restrict its matters of discretion to:</i></p> <ul style="list-style-type: none"> a) <i>Any adverse effects from odour and dust on surrounding properties;</i> b) <i>Any positive effects;</i> c) <i>And monitoring or review conditions</i>

Effectiveness in Addressing Issue:

This option shares many similarities with option 2 and thus also comes with the same effectiveness in many aspects.

A difference in the options is the inclusion of a controlled activity rule for the expansion of existing intensive farms. This rule seeks to remove duplication with Environment Canterbury if a Certificate of Compliance or Discharge Permit has already been obtained by the Applicant.

The rule changes also make the controlled activity rule for the expansion of existing farms simpler than currently exists. The key determiner is if the increase in the operation will increase the air discharge at the boundary. If there is no increase then the district plan should not be attempting to prevent this form of development.

However, an inefficiency of this rule structure is that an odour and dust assessment is required at the restricted discretionary level regardless of whether the Applicant has obtained a Certificate of Compliance or Discharge Permit under the CARP.

Risks:

Many of the risks associated with the former option are also shared with this option. However, a major element of risk has been removed through the retention of odour and dust assessments at the district level.

Budget or Time Implications:

This option will have budget and time implications in that the option would need further drafting, consultation, and testing. Additionally, the amendments may attract submissions and in-depth discussions at the hearing stage.

Stakeholder and Community Interests:

Stakeholders have an interest in ensuring that the appropriate level of planning controls are implemented. They do not want to see overly onerous provisions which diminishes their ability to develop and operate.

Regarding the community interest, they wish to also see the appropriate level of planning control being implemented in order to protect their amenity values.

Recommendation:

This option is not recommended due to the retention of overlapping provisions with the regional council.

7.4 OPTION 3b (Amend provisions and retain full control)

Much like option 3(a), with one of the only differences being the use of the alternative definitions for extensive and intensive farming, primarily for their use of stock density numbers, and the certainty of operation they provide. Although, their accuracy at predicting a potential effect is uncertain.

The further change to 3(a) is the increase of the setback from 300 metres to 400 metres, and the implementation of a reciprocal buffer from sensitive activities to intensive farming activities.

Ideally, to increase the clarity of the definitions, provisions referring to soil fertility, and off-site feed should be removed, for the reasons already discussed in this report, but primarily, as large numbers of farms require off-site feed at one time or another, and would not typically be considered 'intensive'. Therefore, to remove this doubt and confusion these terms should not be used.

Proposed amendment to current provisions

Extensive Farming:

Means the keeping, breeding or rearing of stock for commercial purposes, on pasture where the nature of the activity sustains the maintenance of pasture or ground cover including free range poultry farming where the birds have access to open air runs, and for pig farms, has a stock density rate of less than 15 pigs per hectare.

Intensive Farming:

'means the use of land and/or buildings for commercial plant or animal production where the regular feed source is predominately provided other than from the site concerned, and includes:

(a) the farming of pigs outdoors at a stocking rate 15 pigs or more per hectare (stocking rate in relation to pig farming means the number of pigs (excluding progeny up to weaner stage) carried per hectare of land, where the area of land fenced, available and used for pig farming includes only that area on which the pigs are regularly run);

(b) herd houses, or feed pads, or any building providing shelter to stock where stock are confined within the building for any continuous period exceeding two weeks;

(c) poultry farming;

(d) mushroom farming;

(e) fish farming;

(f) rabbit farming;

(g) the storage and/or disposal of effluent from any of the above, whether on the same site as the intensive farming activity or not. but does not include nurseries, glasshouses, buildings used for housing or sheltering animals that are giving birth or raising juvenile stock, where no animal is housed or sheltered for more than 3 months in any calendar year and boarding of animals.'

Effectiveness in Addressing Issue and associated risks:

Reciprocal setback buffer

Regarding the potential implementation of a reciprocal setback buffer from sensitive activities to intensive farms, while separation distances do not directly address specific environmental effects, they can be effective in dealing with odour, dust, spray drift, and noise effects, effects which diminish with distance. Such measures are simple to enforce, keeping compliance costs relatively low. However, separation distances are inflexible and do not take into account the nature of the topography, wind patterns, vegetation or other features that might influence the intensity or spread of the effect. Additionally they do not address how each individual activity is operated. For instance with a piggery, the strength and character of odours discharged from sheds housing the pigs will depend on building temperature, building design and means of ventilation (passive or active), pig population density, type of feed, method of food and water supply, effluent collection and removal system, shed-flushing arrangements, and age of buildings.

In the matter of implementing a setback buffer for newly established intensive farm activities (as recommended by Mr. Chilton to act as an extra layer of protection), there may not be a need to implement a setback buffer, as their effect on the surrounding environment will be assessed as part of the resource consent process. Including a rigid setback requirement introduces a broad tool to deal with a complex effect such as odour and dust which have effects that can vary in extent depending on variables like wind conditions and terrain. If a setback was introduced, any sensitive activity within that setback buffer would be considered as an affected party, regardless of whether there is actually an effect on that party. To progress a consent application, affected parties would need to provide written approval, and if they didn't, the application would progress to a hearing, which would significantly increase the time and cost of consenting this form of activity. This misdiagnosis of an affected party based on the broad assessment of being within a setback is not fair situation and should be avoided. For these reasons this method of control is not recommended.

Inclusion of a stock density term within the definitions

Extensive farming definitions provided for in some other authorities include a stock density number. While recommended by Air Quality Scientist Richard Chilton and there being merit in providing a measure due to its clarity and ease of use for stakeholders, it may not be an accurate measure, or achieve the desired outcome. Firstly, there is no guidance other than what other authorities have used, as to what an appropriate stock density is. Additionally, any figure decided on would need to vary depending on soil characteristics, climate conditions, pig type, and management techniques.

For instance a stock density rule of 15 pigs per hectare could be the permitted standard within the definition. However, a farm may be operating below this stocking density, but still causing adverse effects, and vice versa. The potential and actual effects from a farm are more complex than a simple density figure and thus should not be reduced to one. Use of a density figure could lead to farms which are operating well with little or no effect being targeted by consent requirements due to an arbitrary density figure. This approach would also expose the Council to being powerless to address a permitted activity causing significant effects due to their compliance with a stock density figure.

Additionally, the use of the term '15 pigs' does not specify the type of pig, which is particularly relevant given the varying degrees of effects that differ depending on the type of pig, or the area of land over which the density is calculated.

When comparing this option with the previous ground cover option, the ground cover option gives the ability for Council to manage actual effects which may not be available if the stock density option was adopted (where that farm was operating below the stated density). If the latter were true it may result in farms operating within the District Plan framework, but due to inappropriate land characteristics and management techniques, be causing significant adverse effects beyond their property boundary.

Proposed definition used for intensive farming

This option involves a similar definition to that used by the ADC and HDC Plans, which also includes a stock density number rather than ground cover provisions. This definition also includes mushroom farming, and effluent disposal and storage. The former not necessarily causing any issues if separated from any composting component, and the latter being primarily controlled by the Regional Authority, with no real need to be included in a District Plan. Furthermore, all poultry farming would be included under this definition, including free range poultry farming. Additionally one of the key determiners of this definition is whether the regular feed source is from off-site rather than produced on the same site. The potential complications involved with this type of determination have already been touched on within this report.

Increase in size of the reserve sensitivity buffer

Increasing the size of the setback to 400 or 500 metres, as per the Ashburton District Plan or Hurunui District Plan respectively would increase the area that any effects could dissipate

over, potentially reducing the likelihood of an adverse effect on neighbouring sensitive sites, and subsequently any complaints. However, by increasing this buffer, it has the potential to unreasonably restrict rural township growth, and the legitimate residential development of rural blocks. The use of a setback as a trigger point for the requirement of a more detailed assessment is not a favoured result as the breach of the setback would automatically mean that the intensive farming operation would be considered an affected party, making any resource consent process more difficult, which should not happen if no reverse sensitivity effect is likely to occur. As such, increasing the current 300m reverse sensitivity buffer is not recommended.

Another potential option is to decrease or remove the setback buffer. This option is not recommended as it would be contrary to those RPS provisions that promote the rural environment for rural production and seek to avoid reverse sensitivity effects. While there is the potential for reverse sensitivity effects to arise with any setback distance, the likelihood of conflict between incompatible land uses will increase by either reducing or removing the existing 300 metre buffer. On discussions with Council staff, the 300 metre buffer appears to be adequate for its intended purpose. Furthermore, there does not seem to be a push from the industry involved in this process to change this reverse sensitivity buffer.

Budget or Time Implications:

As per the previous option this option will have budget and time implications in that the preferred option would need further drafting, consultation, and testing. Additionally, the amendments may attract submissions and in-depth discussions at the hearing stage.

Stakeholder and Community Interests:

Stakeholders have an interest in ensuring that the appropriate level of planning controls are implemented. They do not want to see overly onerous provisions which diminishes their ability to develop and operate.

Regarding the community interest, they wish to also see the appropriate level of planning control being implement in order to protect their amenity values.

Recommendation:

When considering the discussions about these proposed amendments within the baseline report and this report, this option is not recommended.

8.0 Preferred Option for further engagement

The Project Team recommends that Option 2 be considered the preferred option and used for further engagement, development, and testing.

Appendix A: Legal advice received

Appendix B: RU007 Baseline report

[Intensive Livestock Production Report \(RU007\) \[PDF, 5797 KB\]](#)