

Coversheet for Selwyn District Plan Committee decision on:

Preferred Option Report: - RU213 – Composting and Mushroom Farming

On the 20th of June 2018 a Preferred Option Report was taken to the District Plan Committee Meeting for endorsement.

In the Preferred Options Report the preferred option stated the following:

‘Option 3 – Amend existing provisions, create provisions where gaps exist, and remove overlap with the Canterbury Regional Air Plan in relation to dust and odour effects.’

As a result of the discussions during this committee meeting, this recommendation was subject to an amendment, which was subsequently endorsed.

The amendment to the preferred options is as follows:

“That the Committee endorses the Preferred Option for Mushroom Farming and Composting for further development and engagement, except that further consideration be given to requiring land use consent in proximity to sensitive activities.”

PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

DATE: 20 June 2018

TOPIC NAME: Rural

SCOPE DESCRIPTION: RU013 Composting and Mushroom Farming

TOPIC LEAD: Robert Love

PREPARED BY: Robert Love

EXECUTIVE SUMMARY

<i>Issue(s)</i>	<i>Composting and Mushroom Farming are not specifically covered in the District Plan through either definitions or rules. This can create ambiguity for plan users. Additionally, when considering these activities through a resource consent process odour and dust discharges are required to be assessed, which has resulted in a duplication of process with the Canterbury Air Regional Plan.</i>
<i>Preferred Option</i>	<i>Option 3 – Amend existing provisions, create provisions where gaps exist, and remove overlap with the Canterbury Regional Air Plan in relation to dust and odour effects.</i>
<i>DPC Decision</i>	<p>“That the Committee notes the report.”</p> <p>“That the Committee endorses the Preferred Option for Mushroom Farming and Composting for further development and engagement, except that further consideration be given to requiring land use consent in proximity to sensitive activities.”</p>



1.0 Introduction

The focus of this scope of work is on mushroom farming and composting in the rural area, where composting is either in association with mushroom farming or in isolation. This scope does not look at domestic composting within residential areas, but it does address commercial composting within residential and business zones. Domestic residential composting will be addressed within other scopes of work as part of the District Plan Review.

The manufacturing of compost has the potential to cause discharges of offensive and objectionable odours and to a lesser extent, dust emissions beyond the boundary of the site. This odour (and potentially dust) can have a significant effect on the amenity of an area, and any sensitive activities nearby. Mushroom farming activities have more typical effects as expected from an industrial operation such as building size, noise, lighting glare, and traffic considerations.

Under the Operative Selwyn District Plan mushroom farming is not specifically identified as an activity or directly dealt with but is captured by the general rules and through its classification as a 'rural based industrial activity'. While composting is not defined within the District Plan, the activity of composting is through rules dealing with the importation of organic materials on to a site for the purpose of compost manufacture.

There are only a few sites within the Selwyn District known to the Council that grow mushrooms and/or manufacture compost, with compost being manufactured in Greendale (Greendale Mushrooms and Meadow Mushrooms) and Rolleston (Recovery Park and Southern Horticulture), and mushroom growing occurring in Prebbleton and Greendale.

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 Statement of Operative District Plan approach

2.1 Objectives and Policies

The Operative District Plan's objectives and policies do not address mushroom farming or composting directly, but the Plan does contain general provisions that cover these activities.

Objectives and Policies addressing waste substances is not be relevant to this scope as for something to be defined as a waste substance then it needs to be worthless, useless, etc. Whereas compost has a value and use, and cannot be referred to as a waste substance. See further discussion on this matter below.

2.2 Definitions

'Composting' and 'Mushroom Farming' have not been expressly defined within the District Plan, but there are other definitions that may apply, as discussed below.

The definition of 'solid waste' may apply to the compost once it has been through a growing cycle as it then becomes useless to the mushroom farming activity. However, the material still has high levels of nutrients and in most cases is on sold to gardening centres and nurseries. Based on this, at no point in the compost lifecycle, while being used by a mushroom farming operation, can compost be considered to be solid waste, and as such these provisions are not relevant to this activity.

Green waste may apply to the material brought onto a composting site prior to the composting process beginning, given the definition states that green waste includes any compostable vegetative material, not material that has already been composted.

The process of composting and growing mushrooms is defined as a 'Rural Based Industrial Activity' in the Plan. In summary a rural based industrial activity is *any industrial activity that involves the use of raw materials or primary products which are derived directly from the rural environment*. The materials making up the compost includes plant materials, hay, poultry manure, and other such things. These materials originated from the rural environment and are used to make compost, which in turn is used as the production bed for mushroom growing.

While composting and mushroom farming operations are primary agricultural producers, these types of activities are considered to be more intensive than a typical agricultural activity, given the amount of buildings and the processes involved. As such, it is considered that a 'rural based industrial activity' definition is appropriate.

2.3 Rules

2.3.1 Township Volume

Mushroom farming and composting are not expressly defined in the Township Volume. Composting is specifically addressed under rule 1.1.3.2(j), which renders composting within a Living Zone as non-complying. Mushroom farming is not specifically addressed, but could be considered to be an 'industrial activity' which also has a non-complying status within the Living Zone (rule 1.1.3.2(f)).

Rule 9.3.1 allows for the disposal of solid waste as a permitted activity in the Living Zone if that waste is green garden waste which is composted on the site it is generated on. However, given the large quantities of compost required for mushroom farming, they do not rely on green waste originating from the same site. Green waste is brought to the site from other sources. Therefore, this rule is irrelevant to this activity.

Rule 9.4.2 states that any processing, composting, or disposal onto any land of any organic matter in a Living Zone shall be a non-complying activity unless provided for by rule 9.3.1. This is a reiteration of rule 1.1.3.2(j). As previously stated, as mushroom farm operations cannot provide enough green matter for composting from their own site, they are required to bring in material from off-site. This means that any mushroom farming activity that includes composting on site, and is located within a Living Zone is a non-complying activity under this rule.

Rule 13.1.7.2(e) addresses composting activities occurring within Business 2 and 2A zones, rendering them as a discretionary activity. This rule would not apply to mushroom farms which bring in ready to go compost rather than manufacturing it on site as the rule only applies to activities which have on-site composting processes.

As per Rule 13 of the Township Volume, mushroom farming with no associated composting (industrial activity) is either permitted or non-complying depending on the Business Zone type. This section is an example of confusion within the Operative District Plan, given the amount of different types of Business Zoned Land, and the format of this section.

Rule 21.3.1 does allow for the disposal of solid waste as a permitted activity within a Business Zone if the waste is green garden waste which is composted on the site which it is generated. As previously stated, a mushroom farm is unlikely to produce enough green waste to satisfy their composting needs, and therefore this Rule is not wholly relevant to this activity.

2.3.2 Rural Volume

Rule 9.2.1.2 states that any activity which involves the composting of organic material, where that material is brought onto the site is a discretionary activity. This would allow the Council to assess the potential effect from the discharge of odour or dust on the amenity of the area.

On review of the Operative District Plan there appears to be a gap within the rules which deals with the storage of compost within the rural area. As the composting process does not cease when stored, given that the material will continue to breakdown even when the operator is not using active processes to manufacture compost, rule 9.2.1.2 will continue to apply.

The second part of rule 9.2.1.2 provides for an exception from the rule where material is brought onto the site for the purpose of composting pigs.

Based on the site investigations carried out and discussions with the mushroom growing industry, the odourous part of composting is when anaerobic processes occur during manufacture, or when the compost is disturbed. It is generally considered that at other times, the green waste product and the final compost product is largely benign in odour. An additional effect arising from compost manufacture can be from a dust discharge. However, this effect is more easily mitigated than odour through appropriate management techniques such as storing the compost in a building, under covers, and keeping it moist.

Rule 9.5.1 states that any 'rural based industrial activity' shall be permitted if it meets the site coverage (100 m²) and staff number (2 FTE) conditions. However, a mushroom farming operation is unlikely to meet these conditions. Therefore, the activity will be a discretionary activity under rule 9.5.2 if one of the associated conditions are met. The most relevant condition being if the site is located within the Outer Plains area. If the site is located within the Inner Plains area then the activity will be non-complying.

As well as the activity rule described above, the general rules for aspects such as noise, lighting, transport, building bulk and location etc. will apply to both mushroom farming and composting operations.

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

3.1 Canterbury Regional Policy Statement (RPS)

The provisions within Chapters 5 and 6 seek to ensure the protection of existing rural 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.

There are no specific definition references to composting or mushroom farming within the RPS.

3.2 Canterbury Air Regional Plan (CARP) October 2017

The CARP contains specific mushroom farming rules as part of the intensive farming section, and industrial rules which cover composting activities.

Rules specifically mentioning mushroom farming include rule 7.65, 7.66, and 7.72. These rules primarily deal with the potential odour and dust discharge that may be caused by the activity.

Rule 7.65 provides for activities established prior to 1 June 2002 and did not require a consent to establish, as long as the discharge of odour does not cause an offensive or objectionable effect beyond the boundary of the property, and there is no increase in the scale of the activity, as a permitted activity.

Rule 7.66 provides for activities that established prior to 1 June 2002 but cause an objectionable or offensive odour part the boundary as a restricted discretionary activity¹.

Rule 7.72 provides for mushroom farming activities that established post 1 June 2002 as a restricted discretionary activity as long as the activity does not cause an offensive or objectionable odour effect beyond the boundary.

The matters of discretion are restricted, among other things, to:

- Quantity, quality and type of the discharge to air, and any resulting effects.
- Methods to control the discharge.
- The location of the discharge.

The composting of organic matter is considered to be an 'industrial or trade process' which occurs on an 'industrial or trade premises'. The composting of organic matters is not expressly covered by a specific rule, and is therefore classified under rule 7.63 as a discretionary activity, or rule 7.64 as a non-complying activity. A note within this section of the plan states that composting will most likely need a consent under rule 7.63.

¹ A review by ECan of this Baseline Report has shown that an error exists within the CARP. Rule 7.66 should refer to compliance with condition 2 of Rule 7.65 rather than condition 1. This means that any applicable activity under Rule 7.65 which has an offensive or objectionable effect should be classified as a non-complying activity under Rule 7.80.

3.3 Canterbury Land and Water Regional Plan (LWRP)

The LWRP contains specific provisions dealing with the storage of compost. However, these only address this activity in regard to the potential effect of the activity contaminating water. There are no other provisions managing this activity, and as such there is no overlap with the District Plan.

4.0 Summary of stakeholder engagement

4.1 Canterbury Regional Council

A draft Baseline Report was shared with the Policy Team at the Canterbury Regional Council. Overall, their stance on the preferred option is that they do not support the recommended approach to remove air discharge controls from the District Plan and have a reliance on the Canterbury Air Regional Plan.

The primary reasoning for this stance is as follows:

- Although it is unlikely that a commercial composting and/or mushroom farming activity would be granted consent under the CARP within a Living Zone, there is no certainty of this, compared to retaining appropriate controls within the District Plan.
- Concerns that the reach of CARP policies won't be sufficient to prevent inappropriate planning outcomes.
- Some CARP policy only deal with effects that are offensive and objectionable, which is a higher threshold than just causing an adverse effect on the amenity of the surrounding area.
- The intent of the CARP is to only manage the effects from an air discharge rather than the appropriateness of the proposed activity's location.

4.2 Mahaanui Kurataiao Ltd

Mahaanui Kurataiao Ltd undertook a review of this Baseline Report and stated that the identified Iwi Management Plan Policies are the most relevant and appropriate ones for this activity type. Furthermore, the preferred option was stated as being consistent with the Iwi Management Plan policies and would result in the current issues in the plan being rectified.

4.3 Industry

A site visit was conducted on both the composting and growing sites for Meadow Mushrooms. On sharing the Baseline Report with this party, they stated that they will wait until the formal submission process to make a comment.

A site visit was conducted to the Greendale Mushrooms facility. On sharing the Baseline Report with this party, they agreed with the approach of attempting to remove overlap where possible, and they would not want to see a rural density zone change which would result in residential intensification of the area.

5.0 Summary of Options to address Issues

5.1 OPTION 1 – Status Quo

Effectiveness in Addressing Issue:

This option would not address the known issues in the Operative District Plan.

Risks:

As above.

Budget or Time Implications:

This option would be the most cost effective and require the least amount of time.

Stakeholder and Community Interests:

Industry would still be required to operate under a planning framework which duplicates processes with Environment Canterbury.

Recommendation:

This option is not recommended.

5.2 OPTION 2 – Make amendments to the current framework and retain air discharge controls

This option seeks to retain district council planning controls over the associated air discharge components for these activities. Additionally this option would see amendments to the current planning framework with the creation of definitions and dedicated rules for these activities.

Mushroom Farming:

Under this option mushroom farming will be a non-complying activity within a Living Zone or a Business (Commercial Zone), and a permitted activity within the Business (Industrial) and Rural Zones subject to certain permitted development standards. Standards could include factors such as if the activity involves composting, size of the building, noise generation, etc. If a standard is not met then the activity will become a restricted discretionary activity. Overarching objectives and policies will need to accompany the rules package to help guide development into an appropriate location. For instance policy should direct that activities involving odour discharges should be avoided in Living Zones or Business Zones that can contain incompatible uses such as food vendors, gyms, and offices. Policy should also direct odour producing activities to avoid being located within the Rural Inner Plains area due to the number and concentration of sensitive activities within this area.

Indicative rule structure:

Permitted Rule #	Conditions
Mushroom Farming	Mushroom farming is a permitted activity if all of following matters are met: i: meets the permitted development standards contained in Appendix X; and ii: is not located within a Living Zone or Business (Commercial) Zone.
Restricted Discretionary Rule #	

Mushroom 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 include a matter to assess the amenity effect from any odour discharge)</i>
Non-Complying Rule #	
Mushroom Farming	Any activity that breaches condition ii. is a non-complying activity.

Composting:

All reference to composting within this option and the following option is in reference to composting of a commercial scale and purpose, where organic material has been brought onto the site to be composted. These options are not intended to capture domestic composting and when drafted the wording used will reflect this intent.

This option recommends that any composting activity be a non-complying activity within any non-Rural Outer Plains area, with activities within this area being restricted discretionary.

Composting activities carry with it a significant odour and (potentially) dust discharge that, depending on the characteristics of the activity, can have an adverse effect on the amenity of an area. Therefore, the location of such an activity needs to be carefully managed to ensure that the amenity effects from any odour and/or dust discharge is managed in relation to sensitive activities, thus reducing the likelihood of reverse sensitivity effects.

Indicative Rule Structure:

Restricted Discretionary Rule #	Conditions
Composting	The composting of organic material not from the same property within the Rural Outer Plains Zone is a Restrict Discretionary activity with 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>
Non-Complying Rule #	
Composting	The composting of organic material not from the same property within any zone other than the Rural Outer Plains Zone, is a Non-Complying activity.

Effectiveness in Addressing Issue:

This option would see provisions created to make the District Plan more fit for purpose. This will increase the effectiveness of the plan, and reduce confusion. However, this option would mean that duplication between the District Plan and the Regional Air Plan would still remain.

Risks:

No clear risk as controls over dust and odour has been retained.

Budget or Time Implications:

This option would mean that new provisions would need to be drafted, tested, and consulted on.

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:

Central Government guidance states that any duplication between a district and regional plan should be avoided. This option would result in an overlap between the two plans when assessing any odour or dust discharges and could potentially see an operator needing to apply to both the regional and district council for a consent covering the discharge of odour and/or dust. This duplication increases time and costs to the Applicant, with little (if any) environmental effect gain. For this reason this option is not recommended.

5.3 OPTION 3 – Make amendments to the current framework and remove air discharge controls

This option considers that where provisions overlap with regional plan provisions, then provisions within the district plan should be removed or left as a permitted activity. District plan provisions addressing other effects (i.e. not relating to air quality) should remain but albeit in an altered format to improve effectiveness and efficiency.

As previously discussed Central Government guidance advises that where possible, duplication between authorities should be avoided. As the CARP addresses the discharge of odour and dust through controlling the discharge of contaminants from mushroom farms and composting activities, then the district plan is not required to address these issues. To do so would create duplication resulting in time and cost inefficiencies.

Mushroom Farming:

Any discharge of contaminant to air from a new mushroom farming activity is required to obtain a consent from Environment Canterbury as a restricted discretionary activity, or if the effect is objectionable or offensive, as a non-complying activity.

Therefore, to avoid duplication it is recommended that mushroom farming be permitted in the Proposed District Plan subject to certain permitted development standards (building coverage, noise, lighting etc.). Any breach of this rule would see the mushroom farming activity be classified as a restricted discretionary activity with the matters for discretion being related to the standard breached. The matters of discretion will not include scope to assess the amenity effects from any odour or dust discharge. Furthermore, adequate policy protection would need to be included in the Proposed District Plan to ensure that mushroom farming and composting do not locate in areas near sensitive activities.

Indicative Rule Structure:

Permitted Rule #	Conditions
Mushroom Farming	Mushroom farming is a permitted activity if all of following matters are met: <ul style="list-style-type: none"> i. Meets the permitted development standards listed in Appendix X; and ii. is not located within a Living Zone or Business (Commercial) Zone.
Restricted Discretionary Rule #	
Mushroom Farming	Any activity that breaches condition i. is a restricted discretionary activity with matters of discretion being restricted to those listed in Appendix Y. <i>(Note that the matters for discretion will not include the ability to assess amenity effects from an odour or dust discharge)</i>
Non-Complying Rule #	
Mushroom Farming	Any activity that breaches condition ii. is a Non-Complying Activity.

Composting:

Any discharge of contaminant to air from a composting activity is required to obtain a consent from Environment Canterbury as a discretionary activity, and if it causes an objectionable or offensive effect then it is non-complying. Given these provisions, there is no requirement for the district authority to assess the amenity effect of the odour/dust discharge from a composting activity. This situation is the same as that described for mushroom farming.

This would render any composting activity as a permitted activity, subject to permitted development standards.

On review of the relevant objectives and policies of the CARP there would be adequate coverage within these provisions to ensure that inappropriate development near sensitive sites does not occur. For instance Policy 6.1(a) states that discharges do not cause diverse² effects on human health and wellbeing, and Policy 6.9 states that any new discharge to air should be appropriately located and adequately separated from sensitive activities. Moreover, this assessment should take into account any land use anticipated by a District Plan, which includes the future receiving environment (as defined by case law). The objectives of the CARP also provide additional protection through, but not limited to, Objective 5.2 which provides for the protection of ambient air quality for the health and wellbeing of the people, Objective 5.6 which states that amenity values of the receiving environment are maintained, and Objective 5.9 which states that offensive and objectionable effects (does not extend to only 'adverse effects') on the environment are generally avoided. Therefore, despite the level of protection being reduced in the district plan, the CARP has a sufficiently robust planning framework to ensure that any adverse air quality effects associated with new or expanding mushroom farms and composting activities will be addressed through a discharge permit consenting process.

In addition to the above, current Rural Volume rule 9.2.1.2 which contains an exception for activities bringing off site material on to the property as part of the process of composting pigs is to be retained in the Proposed District Plan.

² On communication with Environment Canterbury this word is meant to be adverse rather than diverse.

Indicative Rule Structure:

Permitted Rule #	Conditions
Composting	Composting is a permitted activity if all of following matters are met: <ul style="list-style-type: none"> i. Meets the permitted development standards listed in Appendix X; and ii. Is not within a Living Zone or Business (Commercial) Zone.
Restricted Discretionary Rule #	
Composting	Any activity that breaches condition i. is a restricted discretionary activity with matters of discretion being restricted to those listed in Appendix Y. <i>(Note that the matters for discretion will not include the ability to assess amenity effects from an odour or dust discharge)</i>
Non-Complying Rule #	
Composting	Any activity that breaches condition ii. a Non-Complying Activity.

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 mushroom farming and composting activities and their associated effects should generally be expected to occur and as such, there should be an element of tolerance for this activity type. This sentiment is expressed through the permissive stance taken. This allows small scale composting activities that cause little or no effect to occur without needing resource consent under the District Plan, with any odour and/or dust effects being addressed by the CARP.

Risks:

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

Budget or Time Implications:

New provisions will need to be drafted, tested, 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.

6.0 Preferred Option for further engagement

Option 3 is recommended to be the Preferred Option for further development. Some control over these activities will be retained within the district plan, namely over aspects such as scale, noise, transport, lighting, etc., while odour and dust will be controlled through the CARP. The CARP has adequate objectives and policies to ensure any odour or dust discharge is appropriately located and managed.