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# POST ENGAGEMENT PREFERRED OPTION UPDATE REPORT TO DISTRICT PLAN COMMITTEE

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**DATE:** 28 November 2018

**TOPIC NAME:** Rural

**SCOPE DESCRIPTION:** Intensive Farming, Mushroom Growing, Compost Manufacture

**TOPIC LEAD:** Robert Love

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## EXECUTIVE SUMMARY

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| <i>Summary of Preferred Option Endorsed by DPC for Further Engagement:</i> | <p><b>Intensive Farming:</b><br/>Option 2 - Amend provisions and remove duplication with the Canterbury Regional Air Plan in relation to dust and odour effects.</p> <p><b>Mushroom Growing and Compost Manufacture:</b><br/>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.</p> |
| <i>Summary of Feedback Received:</i>                                       | <p>There was widespread feedback across many aspects of these activity types, including definitions, jurisdictional control over odour and dust emissions, rule structures, and setbacks. This feedback was both supportive and against the preferred options.</p>   |



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| <p><i>Recommended Option Post Engagement:</i></p> | <ul style="list-style-type: none"> <li>- Create a spilt approach in managing the effects of dust and odour discharge by retaining provisions where an intensive farming activity occurs in close proximity to a sensitive activity;</li> <li>- Introduce a setback between intensive farming and sensitive activities and retain a reverse sensitivity buffer;</li> <li>- Use the definitions provided by the draft National Planning Standards, unless new definitions are required to fill any gaps;</li> <li>- That intensive farming should be a permitted activity, unless a standard is breached, then it should be a restricted discretionary activity; and</li> <li>- That commercial compost manufacture and mushroom growing should be a discretionary activity.</li> </ul>   |
| <p><i>DPC Decision:</i></p>                       | <p><i>“That the Committee notes the report.”</i></p> <p><i>“That the preferred option previously endorsed by DPC be amended as follows:</i></p> <ul style="list-style-type: none"> <li>- <i>Create a spilt approach in managing the effects of dust and odour discharge by retaining provisions where an intensive farming activity occurs in close proximity to a sensitive activity;</i></li> <li>- <i>Introduce a setback between intensive farming and sensitive activities and retain a reverse sensitivity buffer;</i></li> <li>- <i>Use the definitions provided by the draft National Planning Standards, unless new definitions are required to fill any gaps;</i></li> <li>- <i>That intensive farming should be a permitted activity, unless a standard is breached, then it should be a restricted discretionary activity; and</i></li> <li>- <i>That commercial compost manufacture and mushroom growing should be a discretionary activity.”</i></li> </ul> <p><i>“That the updated preferred option described above be progressed to the Drafting and Section 32 Evaluation Phase.”</i></p> <p><i>“That the Committee notes the updated summary plan.”</i></p> |

## 1.0 Introduction

### 1.1 Overview of Preferred Option Endorsed by DPC

The preferred option endorsed by DPC for further consultation for intensive farming was:

- Option 2 - Amend provisions and remove duplication with the Canterbury Regional Air Plan in relation to dust and odour effects.

The preferred option endorsed by DPC for further consultation for mushroom growing and commercial compost manufacture was:

- 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.

## 2.0 Summary of Feedback Received

### 2.1 Landowner/ Public Feedback

Mixed reaction from the public as to whether Selwyn District Council (SDC) should maintain the ability to assess odour and dust effects, or if the Canterbury Regional Council (CRC) should adopt full control over these aspects.

Mixed reaction from the public regarding the use of setbacks, with some wanting to see the setback distance increase, while others wanted to see it stay the same, and others wanted to see a removal of the setbacks to enable residential development. Additionally, comments were received that indicated a wish to see intensive farms fully internalise any effect within their own property.

Mixed reaction was received from the public regarding the use of a groundcover mechanism as the key trigger to determine if an activity is intensive or not. Some parties believe it was too vague, and that it should include all land that is irrigated, or that some sort of stock density number should be incorporated into the definition.

### 2.2 Partner/Stakeholder Feedback

#### ***Mahaanui Kurataiao Limited***

This partner indicated that the Taumutu Runanga is supportive of the preferred option, but Tuahuriri Runanga was not. No further details were provided.

#### ***Canterbury Regional Council***

This partner indicated the following:

- That SDC should retain controls to assess odour and dust where there may be an effect on the amenity values of a sensitive activity. This is not seen as an overlap with the regional planning framework as CRC does not make any assessment on the effect on amenity values.

- Maintaining controls within the District Plan would provide an indication to CRC as to the appropriate location for these discharges within the Rural Zone, and allow for greater effectiveness of the relevant Canterbury Air Regional Plan (CARP) policies.
- The use of setbacks between intensive farms and sensitive activities indicates to CRC the expected land uses and the desired amenity value of an area. This approach would enable the CRC to give an activity more scrutiny if located within a setback because the CARP takes its steer from the District Plan as to where activities should be located.
- CRC would expect the District Plan to contain some form of reverse sensitivity setback in order to give effect to the policies of the Canterbury Regional Policy Statement (RPS).
- If an intensive farming activity has a permitted activity status, then it is suggested that the permitted standards be very robust to ensure activities do not fall through any gaps.
- That SDC should be wary of relying on the CARP's catch-all rules as a back stop, as the CRC's interpretation of the situation and site context may differ from that expected from SDC.
- Overall, it would be beneficial for the district plan to control the location of activities when they are in close proximity to sensitive activities.

#### **Canterbury District Health Board**

This stakeholder had the following comments:

- Supports having a setback between sensitive receptors and intensive farming.
- Supports having at least 300 metres between sensitive receptors and intensive farming.
- Supports delegating functions to the CRC.

#### **Tegel**

This stakeholder had the following comments:

- Would prefer to see poultry have its own definition and rule set rather than a general one for all stock.
- Would prefer for the CRC to control all dust and odour components of intensive farming.
- Supportive of the 300 metre reverse sensitivity buffer remaining, and believes that a setback the other way for new intensive farm is fair, as long as it only applies to sensitive activities. Would like to see clear guidance on where setbacks are measured from.
- Supportive of the indicative rule format and intensive farming becoming a permitted activity.
- Supportive of the new proposed definitions that rely on ground cover as the primary determiner, as long as they are clear. Supports the PIANZ response regarding the definitions.

#### **Poultry Industry Association New Zealand (PIANZ)**

This stakeholder had the following comments:

- Supportive of the approach to remove duplication between the regional and district councils.
- Generally supportive of the indicative definitions, but provided examples on how they could be improved, as set out below.

#### **~~Extensive~~ Farming**

*Means the use of land for keeping, breeding or rearing of livestock and poultry for commercial purposes, on pasture at a stocking density that ~~sustains the maintenance of pasture or~~ maintains*

adequate and suitable ground cover,. This includes ~~including~~ free range poultry farming ~~where the birds have access to open air runs~~ but excludes intensive farming.

#### ***Intensive farming***

Means the use of land ~~and/or buildings or both~~ for the keeping, breeding or rearing livestock and poultry for commercial purposes that are ~~production of animals, where the predominantly productive processes are~~ carried out within buildings, or closely fenced outdoor runs ~~where the and which have a stocking density, or nature of the activity, or scale and intensity that precludes the maintenance of pasture or~~ does not maintain adequate and suitable ground cover. ~~It~~ This definition excludes pig production for domestic self-subsistence home use which involves no more than 25 weaned pigs or six sows.

#### ***Free range poultry farming***

Is the use of land or buildings or both for the keeping, breeding or rearing of poultry for commercial purposes where the birds have access to open air runs.

- Definitions should be framed in a way that ‘farming’ is only the use of land, and intensive farming is the use of land and buildings.
- By including a separate definition for free range poultry, it will allow for a better alignment with the CARP and increase the clarity of the planning framework as a whole.
- Make sure any definitions use the common terms ‘keeping, breeding, and rearing of livestock and poultry’, ‘scale and intensity’, and ‘maintain adequate and suitable ground cover’.
- Ensure that the restricted discretionary and permitted rules are linked, so a breach of the permitted standard will only result in an assessment on that standard through the restricted discretionary rule.
- Improve the clarity of the 300 metre reverse sensitivity rule, so it does not refer to the whole ‘site’ to avoid perverse situations.

#### ***Federated Farmers***

This stakeholder had the following comments:

- Supportive of removing duplication by allowing the regional council to adopt key functions.
- Would prefer to see an amendment to the indicative definition to something similar to the Ashburton or Hurunui District Plans.

#### ***General Pork Industry***

These stakeholders had the following comments:

- Endorses a decision for the CRC to manage odour and dust where possible.
- Would like to see further measures to prevent residential encroachment near existing activities, and into potential areas where the pork industry could develop.
- Supports the keeping of a 300 metre reverse sensitivity setback.
- Industry stated that they would prefer an option which sees a removal of controls at a district plan level. However, if that is not possible then a setback option is the next best.
- A stock density number should not be used to define an activity, as it does not reflect the actual effects.
- It was suggested that the district plan definition, and its use of the term ‘ground cover’ be somehow linked to Pork NZ’s management guidelines.
- There were some concerns around the use of the ground cover term, as piggeries can cut up the ground quite easily in poor weather events.

- Consistency between councils is desirable.

### ***General Poultry Industry***

These stakeholders had the following comments:

- Would prefer to see only one council manage and control the air discharge components.
- Supports the maintenance of a 300 metre reverse sensitivity setback, but are generally accepting that with modern management practices and shed technology, this setback could be reduced.
- Concerned that if the setback was applied both ways that it would pressure farms to be on large lots, so they can fully internalise the effects of their activity.
- Would prefer to see separate provisions for poultry rather than a general definition and rule.
- Request for recognition that all intensive farms are different, in both their effects and the environment they operate within, many within a peri-urban receiving environment, and operate without complaint.
- It was made clear that broiler chickens do not have any issues maintaining ground cover, whereas layer chickens do.
- The industry would like to see a reverse sensitivity layer be maintained for free range poultry units, even if it is considered permitted under the district and regional plans.

### ***Horticulture New Zealand***

This stakeholder had the following comments:

- This party supports the use of the definition provided in the National Planning Standards for 'intensive primary production'.
- Would prefer that 'primary production' rather than extensive farming be used as it is more inclusive and encompassing of all of the potential rural productive land uses. Extensive farming could be seen to be excluding horticulture.
- This group did not consider the growing of horticultural crops within greenhouses as an intensive farming activity.

### ***Selwyn District Council – Waste Management Team***

This team had the following comment:

- The services of an air quality expert who was carrying out a separate piece of work for the council reviewed the potential option in regard to the composting facility at the Pines Resource Recovery Park and stated that the preferred option bundles all forms of composting into one category, which doesn't allow for the differences in feedstock or compost management technique. For example two composting operations that deal with the same quantities and composting technique, but with one including the composting of chicken manure, would have very different odour profiles.

### ***Ellesmere Sustainable Agriculture Incorporated***

This stakeholder had the following comments:

- Supportive of making intensive farming more permissive, and to reduce duplication between councils.

- This group did not see a need for an extensive farming definition.

### **New Zealand Pork**

This stakeholder had the following comments:

- Supportive of any approach that would enable a rural activity, and the removal of duplication between councils through a reliance on the CARP.
- Supportive of the maintenance of a reverse sensitivity setback, and supportive of an amendment to this rule to allow for a dwelling on the same property as the farm.
- Supportive of classifying intensive farming as a permitted activity, and the subsequent requirement for a farm to supply the plan and location of the intensive farming unit to council prior to operation.
- Supportive of the use of a ground cover term to be the key determiner between defining what an intensive and extensive farm is, and for this to be assessed on a common sense basis. The current definitions are considered to be ambiguous and not conducive to good planning outcomes. Moreover, this stakeholder would not like to see a stock density figure used as it doesn't relate to the actual effects of the activity, and does not allow for flexibility within the planning framework.
- Supportive of a restricted discretionary activity status for any activity that breached the permitted activity rule. They supported an approach where it would be inappropriate for the district plan to have a stricter activity classification than a regional plan.
- There is a desire to have a clear delineation between what is considered intensive and extensive. They considered extensive to be farming at low stock rates, maintenance of grass cover, low amounts of dust and odour, whereas intensive farming is generally considered to be high stock densities, and mainly occurring indoors.
- They consider the current controlled activity rule for expanding piggeries is very complex and onerous.
- This group provided some potential objectives and policies:

#### *Objectives*

1. *Rural resources are managed to enable capability, flexibility and accessibility for rural production activities.*
2. *Intensive farming continues to make a significant contribution to the wider economic productivity and food supply of the region/district.*
3. *Indoor and outdoor pig farming is enabled in rural environments and protected from inappropriate subdivision, use and development and reverse sensitivity effects.*

#### *Policies*

1. *Enable a diverse range of activities while avoiding significant adverse effects on rural areas.*
2. *Recognise that the effects of rural production activities are an element of rural character and amenity.*
3. *Require activities that do not depend on rural resources to locate outside areas of rural production.*

4. *Enable intensive farming activities to function efficiently and effectively through the management of potential adverse effects.*
5. *Avoid the potential for reverse sensitivity effects by:*
  - a. *Preventing sensitive activities from establishing in areas where rural production activities could be adversely affected; or*
  - b. *Requiring sensitive activities to adopt onsite methods to avoid reverse sensitivity effects on rural production activities; and*
  - c. *Avoiding subdivision and development that would result in incompatible uses or sensitive activities being introduced into areas of rural production.*

- Would prefer to see permitted development standards allow for the nature of intensive farming, which is a 24 hour working environment and any standards dealing with traffic movements, noise, lighting, and hours of operation should reflect this. Additionally, their unique site coverage requirements should be taken into consideration.

## 3.0 Analysis of Feedback Received

### 3.1 Cross council jurisdiction (CRC/SDC) and the use of setbacks:

#### **Analysis**

Between the responses received from the public, stakeholders, and partners there was no clear theme as to who should control the odour and dust discharge components. The regional council was clear in that they would prefer that SDC retains control of these activities where they may have an effect on the amenity values of a sensitive activity, and this was not seen to be a duplication. It was also warned that the CARP's catch-all rules should not be used as a back stop as they may not cover all of an activity's effects on amenity values.

If controls were maintained in proximity to sensitive activities, a setback would need to be introduced into the plan. This setback would mean that SDC would control odour and dust where a setback breach occurs, and to allow the regional council to manage odour and dust outside of these setbacks. This approach acts a half-way option between the two competing viewpoints.

This option would indicate to the CRC the appropriate location for these discharges within the Rural Zone, and allow for greater effectiveness of the relevant CARP policies.

While control is not wholly transferred to the CRC as per the desires of the industry to attempt to reduce cost, time spent, and confusion, it would allow for a reduction in planning restrictions as currently exists if the intensive farm establishes outside of a setback. Additionally, the concerns of the public as to the potential odour and dust effects on residential properties is also addressed by retaining control when activities occur in close proximity to them. While the industry would still see this as a restriction on potential development some members did see the fairness in this approach, and that it would be the preferred approach if a 'no-rules' approach was not able to be implemented.



There was generally agreement across the consultees about the need for the retention of a reverse sensitivity buffer in order to prevent residential encroachment on existing intensive farming activities. This approach would also assist in meeting the district plans requirements under the RPS.

Additionally, the poultry industry has made a request that if free range poultry farming is a permitted activity, that they be able to retain a reverse sensitivity setback for this activity type. However, the purpose of the reverse sensitivity setback is to stop sensitive activities establishing near existing activities that have an odour and/or dust discharge component that may result in complaint from the new sensitive activity. The CRC has signaled to the SDC through the provisions of the CARP that free range poultry farming has little to no odour or dust effects on the surrounding land uses, and has classified the activity as permitted. This stance has led to an approach by the SDC to classify this activity type (subject to conditions) as permitted as well. Given this interpretation on the degree of effects from free range poultry farming, a reverse sensitivity buffer is not required and would only be placing undue planning restrictions on the surrounding land uses. Conversely, if a free range poultry farming activity were to cause odour and or dust effects to the degree where they warrant a reverse sensitivity setback, then their permitted activity classification would be difficult to justify.

### **Conclusion**

That setbacks be introduced into the district plan which act as a trigger for resource consent requirements for when an intensive farming activity seeks to establish within close proximity to a lawfully established sensitivity activity. This would reduce some controls within the district plan by allowing the CRC to solely deal with the air discharge outside of the prescribed setback, but allow SDC to retain control within it.

## **3.2 Definitions:**

### **Analysis**

The Draft National Planning Standards issued by Central Government include a range of definitions relevant to this scope:

- Primary production – meaning any agricultural, pastoral, horticultural, forestry, or aquaculture activities for the purposes of commercial gain or exchange, including any land and auxiliary buildings used for the production of the products that result from the listed activities, but does not include the processing of those products.
- Intensive primary production – meaning primary production activities that involve the production of fungi, livestock or poultry that principally occur within buildings.

Given the compulsory nature of these definitions, the Council may be required to use the above relevant definitions, rather than develop new ones. However, as the definitions do not address situations such as free range pork and poultry farming specifically, and additionally those activities that preclude the maintenance of ground cover, there may be scope to create definitions to cover these types of activities.

There was a mixed reaction across the public, stakeholders, and partners as to the suitability of introducing the use of a ground cover mechanism to act as the key determiner of whether an activity is intensive or not.

Some parties believed it was too vague, or that other mechanisms should be used such as if the land is irrigated, or that a stock density number should be adopted.

The poultry industry wished to see a separate definition used for different stock types to increase the provisions' effectiveness. Like the pork industry they were supportive of the use of a ground cover mechanism as the determiner of activity definition as it was tied to an effect rather than an arbitrary number. Providing a free range poultry definition would allow for better alignment with the CARP, and increase the clarity of the planning framework as a whole.

These industry members have also provided draft provisions which will be taken into account as part of the provision drafting processes. This includes using common planning terms such as 'keeping, breeding, and rearing of livestock and poultry', 'scale and intensity', and 'maintain adequate and suitable ground cover'.

### **Conclusion**

That the definitions drafted through the National Planning Standards be tentatively adopted until they have been confirmed in early 2019. It is also recommended that definitions are developed for free range poultry, and intensive farming activities that may not necessarily occur within a building, both with the key mechanism being the maintenance of ground cover.

## **3.3 Provision Structure:**

### **Analysis**

Most parties were generally supportive of the indicative rule format of intensive farming becoming a permitted activity, subject to appropriate permitted development standards and followed by a restricted discretionary activity status if a development standard is breached. This appears to be the most effective way forward, especially when combined with the inclusion of setbacks into the rules seeking to control activities in close proximity to sensitive activities. This format allows those activities with little to no effect to occur as a permitted activity, while requiring resource consent for those activities which breach a permitted standard. Additionally, if a consent is required the assessment matters will be restricted to the matter breached in the permitted development standards.

While the industry acknowledged that this approach would place some additional location restrictions on intensive farming, they did see the reasoning behind such an approach and considered it fair when comparing it to the reverse sensitivity setback.

In relation to composting, it is key to note the input from the air quality expert who was undertaking work for SDC through the Asset's Waste Team. Effectively this commentary stated that allowances need to be made for the vast difference in the potential odour profile of various composting manufacturing activities. These can vary widely depending on feedstock and management techniques. This statement is particularly relevant given the ongoing work on the appropriate setback distances for various activities with an air discharge component. This research has also highlighted the complexity of estimating an odour profile for composting activities, and has recommended that composting be dealt with on a case by case basis, rather than by using a minimum setback distance requirement.

Some of the key considerations to be made through the plan provisions drafting process will need to take into consideration the nature of these activity types, and the fact that they are not typical farming operations. This would be relevant to aspects such as traffic movements, noise, site coverage, lighting, and hours of operation.

### **Conclusion**

It is recommended that the plan provisions be drafted along the principle of having the base status for intensive farming as permitted, unless a permitted development standard is breached (which includes a setback as previously discussed), then an escalation to a restricted discretionary activity status occurs, with matters of discretion being limited to the standard breached.

In regards to activities which involve compost manufacture, given the varying nature of this activity and the inability to specify a single accurate setback figure, it is recommended that this activity be considered a discretionary activity at the outset. It may also be relevant to include mushroom growing into this category given its reliance on compost, however this may be further complicated by the potential inclusion of fungi growing under the National Planning Standard's definition for intensive primary production.

## 4.0 Recommended Option Post Engagement

The Project Team recommends that:

- The Preferred Option previously endorsed by DPC is amended as follows:
  - Create a spilt approach in managing the effects of dust and odour discharge by retaining provisions where an intensive farming activity occurs in close proximity to a sensitive activity;
  - Introduce a setback between intensive farming and sensitive activities;
  - Use the definitions provided by the draft National Planning Standards, unless new definitions are required to fill any gaps;
  - That intensive farming should be a permitted activity, unless a standard is breached, then it should be a restricted discretionary activity; and
  - That commercial compost manufacture and mushroom growing should be a discretionary activity.
- The updated Preferred Option described above progresses to the 'Drafting and Section 32 Evaluation Phase'.