

Under the Resource Management Act 1991 (the Act)

In the matter of an appeal under Clause 14(1) of the First Schedule of the
Resource Management Act 1991

Between **Mark Francis Manson** of Takaka, (farmer)

Laura Katherine Manson of Takaka (farmer)

Appellants

And **Tasman District Council**

Respondent

**Notice of Appeal by Mark Francis Manson and Laura Katherine
Manson against decision on proposed plan change 60 of the Tasman
Resource Management Plan**

Dated 17 February 2017

TASMAN LAW

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To: The Registrar
Environment Court
Wellington

Introduction

- 1 Mark Francis Manson and Laura Katherine Manson of Takaka (**the appellants**), appeal against decisions by the Tasman District Council under Plan Change 60 (Rural Land Use and Subdivision Policy Review).
- 2 In particular, the appellants appeal against that part of Plan Change 60 that introduces new provisions for habitable buildings in the Rural 1 and 2 zones to be set back 30 metres from internal property boundaries (except where an alteration does not increase the level of non-compliance). These requirements are set out in the Tasman Resource Management Plan (**the Plan**) at rules under parts 17.5.3.1 for the Rural 1 Zone and 17.6.3.1 for the Rural 2 Zone.
- 3 Proposed Plan Change 60 also introduces new provisions for habitable buildings in the Rural Residential and Rural 3 Zones to be set back 30 metres from boundaries to the Rural 1, 2 (and 3) Zones in rules under parts 17.7.3 and 17.8.3 of the Plan. These provisions are also the subject of this appeal.
- 4 The operative Plan (before Proposed Plan Change 60) did not differentiate between habitable buildings and other buildings for setback purposes. It required that all buildings in the Rural 1 and 2 Zones be set back 5 metres from internal property boundaries. A separate rule required that if an adjoining property contained horticultural plantings where pesticides may be discharged to air, or horticultural plantings that are vineyards, a setback from 30 metres from adjacent boundaries was required for dwellings and residential buildings (this was reduced to a 20 metre setback where a spray belt was established along the boundary common to the horticultural plantings and the adjoining property).
- 5 The Appellants made a submission on Proposed Plan Change 60 to the Tasman Resource Management Plan. A copy of the submission is attached.
- 6 The Appellants are not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991 (**the Act**).
- 7 The Appellants received notice of the decision on the 14th day of December 2016.
- 8 The decision was made by Tasman District Council.

Decision Being Appealed

- 9 The parts of the decision being appealed are:
- 9.1 the changes to the Rural 1 Zone rules in Chapter 17.5 of the Plan, and in particular part 17.5.3, which increase the setback for all dwellings and habitable buildings to 30 metres from internal property boundaries.
 - 9.2 the changes to the Rural 2 Zone rules in Chapter 17.6 of the Plan, and in particular part 17.6.3, which increase the setback for all dwellings and habitable buildings to 30 metres from internal property boundaries.
 - 9.3 the changes to the Rural 3 Zone Rules in Chapter 17.7 of the Plan, and in particular part 17.7.3 and to the Rural Residential Zone rules in Chapter 17.8 of the Plan, and in particular part 17.8.3, which introduce new provisions for habitable buildings in the Rural Residential and Rural 3 Zones to be set back 30 metres from boundaries to the Rural 1, 2 (and 3) Zones.

Reasons for the Appeal

- 10 The general reasons for the appeal are that proposed changes to the setbacks for dwellings and habitable buildings from internal boundaries to the Rural 1, 2 (and 3) Zones under proposed Rules 17.5.3, 17.6.3, 17.7.3 and 17.8.3 ("the proposed rule changes"):
- a do not give effect to the Tasman Regional Policy Statement and in particular Part 2, General Objectives and Part 3, Significant Resource Management Issues in Tasman District, Section 6, Land Resources;
 - b are contrary to and inconsistent with the objectives, policies and other provisions of the Plan and in particular Chapter 7 (Rural Environment Effects);
 - c are inconsistent with Part 2 of the Resource Management Act 1991 (the Act) especially sections 7(b), (c) and (f) and section 5;
 - d do not implement the Council's functions under section 30 of the Act;
 - e do not provide for provisions which are the most appropriate way to achieve the purpose of the Act or the objectives of Plan Change 60, and are therefore not appropriate in terms of section 32 of the Act.

Specific Reasons

- 11 That the adverse effects of the proposed rule changes were not adequately assessed by the Respondent, and in particular, that the Respondent failed to adequately assess the adverse effects on rural character and productive land use.
- 12 That the proposed rule changes are contrary to the stated objectives of Plan Change 60 which were to:
 - a Protect high quality productive land;
 - b Maintain rural character;
 - c Provide more flexible housing choices in rural areas;
 - d Reduce the uncertainty and costs of case by case decision-making.
- 13 That the proposed rule changes will result in:
 - 13.1 the inefficient use, and fragmentation of productive land by creating areas of land that at 30 metres wide are too narrow for viable productive use;
 - 13.2 the restriction of choices of location of habitable buildings and so compromise flexibility in housing choices and the ability to maximise productive land use;
 - 13.3 compromising of rural character by obstructing the ability to cluster dwellings; and
 - 13.4 uncertainty and costs associated with the need to obtain resource consents where dwellings need to be located within the 30 metre setback area, resulting in case by case decision making and creating potential conflicts between neighbours.
- 14 The proposed rules are confusing and inconsistent when read in combination with other rules under parts 17.5.3 (for the Rural 1 Zone) and 17.6.3 (for the Rural 2 Zone) of the Plan because the setback rules are significantly different for habitable buildings and dwellings as opposed to other buildings. Different rules also apply in the Rural 2 zone for setbacks from vineyards and horticultural plantings for schools and grounds, early childhood education facilities and grounds and visitor accommodation and tourist accommodation, under Rule 17.6.3.4 (Restricted Discretionary Activities, Building Construction, Alteration or Use).
- 15 The alleged benefits of the proposed rules identified by the Council in its Decision Report (Plan Change 60 Decision Report SER 606) will not occur and are not supported by evidence.

- 16 The Respondent did not establish a need under the Act to increase the boundary setbacks, and failed to consider that there will be no difference in reverse sensitivity effects between a 5 metre and a 30 metre setback for dwellings and habitable buildings.
- 17 The change in rule status for dwellings and residential buildings within the 30 metre setback from controlled (in the Rural 1 Zone) and permitted (in the Rural 2 Zone) (provided the other relevant criteria were complied with) to restricted or full discretionary is unnecessary and creates an onerous additional layer of regulation for these rural landowners.
- 18 In the Rural 1 zone, the restricted discretionary rule 17.5.3.3, condition (ba) provides that to qualify as a restricted discretionary activity, the activity is required to be a second dwelling that is a minor dwelling. It appears that a first dwelling constructed within the 30 metre boundary setback in the Rural 1 zone would not qualify under this section and would have to be assessed as a full discretionary activity under rule 17.5.3.3B. The full discretionary activity status under the Rural 1 Zone does not include any assessment criteria and so requires a full assessment of all matters under the Act and the relevant planning documents. This would involve consideration of matters that go well beyond the scope of reverse sensitivity effects, which were the stated reasons for the boundary setback plan changes (Refer to the Council's Reasons under Decision Report 606).
- 19 Rule 17.5.3.3 condition (bb) (Rural 1 Zone Restricted Discretionary Activity Building Construction, Alteration or Use) requires that to qualify as a restricted discretionary activity, a second minor dwelling must comply with condition (e) of rule 17.5.3.2. This condition is the 30m setback condition. It means that a second minor dwelling that does not comply with condition (e) would fall to be assessed as a full discretionary activity under rule 17.5.3.3B. This would involve consideration of matters that go well beyond the scope of reverse sensitivity effects, which were the stated reasons for the boundary setback plan changes (Refer to Council's Reasons under Decision Report 606).
- 20 The assessment criteria proposed by restricted discretionary rule 17.6.3.4 (Rural 2 zone) and the restricted discretionary activity rule 17.5.3.3 (if it applies) (Rural 1 Zone), or alternatively discretionary activity Rule 17.5.3.3B (Rural 1 Zone) are lacking in specificity and are not clearly linked to reverse sensitivity considerations.
- 21 The blanket nature of the proposed 30 metre setback rule to all Rural 1 and 2 land and the associated need to apply for resource consents as a restricted discretionary or discretionary activity, does not allow for flexibility in the use of rural

land, will compromise the use of the land, and does not promote the sustainable management of the rural land resource in the Tasman District.

Relief Sought

- 22 Where specific wording changes are proposed by way of relief, the Appellants seek in the alternative any wording that would adequately address the reasons for its appeal. The Appellants also seek any consequential changes made necessary by the relief sought below.
- 23 The Appellants seek the following relief:
- 23.1 **Part 17.5 - Rural 1 Zone:** For the relevant rules under 17.5.3 (Building Construction, Alteration or Use) the cancellation of the decision providing for the 30 metre setback for construction of dwellings and habitable buildings from an internal boundary and the amendment of the relevant rules to provide for a 5 metre setback as was provided under the previous operative Plan. In particular:
- a Rule 17.5.3.1 - Permitted Activities, Building Construction, Alteration or Use - **Amend** proposed rule 17.5.3.1(kb)(i) to replace the words "30 metres" with the words "5 metres" or alternatively **remove** rule 17.5.3.1(kb)(i).
 - b Rule 17.5.3.2 – Controlled Activities (Building Construction, Alteration or Use) - **Amend** proposed rule 17.5.3.2 (e)(i) to replace the words "30 metres" with the words "5 metres" or alternatively **remove** proposed rule 17.5.3.2 (e)(i).
 - c Rule 17.5.3.2 – Controlled Activities (Building Construction, Alteration or Use) – **Reinstate** previous condition (e) under the operative Plan which required setbacks for habitable buildings from adjacent properties with horticultural plantings or vineyards.
 - d Rule 17.5.3.2 – Controlled Activities (Building Construction, Alteration or Use) – **Delete** proposed matter of control (3) and amend to read:

"Reverse sensitivity effects on productive land use of a building with reduced setbacks"
 - e Rule 17.5.3.3 – Restricted Discretionary Activities (Building Construction, Alteration or Use) – **Delete** condition (ba) or alternatively **amend** condition (ba) as follows:

“Where the activity is a second dwelling, the second dwelling is a minor dwelling and the principal dwelling contains a single housekeeping unit only.”

- f Rule 17.5.3.3 – Restricted Discretionary Activities (Building Construction, Alteration or Use) – Condition (bb), **delete** condition (e) from the list of controlled conditions under Rule 17.5.3.2 that are to be complied with.
- g Rule 17.5.3.3 – Restricted Discretionary Activities (Building Construction, Alteration or Use). Matter of discretion (1) refers to the “Matters of control (1) – (8) in rule 17.5.3.2”. **Remove** matter of control (3) from this list, so that 17.5.3.3 (1) is **amended** to read as follows:

(1) Matters of control (1), (2) and (4) – (8) in rule 17.5.3.2.

- h Rule 17.5.3.3 – Restricted Discretionary Activities (Building Construction, Alteration or Use). **Replace** matter of discretion (2) as follows:

Replace (2) Effects of a building with reduced setbacks

With:

(2) the impact of the location of a habitable building or dwelling on the productive capacity of the adjoining property in relation to reverse sensitivity effects.

- i Proposed Rule 17.5.3.3 – Restricted Discretionary Activities (Building Construction, Alteration or Use) in the Rural 1 Zone. **Reinstate** previous condition (d) under the operative Plan which required setbacks for schools and early childhood facilities and grounds and visitor or tourist accommodation from adjacent properties with horticultural plantings or vineyards.

23.2 Part 17.6 - Rural 2 Zone: For the relevant rules under 17.6.3 (Building Construction, Alteration or Use), the cancellation of the decision providing for the 30 metre setback for construction of dwellings and habitable buildings from an internal boundary and the and the amendment of the relevant rules to provide for a 5 metre setback as was provided under the previous operative Plan. In particular:

- a Proposed rule 17.6.3.1 Permitted Activities (Building Construction, Alteration or Use) – **Amend** proposed rule 17.6.3.1(n)(i) to replace the words “30 metres” with the words “5 metres” or alternatively **remove** rule 17.5.3.1(n)(i).

b Proposed Rule 17.6.3.1 – Permitted Activities (Building Construction, Alteration or Use) – **Reinstate** previous condition (n) under the Operative Plan which required setbacks for habitable buildings from adjacent properties with horticultural plantings or vineyards.

c Proposed Rule 17.6.3.2 – Controlled Activities (Building Construction, Alteration or Use) – **Delete** condition (b) or alternatively **amend** condition (b) as follows:

“Where the activity is a second dwelling, the second dwelling is a minor dwelling and the principal dwelling contains a single housekeeping unit only”

d Proposed Rule 17.6.3.2 – Controlled Activities (Building Construction, Alteration or Use) - **Amend** proposed condition (ba) to remove the reference to condition 17.6.3.1 (n), so that it reads as follows:

(ba) Where the activity is a second dwelling, the second dwelling that is a minor dwelling complies with the permitted conditions of rule 17.6.3.1 (h) – (m) and (o) – (t).

e Proposed Rule 17.6.3.2 – Controlled Activities (Building Construction, Alteration or Use) -**Amend** matter of control (3) so that it reads as follows:

“Reverse sensitivity effects on productive land use of a building with reduced setbacks”

f Proposed rule 17.6.3.4 Restricted Discretionary Activities (Building Construction, Alteration or Use) – **Amend** matter of discretion (1) in Proposed Rule 17.6.3.4 from:

Effects of a building with reduced setbacks

To:

the impact of the location of a habitable building or dwelling on the productive capacity of the adjoining property in relation to reverse sensitivity effects.

23.3 **Part 17.7 - - Rural 3 Zone:** For the relevant rules under 17.7.3 (Building Construction, Alteration or Use) the cancellation of the decision providing for the 30 metre setback for construction of dwellings and habitable buildings from an

internal boundary where that boundary is to the Rural 1 or 2 Zone and in particular:

- a Proposed rule 17.7.3.1 Permitted Activities (Building Construction, Alteration or Use) – **Remove** proposed condition (ga)(i) or alternatively **amend** the condition to replace the words “30 metres” with the words “5 metres”.
- b Proposed rule 17.7.3.2 Controlled Activities (Building Construction, Alteration or Use) – **Remove** proposed condition (f)(i) or alternatively **amend** the condition to replace the words “30 metres” with the words “5 metres”.
- c Proposed rule 17.7.3.2 Controlled Activities (Building Construction, Alteration or Use) – **Reinstate** previous condition (f) under the Operative Plan which required setbacks for habitable buildings from adjacent properties with horticultural plantings or vineyards.

23.4 **Part 17.8 Rural Residential Zone:** For the relevant rules under 17.8.3 (Building Construction, Alteration or Use) the cancellation of the decision providing for the 30 metre setback for construction of dwellings and habitable buildings from an internal boundary where that boundary is to the Rural 1, Rural 2 or Rural 3 Zone and in particular:

- a Proposed rule 17.8.3.1 Permitted Activities (Building Construction, Alteration or Use) – **Remove** proposed condition (h)(i) or alternatively **amend** the condition to replace the words “30 metres” with the words “5 metres”.
- b Proposed rule 17.8.3.1 Permitted Activities (Building Construction, Alteration or Use) – **Reinstate** previous condition (h) under the Operative Plan which required setbacks for habitable buildings from adjacent properties with horticultural plantings or vineyards.
- c Proposed Rule 17.8.3.1A – Controlled Activities (Building Construction, Alteration or Use) - **Amend** proposed condition (b) to remove the reference to condition 17.8.3.1 (h), so that it reads as follows:

(ba) The second dwelling that is a minor dwelling complies with the permitted conditions of rule 17.6.3.1 (e) – (g) and (i) – (q).
- d Proposed rule 17.8.3.2 Restricted Discretionary Activities (Building Construction, Alteration or Use) **Remove** proposed condition (e)(i) or alternatively **amend** the condition to replace the words “30 metres” with the words “5 metres”.

- e Proposed rule 17.8.3.2 Restricted Discretionary Activities (Building Construction, Alteration or Use) **Reinstate** previous condition (e) under the operative Plan which required setbacks for schools and grounds, early childhood facilities and grounds, visitor accommodation and tourist accommodation from adjacent properties with horticultural plantings or vineyards.
- f Proposed rule 17.8.3.2 Restricted Discretionary Activities (Building Construction, Alteration or Use) – **Amend** matter of discretion (5) as follows:

Replace The adverse effects of a building with reduced setbacks

With:

the impact of the location of a habitable building or dwelling on the productive capacity of the adjoining property in relation to reverse sensitivity effects.

24 Any additional changes which are required to the text and the maps of the Plan to give effect to the relief sought in this appeal.

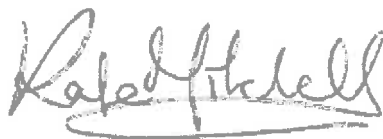
24.1 The costs of this Appeal.

Attachments

25 The following documents are attached to this notice:

- i A list of names and addresses of persons to be served with a copy of this notice.
- ii A copy of the Appellants submission;
- iii A copy of the Decision;

Dated 17 February 2017



**Signed by KE Mitchell
authorised to sign on
behalf of Mark and Laura
Manson**

Address for service of the Appellant:

TASMAN LAW

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PO Box 3663
Richmond 7020

Solicitor: KE Mitchell
kmitchell@tasmanlaw.co.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix 1 – Persons to be Served with a copy of this Notice of Appeal

The Registrar
Environment Court
PO Box 5027
Wellington 6145
e-mail: EnvironmentCourt@justice.govt.nz

The Chief Executive
Tasman District Council
Private Bag 4
Richmond 7020
e-mail: info@tasman.govt.nz

Federated Farmers of NZ (Inc)
PO Box 715
Wellington 6140
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Horticulture New Zealand
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The Terrace
Wellington 6143
email: info@hortnz.co.nz

NZ Transport Agency
Private Bag 6995
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Vailima Orchard Ltd
c/o Jackie McNae
Staig & Smith NZ Ltd
PO Box 913
Nelson 7040
e-mail: Jackie@staigsmith.co.nz



Submission on a Change to the Tasman Resource Management Plan

Return your submission by the advertised closing date to:

Manager, Policy
Tasman District Council
Private Bag 4, Richmond 7050 OR
189 Queen Street, Richmond OR
Fax 03 543 9524 OR Email steve.markham@tasman.govt.nz

Cover Sheet

OFFICE USE

Date received stamp:

R 14.3.16

Initials:

Submitter No.

4049

Note:

This form is only for the purpose of making a submission on the Plan. It is NOT for making a further submission (i.e. in support or opposition to an original submission) or for making a submission on a resource consent or on Council's Annual Plan.

Submitter Name: Mark and Laura Manson

(organisation/individual)

Representative/Contact:

(if different from above)

Postal Address:

81 Back Rd
Takaka RD1
7183

Home Phone: 03 525 7399

Bus. Phone:

Fax:

Email: pophouse@xtra.co.nz

Date: 14-Mar-2016

Postal address for service of person making submission:

(if different from above)

Signature:

NOTE: A signature is not required if you make your submission by electronic means.

Total number of pages submitted (including this page):

IMPORTANT – Please state:

This submission relates to Change No.: 60

Change Title/Subject:

rural land use and subdivision

I/we wish to be heard in support of my/our submission.

I/we would be prepared to consider presenting my/our submission in a joint case with others making a similar submission at any hearings.

Please attach this cover sheet to your supplementary sheet(s) outlining your submission request(s).

Supplementary Sheet

OFFICE USE Submitter Number: **4049**

<p>(1) My submission relates to: Provision No or Planning Map No. <i>(Please specify, e.g. 34.2.20(a)(iii) or Zone Map 25)</i></p>	<p>(2) My submission is that: <i>(State concisely the nature of your submission and clearly indicate whether you: • support or oppose the specific provisions, or • wish to have amendments made, giving reasons)</i></p>	<p>(3) I seek the following decisions from the Tasman District Council: <i>(Give precise details of the nature of the decision you seek in relation to the variation number and provision/map number given in column (1), e.g. addition, deletion or alteration. The more specific you can be the easier it will be for Council to understand your concerns.)</i></p>	<p>OFFICE USE Submission No.</p>
	<p>Each request for subdivision is reviewed on a case by case basis and that the specific piece of land is viewed as it really is. For instance a piece of land may be surrounded by productive land and the whole may be Rural1 but the piece to be subdivided may be a stoney and unworkable patch where a house will not cover any quality soil.</p> <p>We also believe that a minimum of 30 meter setback is excessive and should not be adopted</p> <p>We also believe that rules governing colour and materials are nonsense when viewed within the context of the surrounding natural colours over the seasons; as well as the fact that anyone can paint their house as they wish after the fact.</p>	<p>That requests are examined case by case as soil types can vary markedly over small distances.</p> <p>That the minimum setback remain at 5 meters from the boundary; certainly at a lesser figure than 30 meters.</p> <p>That the rules regarding house colours be much less narrow if not relaxed entirely.</p>	

Feel free to contact us:



Tasman District Council Email info@tasman.govt.nz Website www.tasman.govt.nz 24 hour assistance	Richmond 189 Queen Street Private Bag 4 Richmond 7050 New Zealand Phone 03 543 8400 Fax 03 543 9524	Murchison 92 Fairfax Street Murchison 7007 New Zealand Phone 03 523 1013 Fax 03 523 1012	Motueka 7 Hickmott Place PO Box 123 Motueka 7143 New Zealand Phone 03 528 2022 Fax 03 528 9751	Takaka 14 Junction Street PO Box 74 Takaka 7142 New Zealand Phone 03 525 0020 Fax 03 525 9972
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3777 HotHouse Communications

Meeting Decision Group : 606 - Change 60: Character and Amenity

606

Change 60: Character and Amenity

Decisions and Reasons

Final Decision 606.1

C60.174.8	Transpower NZ Ltd			Disallow
C60.830.1	Fulton Hogan Ltd			Disallow
<i>Allow</i>	FC60.2864.9			
<i>Disallow</i>	FC60.174.1	FC60.806.21	FC60.3974.1	
C60.830.11	Fulton Hogan Ltd			Allow
C60.830.12	Fulton Hogan Ltd			Allow
C60.855.1	Cotton & Light Surveyors			Allow In Part
<i>Disallow</i>	FC60.2864.51			
C60.1076.1	Ravensdown Fertiliser Co-Operative Ltd			Allow
<i>Allow</i>	FC60.806.29			
C60.1089.10	Nelson Forests Ltd			Allow
C60.1089.11	Nelson Forests Ltd			Disallow
C60.1089.14	Nelson Forests Ltd			Allow
C60.1089.15	Nelson Forests Ltd			Allow
<i>Allow</i>	FC60.1076.9			
C60.1089.21	Nelson Forests Ltd			Disallow
C60.1089.33	Nelson Forests Ltd			Allow
C60.1188.2	Drummond, Wendy			Disallow
C60.1227.1	Davis Ogilvie & Partners Ltd			Disallow
<i>Allow</i>	FC60.2864.44			
C60.1227.2	Davis Ogilvie & Partners Ltd			Disallow
<i>Disallow</i>	FC60.4011.17			
C60.1440.3	Vincent, S M			Allow
C60.1521.3	Federated Farmers of NZ (Inc.)			Allow
C60.1521.8	Federated Farmers of NZ (Inc.)			Disallow
<i>Disallow</i>	FC60.1076.2	FC60.2864.23		
C60.1521.15	Federated Farmers of NZ (Inc.)			Allow
C60.1521.16	Federated Farmers of NZ (Inc.)			Allow
<i>Allow</i>	FC60.2864.1			
C60.2635.1	Ewing Poultry Ltd/Lloyd Ewing			Allow In Part
C60.2635.2	Ewing Poultry Ltd/Lloyd Ewing			Disallow
C60.2635.3	Ewing Poultry Ltd/Lloyd Ewing			Disallow
C60.2635.4	Ewing Poultry Ltd/Lloyd Ewing			Disallow
C60.2635.5	Ewing Poultry Ltd/Lloyd Ewing			Allow
C60.2799.10	Tasman District Council staff			Allow
C60.2864.3	Horticulture New Zealand			Allow
C60.2864.16	Horticulture New Zealand			Disallow
<i>Disallow</i>	FC60.1089.2	FC60.3974.2		
C60.2864.19	Horticulture New Zealand			Disallow
<i>Disallow</i>	FC60.1076.1	FC60.4032.24		
C60.2864.26	Horticulture New Zealand			Disallow
<i>Disallow</i>	FC60.1076.6	FC60.1089.3		
C60.2864.31	Horticulture New Zealand			Allow
C60.2864.34	Horticulture New Zealand			Disallow
C60.2864.35	Horticulture New Zealand			Allow
C60.2864.36	Horticulture New Zealand			Allow
C60.2864.37	Horticulture New Zealand			Disallow
<i>Disallow</i>	FC60.1076.8	FC60.3974.7	FC60.4011.2	
C60.2864.38	Horticulture New Zealand			Allow
<i>Allow</i>	FC60.3974.8	FC60.4011.3		
C60.2864.39	Horticulture New Zealand			Disallow

606

Change 60: Character and Amenity

Decisions and Reasons

C60.2864.40	Horticulture New Zealand	Allow
C60.2864.43	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.6	
C60.2864.44	Horticulture New Zealand	Allow
C60.2864.47	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.4	
C60.2864.50	Horticulture New Zealand	Disallow
C60.2864.51	Horticulture New Zealand	Allow
C60.2864.54	Horticulture New Zealand	Disallow
C60.2864.55	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.9	
C60.2864.56	Horticulture New Zealand	Allow
C60.2864.59	Horticulture New Zealand	Disallow
C60.2864.60	Horticulture New Zealand	Allow
C60.2864.62	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.10	
C60.2864.63	Horticulture New Zealand	Allow
C60.2864.66	Horticulture New Zealand	Allow
C60.2864.69	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.15	
C60.2864.71	Horticulture New Zealand	Allow
C60.3660.1	St Leger Group	Allow In Part
C60.3660.2	St Leger Group	Disallow
C60.3660.3	St Leger Group	Disallow
C60.3660.4	St Leger Group	Disallow
C60.3974.19	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.4065.19	
C60.3974.20	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.1076.10	FC60.4065.20
C60.3974.21	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.4065.21	
C60.3974.22	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.4065.22	
C60.3974.23	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.4065.23	
C60.3974.24	Aggregate and Quarry Assn of NZ (AQA)	Allow
<i>Allow</i>	FC60.4065.24	
C60.3991.2	Bensemman, Alan	Disallow
<i>Allow</i>	FC60.2864.47	
C60.3996.5	Boomerang Farm Ltd/M Wratten	Disallow
C60.3996.6	Boomerang Farm Ltd/M Wratten	Disallow
C60.3996.7	Boomerang Farm Ltd/M Wratten	Allow
C60.3996.8	Boomerang Farm Ltd/M Wratten	Allow
C60.3999.2	Bradley, Ralph	Disallow
<i>Allow</i>	FC60.2864.34	
C60.4002.1	Butts, Robert J	Allow
C60.4011.2	Egg Producers Federation of NZ	Allow
C60.4011.3	Egg Producers Federation of NZ	Allow
C60.4011.11	Egg Producers Federation of NZ	Allow
C60.4011.12	Egg Producers Federation of NZ	Allow
C60.4011.13	Egg Producers Federation of NZ	Allow
C60.4011.17	Egg Producers Federation of NZ	Allow In Part
C60.4011.18	Egg Producers Federation of NZ	Allow In Part

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C60.4011.18	Egg Producers Federation of NZ	Allow In Part
C60.4016.5	Golden Bay Surveyors	Disallow
<i>Allow</i>	FC60.2864.35	
C60.4023.6	Hancock Forest Management (NZ) Ltd	Allow
<i>Allow</i>	FC60.806.41	
C60.4023.10	Hancock Forest Management (NZ) Ltd	Allow
C60.4023.11	Hancock Forest Management (NZ) Ltd	Disallow
C60.4023.14	Hancock Forest Management (NZ) Ltd	Allow
C60.4023.30	Hancock Forest Management (NZ) Ltd	Allow
C60.4034.4	Kebbell, John	Disallow
<i>Allow</i>	FC60.2864.48	
C60.4035.1	Kelsall, Julia	Disallow
<i>Allow</i>	FC60.2864.49	
C60.4036.2	Kerrisk, Billy	Allow
C60.4041.2	Laing, Chris	Disallow
<i>Allow</i>	FC60.2864.36	
C60.4048.5	McMahan, Diana C	Disallow
C60.4049.2	Manson, Mark & Laura	Disallow
<i>Allow</i>	FC60.2864.38	
C60.4050.8	Maurer, Joachim	Disallow
C60.4057.2	New Zealand Defence Force	Allow
C60.4057.3	New Zealand Defence Force	Allow
C60.4063.1	Pons, Rodger	Allow
<i>Disallow</i>	FC60.2864.53	
C60.4063.2	Pons, Rodger	Disallow
C60.4065.1	Port Tarakohe Services Ltd	Allow
C60.4065.2	Port Tarakohe Services Ltd	Allow
C60.4065.3	Port Tarakohe Services Ltd	Allow In Part
C60.4065.5	Port Tarakohe Services Ltd	Allow
C60.4068.9	Rural Contractors NZ Inc. (RCNZ)	Allow
C60.4072.6	Scurr, Lorna	Allow In Part
C60.4085.2	Staig & Smith and Alandale & Vaillima Orchards	Disallow
<i>Allow</i>	FC60.2864.43	
C60.4086.3	Wallis, William G	Disallow

Plan Amendments

Topic : 16.3.7.1

Amend condition 16.3.7.1(d) by adding to the end: "which is set back 30 metres from internal boundaries where those boundaries are to the Rural 1 or Rural 2 Zone."

Topic : 16.3.8.1

1. Insert a new condition in 16.3.8.1 as follows:
"Building Location Area"
(bb) Every allotment on which any habitable building is intended to be located has a building location area shown which is set back 30 metres from internal boundaries where those boundaries are to the Rural 1, Rural 2 or Rural 3 Zone."
2. Insert a new matter of control:
"(11B) Potential for reverse sensitivity effects on plant and animal production activity in an adjoining Rural 1, 2 or 3 zone."
3. Insert a new matter of control:
"(11C) Potential for reverse sensitivity effects on an existing, lawfully established quarry which was a quarry on or before 30 January 2016."

Topic : Sch. 16.3A

Decisions and Reasons

Amend Schedule 16.3A to add an additional criterion as follows:
 †Potential for reverse sensitivity effects on plant and animal production activity.”

Topic : Chapter 17

1. Amend conditions 17.7.3.1(ga)(i), 17.7.3.2(f)(i) and 17.8.3.1(h)(i) by adding the following words to the end of the sentence: "except for a habitable building on a site located in a subdivision that was consented before 30 January 2016 where the setback is 5 metres".
2. Amend 17.5.3.1(h)(i) and 17.6.3.1(j)(i) to move proposed additional wording from before the word "and" to after the same word "and".
3. Amend the proposed conditions 17.5.2.1(n), 17.6.2.1(n) and 17.7.2.1(i) by:
 - adding the words "including poultry body part and poultry offal processing and composting," after the words "poultry farming";
 - replacing the word "300m" with "170m".
4. Amend proposed conditions 17.5.3.1(kb)(ii), 17.5.3.2(e)(ii), 17.6.3.1(n)(ii); 17.7.3.1(ga)(ii), 17.7.3.2(f)(ii), and 17.8.3.1(h)(ii) by replacing the word "300m" with "200m" and adding to the end: "except for habitable buildings located on the same site as the existing lawfully established intensive livestock farm which is a poultry farm.
5. Amend conditions 17.5.3.2(f) and 17.6.3.1(o) to:
 "Dwellings are set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
6. Amend condition 17.7.3.1(ga)(iii) to:
 "(gb) Dwellings are set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
7. Amend condition 17.7.3.2(f)(iii) to:
 "(fa) Dwellings are set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
8. Amend matters 17.5.3.2(5A), 17.6.3.2(5A), 17.8.3.1A(5) to include the following words "potential for reverse sensitivity effects on" before the words "plant and animal production".
9. Insert a new matter into rule 17.7.3.2 as follows:
 "(5B) Effects of buildings, including dwellings, where they exceed building coverage, on rural amenity and character, and potential for reverse sensitivity effects on plant and animal production."
10. Add new proposed conditions 17.6.3.4(da) and 17.7.3.3(e):
 "Dwellings are set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
11. Amend 17.8.2.1(j) to read:
 "A residential activity is set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
12. Amend 17.5.3.1(kb)(i), 17.5.3.2(e)(i) and 17.6.3.1(n)(i) to add the following words to the end of the sentence: "except where the boundary is to the Residential, Rural Residential or Rural 3 zone where the setback is 5 metres" to read as follows:
 "Habitable buildings are set back:
 (i) at least 30 metres from any internal boundary, except where the activity is an alteration to a dwelling, and the setback to the boundary is not thereby reduced and except where the boundary is to the Residential, Rural Residential or Rural 3 zone where the setback is 5 metres".
13. Revert to operative condition 17.8.3.2(e) but amend to delete sub-condition (iii) and include the words "including vineyards" after the words "horticultural plantings" wherever it occurs in condition (e).
14. Amend conditions 17.6.3.4(d) and 17.7.3.3(d) to delete sub-condition (iii) and include the words "including vineyards" after the words "horticultural plantings" wherever it occurs in condition (d).

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Change 60: Character and Amenity**Decisions and Reasons****Topic : 17.5.2**

Insert a new rule 17.5.2.8B:

†17.5.2.8B Restricted Discretionary Activities (Intensive Livestock Farming - Poultry Farming)

Intensive livestock farming which is poultry farming that does not comply with the conditions of rule 17.5.2.1 is a Restricted Discretionary Activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which Council has restricted its discretion:

(1) Effects on amenity, including:

- (a) ability to mitigate offensive odour,
- (b) ability to mitigate visual effects by screening of activities from adjoining roads and sites,
- (c) adverse effects of the activity in terms of traffic, parking congestion on site and safety and efficiency of roads giving access to the site,
- (d) ability to manage effluent and waste generated as part of the activity."

Topic : 17.5.3.3

1. Revert to operative condition 17.5.3.3(d) but amend to delete sub-condition (iii) and include the words "including vineyards" after the words "horticultural plantings" wherever it occurs in condition (d).
2. Amend proposed condition 17.5.3.3(bc) to add reference to: "conditions 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)".

Topic : 17.6.2

Insert a new rule 17.6.2.8B:

†17.6.2.8B Restricted Discretionary Activities (Intensive Livestock Farming - Poultry Farming)

Intensive livestock farming which is poultry farming that does not comply with the conditions of rule 17.6.2.1 is a Restricted Discretionary Activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which Council has restricted its discretion:

1) Effects on amenity, including:

- (a) ability to mitigate offensive odour,
- (b) ability to mitigate visual effects by screening of activities from adjoining roads and sites,
- (c) adverse effects of the activity in terms of traffic, parking congestion on site and safety and efficiency of roads giving access to the site,
- (d) ability to manage effluent and waste generated as part of the activity."

Topic : 17.7.2

Insert a new rule 17.7.2.5A:

†17.7.2.5A Restricted Discretionary Activities (Intensive Livestock Farming - Poultry Farming)

Intensive livestock farming which is poultry farming that does not comply with the conditions of rule 17.7.2.1 is a Restricted Discretionary Activity.

A resource consent is required. Consent may be refused or conditions imposed, only in respect of the following matters to which Council has restricted its discretion:

(1) Effects on amenity, including:

- (a) ability to mitigate offensive odour,
- (b) ability to mitigate visual effects by screening of activities from adjoining roads and sites,
- (c) adverse effects of the activity in terms of traffic, parking congestion on site and safety and efficiency of roads giving access to the site,
- (d) ability to manage effluent and waste generated as part of the activity."

Topic : 17.7.3.1

Amend proposed condition 17.7.3.1(ga)(i) to include the following words at the end of the sentence:

"(except) and where the activity is an alteration to a dwelling, and the existing setback to the boundary is not thereby reduced."

Topic : 17.7.3.2

Amend proposed condition 17.7.3.2(f)(i) to include the following words at the end of the sentence:

"(except) and where the activity is an alteration to a dwelling, and the existing setback to the boundary is not thereby reduced."

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Change 60: Character and Amenity**Decisions and Reasons****Topic : 17.8.3.1A**

Amend matter of control (2) by replacing the words "productive activities" with the words "plant and animal production activities".

Topic : 17.8.3.2

Delete proposed condition 17.8.3.2(e) and revert to the operative condition (e).

Topic : 18.7.2.1

1. Amend condition 18.7.2.1(a) to read: "Dwellings or residential activities are set back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects, except for a quarry permitted under condition 17.5.2.1(a)(ii), 17.6.2.1(a)(ii) or 17.7.2.1(b)(ii)."
2. Amend matters 18.7.2.1(1), (3) and (4) to delete references to the words "hard rock".

Topic : 18.7.20

1. Amend Principal Reasons for Rules 18.7.20 to delete proposed changes which insert the words "hard rock".

Other Action

None.

Reasons

1. In general terms, the recommendations uphold the principles of minimising conflict between incompatible activities by way of setbacks and provisions that account for the risk of reverse sensitivity.
2. The setbacks for habitable buildings are retained for the reason that then the 'first come, first served' principle and its potential to limit productive opportunity is removed. Benefits include better use of land in the future, improved amenity, reduced conflict for landowners and the community, a reduced number of complaints about cross boundary effects and reduced risk of reverse sensitivity effects. Intensive poultry farming activity is likely to generate adverse effects related to noise, odour, lighting, visual effects of sheds and buildings and the effects of the management of waste and effluent on the amenity of the surrounding area.
3. The reasons for the reduction in setback width from 300m to 170m for intensive livestock farming that is poultry farming, which includes animal body part processing and composting, from all boundaries is that: (i) modern day shed technology in which intensive poultry is usually kept, has reduced the need for such a wide separation distance; and (ii) the setback, which takes account of the 30m setback for all habitable buildings from boundaries, is considered wide enough to mitigate odour from animal body part processing and composting from most of the farms in the district.
4. Habitable buildings located on the same site on which the intensive livestock farm (that is a poultry farm) occurs are generally used by persons associated with the activity.
5. It is accepted that the 500m setback applies to all quarries as forms of quarrying, other than hard rock quarrying, may also generate these effects.
6. The new matter for Controlled subdivision in the Rural Residential zone will enable assessment of reverse sensitivity effects at the time of subdivision in addition to that of building construction.
7. Associated consistency and consequential amendments will improve Plan readability and effectiveness.
8. Consistency will improve Plan readability and effectiveness.
9. The risk of reverse sensitivity to existing plant and animal production activities within the Rural 1 and 2 zones is addressed generally in policy set 7.1.3 which provides for the protection of productive land for plant and animal production purposes.

Final Decision 606.2

C60.1089.18	Nelson Forests Ltd	Allow
C60.1440.2	Vincent, S M	Disallow
C60.1521.18	Federated Farmers of NZ (Inc.)	Allow

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C60.1521.20	Federated Farmers of NZ (Inc.)	Allow
C60.1521.26	Federated Farmers of NZ (Inc.)	Disallow
C60.1521.30	Federated Farmers of NZ (Inc.)	Allow
<i>Allow</i>	FC60.4011.8	
C60.1521.31	Federated Farmers of NZ (Inc.)	Allow
<i>Allow</i>	FC60.4011.11	
C60.1521.32	Federated Farmers of NZ (Inc.)	Allow
<i>Allow</i>	FC60.4011.13	
C60.2799.9	Tasman District Council staff	Allow
C60.2864.4	Horticulture New Zealand	Disallow
<i>Disallow</i>	FC60.4032.13	
C60.2864.5	Horticulture New Zealand	Disallow
C60.2864.7	Horticulture New Zealand	Disallow
C60.2864.8	Horticulture New Zealand	Disallow
C60.2864.9	Horticulture New Zealand	Allow In Part
C60.2864.42	Horticulture New Zealand	Disallow
<i>Disallow</i>	FC60.4011.5	
C60.2864.48	Horticulture New Zealand	Disallow
C60.2864.49	Horticulture New Zealand	Allow
<i>Allow</i>	FC60.4011.7	
C60.2864.52	Horticulture New Zealand	Allow
C60.2864.53	Horticulture New Zealand	Allow
C60.2864.57	Horticulture New Zealand	Disallow
C60.2864.61	Horticulture New Zealand	Allow
C60.2864.64	Horticulture New Zealand	Disallow
C60.2864.65	Horticulture New Zealand	Allow
C60.2864.67	Horticulture New Zealand	Allow
C60.2864.68	Horticulture New Zealand	Disallow
<i>Disallow</i>	FC60.4011.16	
C60.2864.70	Horticulture New Zealand	Allow In Part
<i>Allow in Part</i>	FC60.4011.14	
C60.3969.3	Parkes, Claire	Allow In Part
C60.3986.3	Anderson, Stuart	Disallow
C60.3994.7	Blackstock, Patsy	Disallow
C60.4009.3	Eastman, Liza	Allow
C60.4011.9	Egg Producers Federation of NZ	Allow
C60.4011.10	Egg Producers Federation of NZ	Allow
C60.4011.14	Egg Producers Federation of NZ	Allow
C60.4011.15	Egg Producers Federation of NZ	Allow
C60.4011.16	Egg Producers Federation of NZ	Allow
C60.4023.16	Hancock Forest Management (NZ) Ltd	Allow
C60.4032.1	Jelf, Iona	Disallow
C60.4032.19	Jelf, Iona	Disallow
C60.4035.6	Kelsall, Julia	Disallow
C60.4038.5	Koldau, Vanessa & Magnus	Disallow
C60.4039.2	Landmark Lile Ltd	Disallow
<i>Allow</i>	FC60.2864.11	
C60.4039.3	Landmark Lile Ltd	Disallow
<i>Allow</i>	FC60.2864.12	
C60.4045.5	Love, G	Disallow
C60.4046.5	McCarthy, Beth	Allow
C60.4046.7	McCarthy, Beth	Allow

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C60.4049.3	Manson, Mark & Laura	Disallow
C60.4052.5	Mitchell, Fran	Disallow
C60.4066.1	Rose, David Glenn	Allow
C60.4066.2	Rose, David Glenn	Allow
C60.4070.9	Santa Barbara, Jeff	Disallow
C60.4073.9	Seligman, Katerina	Disallow
C60.4077.6	Stephenson, Andrew	Disallow
C60.4077.12	Stephenson, Andrew	Disallow
<i>Disallow</i>	FC60.4032.33	
C60.4078.6	Stephenson, Petra	Disallow
C60.4078.12	Stephenson, Petra	Disallow
<i>Disallow</i>	FC60.4032.34	

Plan Amendments**Topic : 2.2**

Add a new definition of 'artificial shelter' as follows:

"Artificial shelter - means a structure used to protect crops or enhance growth, including shade cloth and greenhouses."

Topic : 16.3

Amend Rural 1 and Rural 2 Controlled subdivision matters 16.3.5.1(9) and 16.3.6.1(8) by adding the word "significant" as follows:

"Provision for and protection of areas of significant ecological value, significant landscape value and significant indigenous vegetation, protected trees and cultural heritage."

Topic : Chapter 17

Amend the proposed building coverage conditions 17.5.3.1(l), 17.6.3.1(p) and 17.7.3.1(k) to replace "greenhouses" with "artificial shelters" and then add the words "and poultry sheds or enclosures" after "artificial shelter".

Topic : 17.6.3.1

Amend the proposed building coverage condition 17.6.3.1(p) by deleting the words "on any site which is 25 hectares or less in area,"

Reasons

1. The proposed definitions of 'rural character' and 'rural residential character' provide a broad description of character but are not in themselves a method for regulating land use. Reference to the defined term in the Plan assists to manage land use in the context of the particular provision within which the definition is used. The proposed definition of 'rural residential character' forms part of the proposals to provide a better policy framework for rural residential development that is specifically provided for in the Rural Residential zone and in the Rural 3 zone - on land that is not of high productive value. It is not practical to exclude a part of the district from the meaning of a term.
Although the Coastal Tasman Area and Rural 3 zone were excluded from the Plan Change section 32 review process as the regulatory frameworks were recently adopted (made operative in 2005), the Change has amended Rural 3 provisions for the purpose of achieving consistency across the District.
2. Clustering of dwellings is a method that can be used to achieve an outcome such as protecting productive opportunity or maintaining an open landscape.
3. The proposed plan provisions, including the setbacks for habitable dwellings, are expected to manage the maintenance of character and amenity in rural areas.
4. In the context of the Plan's regulatory framework for managing rural areas, the recommended amendments to the building coverage provisions in Rural 1, 2 and 3 are considered appropriate.
5. Staff consider it appropriate that 'artificial shelter' complies with the Permitted conditions for buildings in the Plan.

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Decisions and Reasons

6. The deletion of the Rural 1, 2 and 3 zone provisions relating to air emissions reduces the duplication of provisions in the Plan.
7. The amendment to the Controlled subdivision matter in Rural 1 and 2 which provides for the protection of ecological, landscape and indigenous vegetation values to include the word "significant" aligns with the RMA Part 2 requirements.

