

## SUPPLEMENTARY STAFF EVALUATION REPORT

**TO:** Environment & Planning Committee – TRMP

**FROM:** Mary Honey, Policy Planner, Environmental Policy

**FILE NO.:** R430-6-2

**SUBJECT:** **SUPPLEMENTARY SER 606A TO SER 606 OF HEARING 71**  
**Character and Amenity**  
Report prepared for meeting of 2 September 2016

**“In Committee”**

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### 1. INTRODUCTION

This supplementary report by Council staff has been prepared following the hearing of submitter presentations. It addresses issues and options where a change in staff recommendation is being made. It does not address issues raised during the hearings generally, although staff wish to acknowledge the value of the submitter contributions during the presentations. It should be noted that many of the issues raised by submitters did result in significant debate among staff. These key points will be raised during deliberations, using the original staff recommendation as a starting point for discussion.

This supplementary report addresses issues raised in evidence resulting from staff recommendations relating to character and amenity dealt with in SER 606, **Recommendation 606.1**, under the following sections:

- reverse sensitivity
- setbacks of 30 metres for habitable buildings
- setbacks for intensive poultry farming for habitable buildings and vice versa.

#### 1.1 Issue and Options

##### 1.1.1 Reverse Sensitivity

Two submitters (C60.2864 and C60.1521) requested that policy set 7.1.3 is amended to ensure that the potential for reverse sensitivity is avoided in all rural zones. In SER 606.1 staff considered that the issue was adequately addressed by proposed policies 7.1.3.6A and 7.2.3.1E. In evidence, the submitters noted that 7.1.3.6A refers to small sites and that the issue is not dealt with generally in policy set 7.1.3. Staff accept that the issue could be referred to generally within policy set 7.1.3 which provides for the protection of productive land for plant and animal production purposes in addition to policy set 7.2.3 which provides policy support for activities other than plant and animal production without diminishing the productive land resource. To this end, staff recommend the addition of a new policy to 7.1.3.

### **1.1.2 30m setback for habitable buildings in the Rural 1, 2, Rural 3 and Rural Residential zones**

One submitter (C60. 2864.40 and 44) requested in the submission and in evidence that in addition to the zone building construction and alteration rule requiring a 30m setback for habitable buildings, the subdivision rules provide for the identification of a building location area for a habitable building which meets the 30m setback from internal boundaries. The request was allowed for Rural 1 on the basis that a dwelling is a controlled activity in Rural 1 and disallowed in Rural 2.

On reconsideration, staff consider that that the requests should be allowed in both Rural 1 and 2 for the reasons that they support the staff recommendation for the 30m setback for habitable buildings and alert applicants to the requirement at subdivision rather than at building consent stage. For example, if a building location area which meets the 30m setback requirement cannot be located on the site, then the consent for a dwelling will trip to a Restricted Discretionary level.

For consistency purposes, staff consider that a building location area that is located 30m from an internal boundary where that boundary is to the Rural 1, 2 (or 3) zone should also be identified on sites in subdivisions in the Rural 3 and Rural Residential zones.

Also for consistency purposes, staff also recommend the Rural 1 and 2 zone rules that exempt non-habitable buildings from complying with the 5m setback from internal boundaries if written permission from the landowner is obtained, is amended to clarify that the provisions apply to non-habitable buildings only.

### **1.1.3 Exception from 30m setback for habitable buildings in the Rural 3 and Rural Residential zones**

During evidence, submitter 4016 noted that staff recommendation (606.1 B3 and recommended Plan amendment 606.1 D, topic Chapter 17, item 1) which recommended that sites in the Rural 3 and Rural Residential zones are set back 30m from internal boundaries to the Rural 1, 2 (or 3) zones (except if located in a subdivision that was consented before 30 January 2016) needs to be amended to clarify what the setback is. Staff accept the point and recommend that the relevant provisions are amended to clarify that, in this circumstance, the setback is 5 metres which is the current operative setback.

### **1.1.4 Setback for intensive poultry farm activity from boundaries or habitable buildings/sensitive activities and reciprocal setback for habitable buildings from intensive poultry farms lawfully established at 30 January 2016**

Readers are referred to staff evaluation report 606.1, paragraph A 3.4 and staff recommendation D4 for background to this matter. In summary, SER 606.1 recommended a 200m rather than the proposed 300m setback from internal boundaries for poultry farming activity and a reciprocal setback of 200m for habitable dwellings from poultry farm sheds and enclosures of existing lawfully established intensive poultry farms.

Staff recall that the operative Plan currently contains no setback provisions for intensive poultry farming. To date, effects have been managed through the Plan discharge rules. The Permitted discharge to land rules provide for a 10m setback for leachate from composting not exceeding 50 cubic metres and from offal pits from adjoining boundaries; and in addition for offal pits, a 50 metre setback from any dwelling on an adjoining boundary. Also, objectionable odour must not be

discernible beyond property boundaries (Chapter 36.1.2). Composting operations which exceed 50 cubic metres are considered to be an industrial or trade premises and require a Discretionary level consent (Chapter 36.3).

Initially, during the options' consultation, a notional setback (from activity to nearest sensitive activity) of 300 metres was requested by Egg Producers Federation New Zealand (EPFNZ) and (PIANZ) Poultry Industry Association of New Zealand. Their response to the consultation on the draft change supported a 300m setback for intensive poultry farming from internal boundaries but requested a reciprocal (notional) setback for sensitive activities from poultry buildings or enclosures.

In their submission and letter tabled to the Hearing Panel, the Egg Producers Federation New Zealand (EPFNZ) requested that setbacks to and from intensive poultry farming apply to community and recreational activities in addition to habitable dwellings and that the setback for poultry farming be a notional setback (from intensive poultry to sensitive activity) rather than a setback to internal boundaries.

### **Option1**

In their submission and evidence, Ewing Poultry requested that habitable buildings on the site containing the intensive poultry activity are excluded from setback requirements. Staff accept this point. The submitter also requested a minimum of 100-metre setback from internal boundaries in combination with a notional setback of 200 metres from the nearest existing habitable building or a 170-metre setback from an adjacent title (internal boundaries) if the title does not contain a dwelling or been issued building consent. The submitter also noted that some setback is necessary to mitigate the effects of intensive poultry activity on the surrounding amenity despite the consents required for offal pits and discharges to land and air.

Generally, the reason for applying a notional rather than a boundary setback is to avoid the wastage of space needed for a standard setback when it is unnecessary. The submitter pointed out that a 25 ha site would be needed for a modest intensive poultry activity to comply with a 200m setback from internal boundaries and therefore intensive poultry activity could not be a Permitted activity in Rural 1, only Rural 2. Similarly, a minimum of a 19.4 ha site would be required to comply with a setback of 170 metres to all internal boundaries and a site of 9 hectares for a setback of 100 metres.

Staff note that Rural 2 is an appropriate location for the activity as, according to the response of EPANZ and PIANZ (Poultry Industry Association of New Zealand) to the Draft Change (para 2.7), intensive poultry buildings "need well drained, flat rural land to operate but do not directly rely on the fertility of the soil."

Also, staff note that if an intensive poultry farming activity does not meet the setback requirements, it would be assessed as a Restricted Discretionary land use activity as the EPANZ submission request for intensive poultry farming to trip to Restricted Discretionary (rather than the current operative Discretionary consent) if setbacks are not met, was allowed.

### **Option 2**

Staff prefer the option of a setback for intensive poultry farming of 170 metres from internal boundaries for the following reasons:

1. If a 30-metre setback for habitable buildings from internal boundaries applies, in effect a 200-metre setback would be achieved.

2. 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 'first come, first served' principle should be avoided due to its potential to limit the use of land into the future.
4. Additional habitable building development is anticipated in rural areas due to general growth and the Change 60 proposed provisions that allow a second minor dwelling on rural zoned land.
5. Boundary setbacks avoid the risk of reverse sensitivity.

Accordingly, after reconsidering the submissions and hearing all the evidence, the amended staff recommendation is that the setback for intensive poultry farming activity is reduced from 200 to 170 metres from internal boundaries and that on-site habitable buildings are excluded from the setback.

The staff recommendation that a habitable building is set back 200m from buildings or enclosures on intensive poultry farms lawfully established at 30 January 2016, remains.

## **2. RECOMMENDATIONS**

### **2.1 Recommendation 606A.1**

#### **2.1.1 Reverse Sensitivity**

Include a new policy that generally addresses the risk of reverse sensitivity to existing plant and animal production activities within the policy set 7.1.3, which provides for the protection of productive land for plant and animal production purposes.

##### **Submission Recommendations**

C60.2864.19	Horticulture NZ	Allow
C60.1521.3	Federated Farmers of NZ Ltd	Allow

#### **2.1.2 30m setback for habitable buildings in the Rural 1, 2, 3 and Rural Residential zones**

Include a new condition in the Rural 1, 2, 3 and Rural Residential zones' Controlled subdivision provisions that provides for the identification of a building location area that meets the requirement for a 30m setback from internal boundaries.

##### **Submission Recommendations**

C60. 2864.40	Horticulture NZ	Allow
C60. 2864.40	Horticulture NZ	Allow

#### **2.1.3 Exception from 30m setback for habitable buildings from internal boundaries in Rural 3 and Rural Residential zones to the boundaries of the Rural 1, 2 or 3 zones**

Amend recommended provisions to clarify that in the circumstance where the habitable building is on a site in a subdivision consented before 30 January 2016, the setback required is the current operative setback of 5 metres.

### Submission Recommendations

C60. 2864.40	Horticulture NZ	Allow
C60. 2864.40	Horticulture NZ	Allow

#### 2.1.4 Setback for intensive poultry farm activity from boundaries or habitable buildings/sensitive activities and reciprocal setback for habitable buildings from intensive poultry farms lawfully established at 30 January 2016

The setback for intensive poultry farming activity be amended from 200 to 170 metres from internal boundaries and that on-site habitable buildings are excluded from the setback.

### Submission Recommendations

C60.2635.1	Ewing Poultry Ltd/ Lloyd Ewing	Allow in Part
C60.4011.17	Egg Producers Federation of NZ	Allow in Part

## 2.2 Plan Amendments

### 2.2.1 Reverse Sensitivity

**Topic:** Policies 7.1.3

Insert a new policy 7.1.3.3A as follows:

To avoid, remedy or mitigate the potential for reverse sensitivity on plant and animal production in the Rural 1, Rural 2 and Rural 3 zones.

### 2.2.2 30m setback for habitable buildings from internal boundaries in Rural 1, 2, 3 and Rural Residential zones

(a) **Topic:** Subdivision 16.3

Insert a new condition (dd) in 16.3.5.1 and 16.3.6.1 as follows:

Building Location Area

(dd) 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.

(b) **Topic:** Subdivision 16.3.7

Amend recommended condition 16.3.7.1(d) to read as follows:

Building Location Area

(d) 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 or Rural 2 Zone.

(c) **Topic:** Subdivision 16.3.8

Insert a new condition (bb) 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.

(d) **Topic:** Chapter 17

Amend proposed and recommended conditions 17.5.3.1(ka) and 17.6.3.1(ma) to insert the phrase "which is not a habitable building" after the word "building".

### **2.2.3 Exception from 30m setback for habitable buildings in the Rural 3 and Rural Residential zones**

Amend recommended conditions 17.7.3.1(ga)(i), 17.7.3.2(f)(i), 17.8.3.1(h)(i) and 17.8.3.2(3)(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.*

### **2.2.4 Setback for intensive poultry farm activity from boundaries or habitable buildings / sensitive activities and reciprocal setback for habitable buildings from intensive poultry farms lawfully established at 30 January 2016**

(a) **Topic:** Chapter 17

Amend the proposed conditions 17.5.2.1(n), 17.6.2.1(n) and 17.7.2.1(i) to read:  
*Intensive livestock farming which is poultry farming including animal body part and offal processing and composting is set back at least ~~300~~ 200 170 metres from any boundary of the site.*

(b) **Topic:** Chapter 17

Amend proposed conditions 17.5.3.1(kb)(ii), 17.5.3.2(e)(ii), 17.6.3.1(n)(ii); 7.7.3.1(ga)(ii), 7.7.3.2(f)(ii), 17.8.3.1(h)(ii), and 17.8.3.2(e)(ii) to read:  
*Dwellings and 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;*
- (ii) *at least 200 metres from any building or enclosure that houses poultry that is on an existing lawfully established intensive livestock farm which is a poultry farm on or before 30 January 2016 except for habitable buildings located on the same site as the existing lawfully established intensive livestock farm which is a poultry farm.*

## **2.3 Reasons**

### **2.3.1 Reverse sensitivity**

The new policy addresses the risk of reverse sensitivity to existing plant and animal production activities within the Rural 1 and 2 zones generally in policy set 7.1.3 which provides for the protection of productive land for plant and animal production purposes.

### **2.3.2 30m setback for habitable buildings from internal boundaries in Rural 1, 2, 3 and Rural Residential zones**

The amendments support and clarify the staff recommendation for the 30-metre setback for habitable buildings from internal boundaries and alert applicants to the requirement at subdivision rather than at building consent stage.

### **2.3.3 Exception from 30m setback for habitable buildings in the Rural 3 and Rural Residential zones**

The amendment clarifies that the setback required for habitable buildings in the Rural 3 and Rural Residential zones is 5 metres in line with the current operative provision.

#### **2.3.4 Setback for intensive poultry farm activity from boundaries or habitable buildings/sensitive activities and reciprocal setback for habitable buildings from intensive poultry farms lawfully established at 30 January 2016**

- (a) The setback for intensive poultry farming activity recommended in staff report 606.1 is reduced from 200 to 170 metres from internal boundaries for the reasons that:
- (i) if a 30-metre setback for habitable buildings from internal boundaries applies, in effect a 200 metre setback would be achieved;
  - (ii) 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;
  - (iii) the 'first come, first served' principle should be avoided due to its potential to limit the use of land into the future;
  - (iv) additional habitable building development is anticipated in rural areas due to the Change 60 proposed provisions that allow a second minor dwelling on rural zoned land;
  - (v) boundary setbacks avoid the risk of reverse sensitivity effects.
- (b) Habitable buildings located on the same site on which the intensive livestock farm which is a poultry farm occurs generally are used by persons associated with the activity.