

Planning Report

Plan Change 38 – Intensive Farming Activities

1.0 Introduction

- 1.1** The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 38 – Intensive Farming Activities.
- 1.2** Plan Change 38 proposes amendments to the existing District Plan definitions of “farming” and “intensive farming activities” as well as the inclusion of a new separate definition for “extensive pig farming” and a new definition of “land-based aquaculture”, the latter also forming part of proposed Plan Change 37. The purpose of both plan changes is to rationalise the relevant District Plan definitions relating to intensive and other farming activities as well as (in the case of Plan Change 37) make specific provision for aquaculture as a permitted activity in the Industrial Zone. Because of the interrelationship between the two plan changes, reference should be made to the respective planning reports relating to each of the changes.
- 1.3** For a full background to the Plan Change and the proposed provisions please refer to the Section 32 Report. For a list of the proposed provisions only, please refer to the document titled ‘Proposed Plan Change Combined Notification Document’.
- 1.4** Any recommended amendments to rules in this report will be shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this report in blue.

2.0 Topic 1: General – whole of Plan Change 38

2.1. Submissions received

A total of 18 principal submissions and 24 further submissions have been received on Plan Change 38, most of which are supportive of the proposed amendments to the District Plan as publicly notified. Other submissions and further submissions are in general support but request particular amendments to some of the notified provisions. These latter submissions are discussed later in this report under separate more specific topics, where in some cases amendments to certain of the notified provisions are recommended. The proposed amendments to the District Plan provisions relating to intensive farming (as notified) are as follows:

“Farming” means and includes agriculture, ~~including outdoor~~ (extensive pig farming (means the keeping of pigs in an extensive manner in paddocks where groundcover is maintained and where no fixed buildings are required) pastoral farming (including extensive pig farming), horticulture, floriculture, beekeeping, aquaculture, the keeping of not more than 25 poultry birds, and the keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary when these are kept mainly within *buildings* or outdoors in enclosed yards without where groundcover ~~being is not~~ continuously maintained.

Excluded from this definition are *intensive farming activities* and *land-based aquaculture*.

“Intensive farming activities” means agricultural production activities which have no dependency on the quality of the soils occurring naturally on the site and which are either:

- (a) carried out within the confines of *buildings* or pens or yards enclosed by fences or walls; or
- (b) undertaken in a manner which precludes the continuous maintenance of pasture or other groundcover.

Included in this definition are:

- Mushroom farming;
- Intensive livestock farming;
- Poultry farming involving the keeping of more than 25 birds (whether outdoors or indoors);
- Piggeries;
- *Land-based aquaculture*
- Rabbit farming;
- Mustelid farming;

Excluded from this definition are:

- The growing of plants or other vegetative matter in greenhouses or other covered structures;
- Temporary uses or practices which are ancillary to a principal farming activity, such as the wintering of stock in *buildings* and calf-rearing;
- The keeping of not more than 25 poultry birds;
- *Extensive pig farming*;
- The keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary within *buildings* or outdoors without groundcover being continuously maintained.

“Extensive pig farming” means the keeping of pigs outdoors on land at least 50m from an adjoining property boundary at a stock

density which ensures groundcover is maintained and where no fixed buildings are used for the continuous housing of animals.

“Land-based aquaculture” means the breeding, hatching, cultivating, rearing, or on-growing of fish, aquatic life, or seaweed on land whether in buildings, constructed ponds or other artificial water bodies, and includes ancillary activities.

2.2. Recommendation

Because of the amendments recommended elsewhere in this report, the general submissions in support of the notified provisions are recommended to be accepted in part.

2.3. The following submissions are therefore:

Accepted in part

Submission	Point Number	Name
15	7	Bay of Plenty Regional Council
21	6, 7	Federated Farmers
FS 44	1, 2, 3, 4, 5	Poultry Association of New Zealand
14	1, 2	Rodney James Hodge
FS 73	3, 8, 9	Stewart Family Trust

2.4. Reason

Subject to various amendments recommended elsewhere in this report, Plan Change 38 removes existing anomalies and ambiguities within the various District Plan provisions relating to “intensive farming activities” and refines those provisions so as to provide greater certainty and enhanced environmental outcomes.

3.0 Topic 2: Pig farming

3.1 Background

3.1.1 Under the current District Plan definitions, pig farming is provided for as follows:

Definition of “farming”

As “outdoor (extensive) pig farming” and as “the keeping of not more than 12 weaned pigs when these are kept mainly within buildings or outdoors without ground cover being maintained.”

The term “outdoor (extensive) pig farming” is further defined within the definition as meaning “the keeping of pigs in an extensive manner in paddocks where ground cover is maintained and where no fixed buildings are required.”

Definition of “intensive farming activities”

“Piggeries” are included within this definition while “extensive pig farming” is specifically excluded. However, the keeping of 12 weaned pigs (as provided for under the definition of “farming”) is not.

The rationale for the foregoing provisions is understood to be that "extensive pig farming" is a form of pastoral farming with environmental effects similar to those created by dairy, dry-stock, sheep and other forms of pastoral farming. Such effects are of a nature which are considered an accepted part of a working rural environment and which enable the activities to have "permitted" status in the Rural Zone.

"Piggeries" are intensive farming activities which like other forms of such farming have the potential to create adverse off-site environmental effects and therefore require assessment on a case by case basis as "full" discretionary activities. Such status provides the discretion to impose conditions on any consent granted or to refuse consent in cases where it is considered that the adverse environmental effects of the proposal in question cannot be adequately addressed through conditions.

"The keeping of up to 12 weaned pigs", even on an intensive basis, is of a sufficiently small scale as to not create adverse environmental effects of a magnitude greater than those which would normally be considered acceptable in a rural zone.

- 3.1.2 As stated in paragraph 1.2 of this report, the primary purpose of Plan Change 38 is to rationalise the foregoing provisions so as to avoid any problems of interpretation. In addition, the opportunity has been taken to introduce a separate new definition of "extensive pig farming" as well as a 50m buffer to be applied to both "extensive pig farming" and to "the keeping of 12 weaned pigs."

3.2 Submissions received

- 3.2.1 While most submissions received are in general support of Plan Change 38, the manner in which pig farming is provided for (in particular the proposed new 50m buffer) is the subject of three opposing submissions, each requesting the deletion of the 50m buffer from the respective definitions of the "farming", "intensive farming activities" and "extensive pig farming". Each of these opposing submissions are in turn opposed by further submissions requesting that the provisions as notified be retained.
- 3.2.2 In addition, one submitter opposes the proposed new separate definition of "extensive pig farming" because of what they consider to be the potential for confusion.

3.3 Discussion

- 3.3.1 There are considered to be valid grounds for removing the 50m buffer from the proposed definition of "extensive pig farming" because as already noted, this activity is a form of pastoral farming with the same or similar environmental effects as other types of pastoral farming such as dairying and dry-stock farming.
- 3.3.2 However, notwithstanding its small scale, the keeping of 12 weaned pigs on an intensive basis (ie in a confined area without maintenance of ground cover) has the potential to create adverse off-site effects greater than those of typical pastoral farming use

(including "extensive pig farming") and greater control through the imposition of a buffer to protect neighbouring properties is considered warranted. In the recent past, Council's monitoring and compliance staff have been involved in a number of examples of neighbour complaints about the adverse effects create by such small-scale, intensive pig farming.

3.3.3 With respect to the proposed separate definition for "extensive pig farming", the reason for this is to avoid cumbersome wording in the definition of "farming" (as in the existing definition). Regarding the concern raised relating to possible confusion, it is not unusual for a definition to contain terms which are themselves separately defined. Such terms are in italics to indicate that there is a separate definition for the particular term in question. For example the separately defined term "*building/structure*" is contained in a number of other definitions.

3.4 Recommendations

3.4.1 That the definition of "extensive pig farming" (as notified) be amended as follows:

"Extensive pig farming" means the keeping of pigs outdoors on land at least 50m from an adjoining property boundary at a stock density which ensures groundcover is maintained and where no fixed buildings are used for the continuous housing of animals.

3.4.2 That the notified proposal to apply a 50m buffer to "the keeping of 12 weaned pigs" be confirmed.

3.5 The following submissions are therefore:

Accepted

Submission	Point Number	Name
10	3	Morepork Farms Ltd

Accepted in part

Submission	Point Number	Name
15	10	Bay of Plenty Regional Council
21	8	Federated Farmers
14	3	Rodney James Hodge

Rejected

Submission	Point Number	Name
FS 73	7, 10	Stewart Family Trust

Notes:

1. FS 73.7 is considered to go beyond the scope of the submission to which it purports to relate as it requests that the existing District Plan provisions for pig farming be retained. Neither the principal submission in question, nor any other principal submission, requests this relief.

2. FS 73.10 relates to aquaculture (not extensive pig farming) and other similar further submissions from the same submitter have been lodged in respect of that separate matter.

3.6 Reasons

- 3.6.1 The environmental effects of "extensive pig farming" are the same as or similar to those of other pastoral farming activities included in the definition of "farming" and a 50m buffer applying only to that particular activity is unnecessary.
- 3.6.2 Small-scale, intensive pig farming (involving up to 12 weaned pigs) undertaken in confined areas without the maintenance of ground cover has the potential to create adverse off-site effects greater than those associated with pastoral farming. Further control in the form of a 50m buffer from neighbouring properties is therefore warranted.

4.0 Topic 3: Aquaculture

4.1. Background

Plan Change 38 contains some of the same provisions relating to aquaculture as found in Plan Change 37, in particular the deletion of "aquaculture" from the definition of "farming", a proposed new definition for "land-based aquaculture", and the inclusion of the latter activity in the definition of "intensive farming activities". Some of the submissions on Plan Change 38 relate specifically to aquaculture and are mirrored by identical or similar submissions on Plan Change 37. These submissions are the subject of recommendations contained in the report on the latter plan change.

4.2. Submission points

The Plan Change 38 submissions relating to aquaculture support its deletion from the definition of "farming" and its inclusion in the definition of "intensive farming activities". As with the submissions on Plan Change 37, submissions on Plan Change 38 also support the proposed new definition of "land-based aquaculture", although some submissions seek an amendment to that particular definition. All of these matters have been discussed and are the subject of recommendations contained in the Plan Change 37 report.

4.3. Recommendations (reproduced from Plan Change 37 report)

- 4.3.1 That the deletion of "aquaculture" from the definition of "farming" be confirmed.
- 4.3.2 That the proposed definition of "land-based aquaculture" (as notified) be amended as follows:

~~"Land-based Aquaculture"~~ means the breeding, hatching, cultivating, rearing, or on-growing of fish, aquatic life, or seaweed in confined areas within natural water bodies or on land (whether

in buildings, constructed ponds or other artificial water bodies), and includes ancillary activities.

- 4.3.3 That the inclusion of "aquaculture" in the definition of "intensive farming activities" be confirmed.
- 4.3.4 That "aquaculture" be provided for as a permitted activity in the Industrial Zone.
- 4.4. The following submissions are therefore:

Accepted in part

Submission	Point Number	Name
27	7	Helen & David Stewart and others
FS 44	7	Poultry Association of New Zealand
FS 73	13, 17	Stewart Family Trust
29	5	Uretara Estuary Managers

4.5. Reasons

- 4.5.1 Aquaculture more properly fits within the definition of "intensive farming activities" (rather than within the definition of "farming") because by its nature it is more similar to other intensive farming activities and has the potential to create similar adverse effects.
- 4.5.2 Unlike other uses coming within the definition of "intensive farming activities", the environmental effects associated with aquaculture make it suitable for inclusion as a permitted activity in the Industrial Zone.

5.0 Topic 4: 300m buffer for intensive farming activities

5.1. Submissions

One submission on both Plan Change 37 (aquaculture) and Plan Change 38 requests the introduction of a 300m yard to provide a buffer between intensive farming activities and Rural Residential, Future Urban, Rural and Lifestyle zones. The submission also requests that where such a buffer cannot be met, intensive farming should be a non-complying activity. In support of these requests, reference is made to existing District Plan rural subdivision rule 18.4.2(a)(ii) which requires any new lot in the Rural Zone to be located at least 300m from an existing intensive farming activity.

The submission is opposed in part by one further submission which while agreeing with the 300m yard principle, does not agree that non-compliance with such a rule should render an intensive farming proposal a non-complying activity.

5.2. Discussion

- 5.2.1 The two principal submissions (27.2 and 27.8) are somewhat ambiguous. In respect of Plan Change 37 the submission refers to "zones" and states that:

The separation of aquaculture from Rural Residential, Future Urban, Rural and Lifestyle zones is an appropriate planning outcome.

In respect of Plan Change 38, the submission refers to:

The need for a 300m buffer from residential activities

- 5.2.2 It is therefore not exactly clear whether the requested new rule is intended to refer to a buffer from residential activities or a buffer from zones in which residential activities are permitted, or both. Given the reference to zones, the request for a 300m buffer from Rural Zone does not appear to make sense as any proposed intensive farming activity would presumably be located in the Rural Zone. This apparent anomaly needs to be clarified by the submitter.
- 5.2.3 In any event, it is important to note that (with the exception of the recommended provision for aquaculture in the Industrial Zone) the only zone in which intensive farming activities are provided for is the Rural Zone and that the status of any such activity is "full" discretionary. The existing District Plan rule referred to in the submission (rule 18.4.2(a)(ii)) is a subdivision rule applying in the Rural Zone where many subdivisions are provided for as controlled activities meaning there is no ability to refuse consent. A specific standard requiring a set buffer distance is therefore appropriate in such circumstances. It should also be noted that non-compliance with rule 18.4.2(a)(ii) renders a proposal a restricted discretionary activity, not a non-complying activity.
- 5.2.4 The "full" discretionary status for intensive farming activities is considered to provide Council with ample discretion to consider each application on its merits and to also provide the ability to determine on a case by case basis what an appropriate buffer distance from residential activities should be or whether a particular proposal should be granted consent at all.

5.3. Recommendation

That the requested 300m yard or buffer not be adopted.

- 5.4. The following submissions are therefore:

Rejected

Submission	Point Number	Name
27	2, 8	Helen & David Stewart and others

Accepted in part

Submission	Point Number	Name
FS 44	6	Poultry Association of New Zealand

6.0 Topic 5: Greenhouses

6.1 Background

The recommended amended definition of "intensive farming activities" specifically excludes "the growing of plants or other vegetative matter in greenhouses or other covered structures." This activity is not specifically referred to in the recommended amended definition of "farming" as set out in paragraph 2.1 of this report.

6.2 Submissions

One submission and one further submission support the exclusion of greenhouses from the definition of "intensive farming activities". Another submission requests that greenhouses be specifically included in the definition of "farming" to avoid what the submitter considers to be potential confusion as to the activity status of greenhouses in the context of that definition. The concern is that "greenhouses" could be deemed non-complying activities under existing District Plan rule 4A.1.4.

6.3 Discussion

Notwithstanding that "greenhouses" are not specifically referred to in the definition of "farming", it is considered that such uses fall within the terms "horticulture" and "floriculture", both of which are referred to in the definition. However, any uncertainty in respect of this matter can be resolved by an amendment to the definition.

6.4 Recommendation

That the definition of "farming" (as notified) be amended (shown in blue) to read as follows:

"Farming" means and includes agriculture, ~~including outdoor (extensive pig farming (means the keeping of pigs in an extensive manner in paddocks where groundcover is maintained and where no fixed buildings are required) pastoral farming (including extensive pig farming),~~ horticulture, and floriculture (including the growing of plants or vegetative matter in greenhouses or other structures), beekeeping, ~~aquaculture,~~ the keeping of not more than 25 poultry birds, and the keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary when these are kept mainly within buildings or outdoors in enclosed yards without where groundcover being is not continuously maintained.

Excluded from this definition are intensive farming activities and land-based aquaculture.

6.5 The following submissions are therefore

Accepted

Submission	Point Number	Name
FS 72	3	D155 Limited

27	5	Helen & David Stewart and others
20	2	Horticulture NZ & NZ Kiwifruit Growers

6.6 Reason

The recommended amendment clarifies any uncertainty as to the status of greenhouses in the context of the definition of "farming".

7.0 Topic 6: Resource consent application processing requirements

This topic has been addressed in the report on Plan Change 37 (Topic 4).

8.0 Plan Change 38 - Recommended Changes to the District Plan First Review

8.1 The purpose of this part of the report is to show the Proposed Plan Change in full including any recommended changes in response to the submissions and further submissions.

8.2 Recommended changes to the District Plan First review are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this report in blue.

8.3 That the existing definition of farming be amended as follows:

"Farming" means and includes agriculture, ~~including outdoor (extensive pig farming (means the keeping of pigs in an extensive manner in paddocks where groundcover is maintained and where no fixed buildings are required) pastoral farming (including extensive pig farming),~~ horticulture, and floriculture (including the growing of plants or vegetative matter in greenhouses or other structures), beekeeping, ~~aquaculture,~~ the keeping of not more than 25 poultry birds, and the keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary when these are kept mainly within *buildings* or outdoors in enclosed yards ~~without where~~ groundcover ~~being is not continuously~~ maintained.

Excluded from this definition are intensive farming activities and land-based aquaculture.

[Note: The exclusion of aquaculture from this definition is also recommended through proposed Plan Change 37.]

8.4 That the existing definition of intensive farming activities be deleted and replaced with the following:

"Intensive farming activities" means agricultural production activities which have no dependency on the quality of the soils occurring naturally on the site and which are either:

- (a) carried out within the confines of *buildings* or pens or yards enclosed by fences or walls; or
- (b) undertaken in a manner which precludes the continuous maintenance of pasture or other groundcover.

Included in this definition are:

- Mushroom farming;
- Intensive livestock farming;
- Poultry farming involving the keeping of more than 25 birds (whether outdoors or indoors);
- Piggeries;
- Land-based aquaculture
- Rabbit farming;
- Mustelid farming;

Excluded from this definition are:

- The growing of plants or other vegetative matter in greenhouses or other covered structures;
- Temporary uses or practices which are ancillary to a principal farming activity, such as the wintering of stock in *buildings* and calf-rearing;
- The keeping of not more than 25 poultry birds;
- Extensive pig farming;
- The keeping of up to 12 weaned pigs at least 50m from an adjoining property boundary within *buildings* or outdoors without groundcover being continuously maintained.

[Note: The inclusion of *land-based aquaculture* in this definition is also recommended through proposed Plan Change 37.]

8.5 That the following new definitions be added to Section 3 – Definitions

“Extensive pig farming” means the keeping of pigs outdoors ~~on land at least 50m from an adjoining property boundary~~ at a stock density which ensures groundcover is maintained and where no fixed buildings are used for the continuous housing of animals.

“Land-based Aquaculture” means the breeding, hatching, cultivating, rearing, or on-growing of fish, aquatic life, or seaweed in confined areas within natural water bodies or on land (whether in *buildings*, constructed ponds or other artificial water bodies), and includes ancillary activities.

[Note: This new definition is also recommended to be adopted through proposed Plan Change 37.]