

# Planning Report

## Plan Change 40 – Rural Yard Exemption Statement

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### 1.0 Introduction

**1.1** The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 40 – Rural Yard Exemption Statement

**1.2** The reason for the Plan Change, taken from the Section 32 Report is as follows:

*The previous yard exemption statement Rule allowed yard reductions from 30m to 10m. It was removed under the Proposed District Plan Review and new rules were instead introduced which allowed a reduction from 30m to 10m in circumstances where it was impracticable to meet the yard or where the effects would be minimal. However, there is still a possibility that conflicts may arise between neighbours under these circumstances i.e. where a house is established at a 10m yard on a lot less than 1ha. Council should still require the yard exemption statement to be signed (as a performance standard) before allowing yard reductions. This covers Council against those who choose a reduced yard and then complain about effects from neighbours.*

**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 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 Planning Report in blue.

### 2.0 Topic 1: Proposed Addition of Rural Yard Exemption Statement requirement to 18.4.1 (c) (i) - (iii).

#### 2.1 Background

The proposal is to add an "explanatory note" to the Rural Yard Rule 18.4.1(c), to require a yard exemption statement signed by the applicant to be submitted with an application for a dwelling or possible house site where the set back is proposed to be reduced to between 10 metres and 30 metres from the adjoining boundary.

The addition of an Explanatory Note to Rule 18.4.1(c) (i) was notified as follows:

Explanatory Note:

(i) to (iii) above are provided for subject to submission to Council of written statement from the applicant accepting any adverse environmental effect which may be created by the reduced yard.

## 2.2 Submission Points

One submission was received in support, subject to amendments. One submission point received was in opposition. One further submission was received in support of the Plan Change.

The main points made by submitters are as follows:

**2.2.1** Horticulture New Zealand & New Zealand Kiwifruit Growers Incorporated have made a submission to the Proposed Plan Change. The submission supports the Plan Change, subject to amendments. The submitter considers that the yard provisions should be amended to require the written approval of the adjoining owner where the yard will be reduced. It is not clear whether this is in relation to yards reduced to between 10m and 30m or yards less than 10m.

**2.2.2** D155 Limited has also made a submission on the proposed Plan Change. The submission supports the Plan Change.

**2.2.3** Federated Farmers has made a submission in opposition to the proposed Plan Change considering it unnecessary, as resource consent is already required. Federated Farmers are also concerned that farmers and horticulturalist should have the confidence to continue their production activities without restraints imposed by people building or living in a dwelling close to a boundary. Federated Farmers consider that the issue can be better managed by caveat on the title and the existing use rights of adjoining farms should prevail. They also consider that the provisions should not apply to uninhabited buildings.

## 2.3 Option 1 – As Proposed - Preferred option from Section 32

<b>Advantages</b>	<ul style="list-style-type: none"><li>▪ The holding of a signed statement on Council records will allow Council, should there ever be a dispute, to provide written evidence that the applicant acknowledged the potential effects on them.</li><li>▪ Provides adjoining owners with peace of mind that they can operate without complaint.</li></ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"><li>▪ Nil</li></ul>

## 2.4 Option 2 – Horticulture New Zealand & New Zealand Kiwifruit Growers Incorporation – Require Written Approval of Adjoining Owner Where Reduced Yard is Required

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Would provide certainty that effects from adjoining owner’s activity have been considered and adjoining owner can operate without restriction.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Requires approval from a neighbour who may not potentially be affected.</li> </ul>

## 2.5 Option 3 — Ensure Rule Only Applies to Dwellings

<b>Advantages</b>	<ul style="list-style-type: none"> <li>▪ Can erect sheds and other farm structures up to 5 metres from a boundary without requiring resource consent which is the status quo.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>▪ Nil</li> </ul>

## 2.6 Discussion

Taking the Plan Change as notified, there is general consensus that the exemption statement would be acceptable for dwellings being located between 10 metres and 30 metres, provided a signed written statement from the applicant is included with any application.

This was a previous requirement of the Operative District Plan 2002 but was not included when the Proposed Plan was notified in 2010.

Horticulture New Zealand & New Zealand Kiwifruit Growers Incorporated support the proposed idea of an exemption statement, with an amendment that where a yard is to be reduced then the written approval of the adjoining property owner is required. It is not clear in this instance if the submitter is referring to when a yard is reduced between 10 metres and 30 metres or when a yard is sought to be reduced to less than 10 metres. Resource consent is required when a yard is reduced to less than 10 metres which may require written approval of an adjoining neighbour. It is considered that a written approval for a reduced yard between 10m and 30m is not necessary if the applicant accepts the effects that legitimate rural activities on the neighbouring property may have. The inclusion of the explanatory note reinforces the Federated Farmers point that production activities should be able to continue without constraint from a neighbour wanting a reduced yard.

Federated Farmers oppose the Plan Change as they consider that the effects of a reduced yard impinge upon the ability of adjoining permitted production activities to operate. However they recommend that the Plan Change applies only to dwellings. This is the intention and the current situation as farm buildings and sheds are permitted up to 5 metres from an adjoining boundary and Council does not intend to require yard exemption statements for farm buildings as the intention is placed on dwellings and habitable buildings.

D155 Limited support the proposal as it stands.  
 The explanatory note as notified, was proposed to be inserted between the end of Rule 18.4.1(c)(iii) and 18.4.1(c)(iv). This is incorrect and the intention is to insert the proposed explanatory note after the end of Rule 18.4.1(c)(i) and before 18.4.2(c)(ii) to ensure that this only applies to habitable structures.

## 2.7 Recommendation

For the reasons outlined above it is recommended that the explanatory note be added as notified in the Plan Change subject to amending the location of the explanatory note within the text.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
FS72	4	D155 Limited

### Accepted in Part

Submission	Point Number	Name
21	4	Federated Farmers
20	3	Horticulture New Zealand & New Zealand Kiwifruit Growers Incorporated

## 2.8 Reason

The addition of the explanatory note provides certainty for Council and adjoining land owners that a person is accepting effects from rural activities that may occur between 10m and 30m from an adjoining boundary.

## 3.0 Plan Change 40 - Recommended Changes to the District Plan First Review

- 3.1 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.
- 3.2 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 Planning Report in blue.
- 3.3 **Insert the following Explanatory Note after Rule 18.4.1 (c) (i) as follows:**

### **Explanatory Note:**

(i) – (iii) (a) – (e) above are provided for subject to submission to Council of written statement from the applicant accepting any adverse environmental effect which may be created by the reduced yard.