

# Planning Report

## Plan Change 48 – Future Urban and Rural Residential Yards for Habitable Buildings

---

### 1.0 Introduction

- 1.1 The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 48 – Future Urban and Rural-Residential Yards for Habitable Buildings.
- 1.2 Plan Change 48 addresses two particular anomalies within the Future Urban and Rural-Residential yard rules. Firstly, an oversight which allows landowners the unintended opportunity to use the written approval rule to avoid obtaining resource consents for dwellings and other habitable buildings. Secondly, the removal of a rule that is no longer necessary which allows exemptions from the 5m yard for bulk and location standards approved through historical subdivision consents.
- 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 'Summary of Recommendations – All Section 32 Reports'.
- 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: Rules 15.4.1 (c) and 16.4.1 (c) – Future Urban and Rural Residential Yards

#### 2.1 Background

Rules 15.4.1 (c) and 16.4.1 (c) were amended to remove the unintended opportunity for landowners to use the written approval rule to avoid obtaining resource consents for dwellings and other habitable buildings which infringe the 5m yard.

#### 2.2 Submission Points

- 2.2.1 Toi Te Ora Public Health are in support and believe the 5m yard will improve amenity values and add to community health and wellbeing in both zones.
- 2.2.2 Horticulture NZ and NZ Kiwifruit Growers oppose the submission of Toi Te Ora Public Health (for reasons in Topic 2 below).
- 2.2.3 Aurecon (Tauranga) generally support the Plan Change however request for dwellings in the Rural-Residential Zone to qualify for

a reduction of the 5m yard based on written approval from landowners i.e. no resource consent. This essentially requests the status quo for this zone. They contend that unlike the Rural Zone, there is no reverse sensitivity or productive land issues and any yard encroachments are effectively a privacy matter between neighbours which should not involve Council.

**2.3 Option 1 – As proposed - amend performance standard 15.4.1(c) to not allow the written approval rule to apply to dwellings and other habitable buildings so that non-compliance with the 5m yard is a Restricted Discretionary Activity**

<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ Requires dwellings, minor dwellings, accommodation facilities and education facilities proposed to be located closer than 5m to boundaries to obtain resource consent and undergo an assessment of effects.</li> <li>▪ Maintains separation distances between dwellings and therefore maintains the open space character, amenity and privacy of the Rural-Residential Zone.</li> <li>▪ Will also bring the yard provisions in line with the other zones of the District in terms of written approval.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ Landowners lose the existing flexibility that is afforded by the current rules.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Effective as it will result in an appropriate level of assessment required to assess dwellings closer than 5m to the boundary and so will achieve the intention of the zones.</li> <li>▪ Efficient. This same process is well established for yard infringements in other zones.</li> </ul>
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – sufficient information is available.</li> </ul>

**2.4 Option 2 – As requested – allow the written approval rule to apply to dwellings and other habitable buildings so they avoid needing resource consent within 5m of the boundary i.e. maintain the status quo**

<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ More flexibility for landowners to situate houses.</li> <li>▪ No requirements for resource consent (if written approval is received) which reduces costs and timeframes for landowners.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ Reduces separation distances between dwellings and therefore reduces the open space character, amenity and privacy of the Rural-Residential Zone.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Not effective as it does not achieve the intention of the Rural Residential Zone.</li> <li>▪ Efficient. The process of submitting written approval</li> </ul>

	with building consents is also well established.
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – sufficient information is available.</li> </ul>

## 2.5 Discussion

**2.5.1** The purpose of this Plan Change is to correct an oversight which unintentionally allows the use of the written approval rule to avoid obtaining resource consent for dwellings and other habitable buildings located within 5m of the boundary in the Future Urban and Rural-Residential Zone. The submitter wants this oversight retained for the Rural-Residential Zone as they contend that there is no reverse sensitivity or productive land issues and any yard encroachments are effectively a privacy matter between neighbours.

**2.5.2** The purpose of the Rural-Residential Zone is to provide a lower density living environment than the Residential Zone which makes use of the rural surroundings to provide greater amenity and privacy for residents. This is primarily achieved through much larger lot sizes (average of 4000m<sup>2</sup> instead of 350m<sup>2</sup>) and larger yard setbacks (5m instead of 1.5m). The large lot sizes allow sufficient space to maintain the 5m yard. Also, while adjoining landowners may not deem their privacy to be affected by any infringements, there may still be wider affects on the amenity of the zone and enjoyment of the residents i.e. if there are a number of houses within closer proximity than intended.

**2.5.3** The significant issues for the zone do also recognise some potential for reverse sensitivity towards agricultural and horticultural activities within or adjoining the zone. This is another matter that would need to be taken into account with regards to any yard infringement of the 5m yard. Loss of productive land is not a relevant issue however as the zoning allows for any loss of such land.

## 2.6 Recommendation

That Rules 15.4.1 (c) and 16.4.1 (c) are retained as notified.

The following submissions are therefore:

### Accepted

Submission	Point Number	Name
20	1, 6	Toi Te Ora Public Health

## Rejected

Submission	Point Number	Name
23	2	Aurecon (Tauranga)
FS53	1, 2	Horticulture NZ and NZ Kiwifruit Growers

## 2.7 Reasons

- 2.7.1** The purpose of this Plan Change is to correct an oversight which unintentionally allows the use of the written approval rule to avoid obtaining resource consent for dwellings and other habitable buildings located with 5m of the boundary in the Future Urban and Rural-Residential Zone.
- 2.7.2** The large lot sizes in the Rural-Residential Zone (average 4000m<sup>2</sup>) allow sufficient space to maintain the 5m yard.
- 2.7.3** While adjoining landowners may not deem their privacy to be affected by any infringements, there may still be wider affects on the amenity of the zone and enjoyment of the residents i.e. if there are a number of houses within closer proximity than intended.
- 2.7.4** The significant issues for the zone do also recognise some potential for reverse sensitivity towards agricultural and horticultural activities within or adjoining the zone. This is another matter that would need to be taken into account with regards to any yard infringement of the 5m yard.

## 3.0 Topic 2: The introduction of 30m yards for habitable buildings in the Future Urban and Rural Residential Zone where they adjoin the Rural Zone

### 3.1 Submission Points

- 3.1.1** Horticulture New Zealand note that the yard setback for dwellings in the Rural Zone is 30 metres and consider that the same yard setback should apply in the Future Urban and Rural-Residential Zones where they adjoin the Rural Zone. They request this to protect rural production activities in the Rural Zone as well as any adjoining zones.

### 3.2 Discussion

- 3.2.1** The purpose of this Plan Change is to address two particular anomalies within the yard rules for the Future Urban and Rural-Residential Zone. The request for more restrictive yard rules to protect rural production activities from reserve sensitivity effects is not within the scope of the Plan Change.
- 3.2.2** It is also noted such a rule would have little effect with respect to Rural Residential Zones which are mostly 'historical' and largely developed.

### 3.3 Recommendation

That there is no introduction of a new 30m yard for habitable buildings in the Future Urban and Rural Residential Zone where they adjoin the Rural Zone.

The following submissions are therefore:

#### Rejected

Submission	Point Number	Name
21	4, 5	Horticulture New Zealand

### 3.4 Reasons

3.4.1 The request is not within the scope of the Plan Change.

## 4.0 Plan Change 48 - Recommended Changes to the District Plan First Review

4.1 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.

4.2 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.

4.3 **Amend Performance Standard 15.4.1(c) as follows:**

#### (c) Yards

(i) All *Dwellings, minor dwellings, accommodation facilities and education facilities* – 5m

(ii) All other "structures" – 5m minimum

Provided that:

A *building* may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

4.4 **Add a restricted discretionary activity for dwellings, minor dwellings, accommodation facilities and education facilities not meeting the minimum yard setback of 5m, as follows;**

#### 15.3.3 Restricted Discretionary Activities

(x) *Any dwelling, minor dwelling, accommodation facility or education facility that fails to comply with performance standard 15.4.1(c)(i).*

**4.5 Amend Performance Standard 16.4.1(c) so it reads as follows:**

**(c) Yards**

~~Where no bulk and location standards have been established pursuant to a 'building site' approved on a scheme plan of subdivision, the bulk and location requirements shall apply as follows:~~

- (i) ~~All *Dwellings, minor dwellings, accommodation facilities and education facilities* – 5m minimum~~
- (ii) ~~All other "structures" – 5m minimum~~

Provided that:

A *building* may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

**4.6 Add a restricted discretionary activity for dwellings, minor dwellings, accommodation facilities and education facilities not meeting the minimum yard setback of 5m, as follows;**

16.3.3 Restricted Discretionary Activities

- ~~(x) *Any dwelling, minor dwelling, accommodation facility or education facility that fails to comply with performance standard 16.4.1(c)(i).*~~