

**HIS WORSHIP THE MAYOR AND COUNCILLORS  
FULL COUNCIL MEETING (11 APRIL 2018)**

(From Policy Planner)

(Through the Director of Planning and Regulatory Services)



Item:

File: 351/12/049

Ref: IK

Date: 27/03/18

**Decision Report on proposed Plan Change 44 to the Upper Hutt District Plan 2004:  
Temporary Events**

**1.0 Purpose of Report**

1.1. The purpose of this report is to:

- a) Summarise the public submission process that has occurred for proposed Plan Change 44: Temporary Events ("PC44");
- b) Comment on points raised in submissions and the recommended changes to PC44 in response to submissions, where appropriate; and
- c) Seek confirmation of decisions on submissions and the recommended approval of PC44 (as set out in the final section of this report).

1.2. Throughout this report, proposed District Plan text as notified is shown *in italics*. Proposed changes sought by submitters are either shown in italics underlined or italics with ~~striketrough~~. Proposed final changes to the notification text are either shown as italics double-underlined or as italics ~~double-striketrough~~.

1.3. Attached as appendices to this report are:

- Appendix 1: Notification report to Council and Section 32 Evaluation
- Appendix 2: Recommended Amendments to Notified Text
- Appendix 3: Summary of Submissions
- Appendix 4: Correspondence with submitters wishing to be heard

## 1.4 Report Structure

This report has been structured as follows:

1. Introduction
2. Background /Summary of Changes
3. Pre-notification Consultation
4. Public Notification Process
5. Statutory Provisions
6. Nature of Submission on the Plan Change
7. Pre-hearing Discussions with Submitters
8. Pre-hearing Legal Advice
9. Recommended Amendments to Plan Change 44
10. Section 32AA – Further Evaluation of Recommended Changes to Plan Change 44
11. Part 2 Assessment
12. Legal and Financial Implications
13. Decision on Submitters
14. Conclusion
15. Recommendations

## 2.0 Background / Summary of Changes

- 2.1. Plan Change 44 was notified as part of Council's rolling review of the *Upper Hutt District Plan 2004*. It establishes a new 'General Rules' Chapter in the District Plan to capture generic city-wide standards not typically controlled through zoning, as a means to simplify the Plan structure. The first of these topics is temporary events, which has been reviewed and incorporated as a sub-chapter to this new proposed chapter.
- 2.2. The plan change will be the first plan change to adopt the new chapter structure, as expressed in Clause 1.4.3 of the District Plan. The plan change will therefore create the first chapter where both objectives and provisions are contained within a singular chapter, centralising all information relevant to temporary events.
- 2.3. As a result of the plan change, Chapter 25A (Temporary Events) will be removed, and all associated provisions will be positioned within a sub-chapter of the new Chapter 8A (General Rules). Associated temporary event objectives and policies currently in Chapter 15 (Environmental Quality) will also be located in this new sub-chapter.
- 2.4. The plan change will update temporary event objectives and provisions, and introduce new standards in response to how event organisers currently manage events, and to issues identified in the evaluation of current provisions and historic consenting.
- 2.5. The overall changes as a result of PC44 can be summarised as follows:

### **Chapter 2:** Definitions

- a) Updating the existing definition and insert new definitions associated with new provisions.

### **Chapter 8A:** General Rules

- b) Inserting a new general chapter, with a sub-chapter for temporary event provisions. This includes objectives, policies, and rules.

### **Chapter 15: Environmental Quality**

- c) Remove temporary event associated objectives and policies, and replace with new objectives and policies in Chapter 8A.

### **Chapter 25A: Temporary Events**

- d) Remove the chapter entirely and provide updated provisions in the new Chapter 8A sub-chapter.

The following chapters will also undergo minor changes due to their reference to the former Chapter 25A:

- Chapter 18: Residential Rules;
- Chapter 19: Rural Rules;
- Chapter 20: Business Zone Rules;
- Chapter 21: Open Space Zone Rules;
- Chapter 22: Special Activity Zone Rules; and
- Chapter 32: Rules for Noise and Vibration.

## **3.0 Pre-notification Consultation**

- 3.1. Three different forms of pre-notification consultation were undertaken in 2017, prior to the public notification of the plan change in January 2018.
- 3.2. The first involved consultation directly with event organisers to better understand how events were operated, issues organisers commonly had with operating an event, and perceptions of the consenting process and the appropriateness of provisions within the District Plan. Discussions with Council's Marketing Department resulted in a list of 35 event organisers who commonly operated in Upper Hutt, as well as a list of 4 organisers who have historically sought resource consent for temporary events. Surveys for both event organisers and consent holders were formulated, and sent to the appropriate parties using the list generated.
- 3.3. The survey received a response rate of 22%, with 75% of respondents allowing Council the opportunity to contact them directly to further elaborate on their answers. Both the survey responses and direct discussions provided information on how events are operated. A complete discussion of these results and implications on proposed provisions is described in the Section 32 Evaluation Report, attached at **Appendix 1**.
- 3.4. The second phase of consultation was with internal stakeholders. Discussions on current temporary event provisions and any known event-related issues were conducted with the UHCC Marketing Department, Parks and Reserves, regulatory teams, and the Roding Department. These discussions provided a wider understanding of District Plan provisions, and where there were perceived opportunities for improvement with existing provisions.
- 3.5. The final phase of consultation was statutory in nature, as directed by the First Schedule of the Resource Management Act 1991. This involved consulting with local iwi authorities Ngāti Toa Rangatira (Ngāti Toa ) and Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui) as part of Clause 4A consultation to gauge their interest in proposed provisions, and consider their input, accordingly. Both iwi authorities were satisfied to simply be able to have their input considered through the public notification process, with neither formally making a submission during the public notification phase.

- 3.6 Clause 3 consultation was also undertaken with relevant statutory parties, with no party choosing to provide input into the plan change prior to public notification.

#### **4.0 Public Notification Process**

- 4.1. Plan Change 44 was publicly notified on 10 January 2018. The submission period was for a total of six weeks; two weeks longer than the statutory requirement of 20 working days. This was to allow extra time for stakeholders to assess the proposal over the holiday period.
- 4.2 As part of the notification process, the Council undertook an extensive online marketing campaign via social media to promote engagement with the plan change. Results from the campaign indicate that over 17,000 people saw the advertisements, while page views on Council's webpage for PC44 were over 800. Site statistics showed that approximately 85% of all visitors to the webpage came from the social media advertisements.
- 4.3 A total of two submissions were received before submissions closed on 21 February 2018. A summary of submissions was publicly notified on 7 March 2018, with no further submissions received.
- 4.4. The submitters are detailed below:
- (1) New Zealand Defence Force (NZDF); and
  - (2) Order of the Boar, Club Captain – Mr Callum Forbes.
- 4.5. Both submissions were supportive of PC44. NZDF proposed an amendment to the temporary event definition. Mr Forbes sought clarification on the overnighting of event-related animals.
- 4.6. The NZDF submission initially expressed their wish to be heard. However, subsequent prehearing discussions with the submitter resulted in an agreed amendment to notified text. NZDF subsequently withdrew their request to be heard.

#### **5.0 Statutory Provisions**

- 5.1. Schedule 1 of the Resource Management Act 1991 directs the Plan Change process Council must undertake. In the scenario where no submitter wishes to be heard, Clause 8C states:

***8C Hearing not needed***

*Where submissions are made but no person indicates they wish to be heard, or the request to be heard is withdrawn, the local authority shall consider the submissions along with the other relevant matters, but shall not be required to hold a hearing.*

- 5.2. After notifying a Plan Change and receiving submissions, Council must then give a decision on the Plan Change. This is directed by Clause 10 of Schedule 1, which states:

### **10 Decisions on provision and matter raised in submissions**

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
  - (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
    - (i) the provisions of the proposed statement or plan to which they relate; or
    - (ii) the matters to which they relate; and
  - (ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and
  - (b) may include—
    - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
    - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.
- (3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
- (4) The local authority must—
  - (aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and
  - (a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and
  - (b) publicly notify the decision within the same time.
- (5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.

- 5.3. Council must give a decision on submissions under Clause 10. The decision must include reasons for accepting or rejecting submissions. The decision may also include amendments to the proposed Plan Change resulting from submissions.
- 5.4. After reaching a decision on submissions, Council must publicly notify the decision. Public notice of Council's decision will be given as soon as practicable, following completion of all administrative tasks.
- 5.5. Clause 10(3) clarifies that submissions do not need to be addressed individually.
- 5.6. The Council must also consider a further evaluation of the proposed Plan Change undertaken in accordance with Section 32AA under Clause 10(4)(aaa).
- 5.7. I propose to address the submissions and their proposed amendments, and then provide a further evaluation of the recommended amendments to PC44 thereafter. The further evaluation is described in Part 10 of this report.

## **6.0 Nature of submissions on the Plan Change**

- 6.1. As discussed, all submitters support the intent of PC44, expressly or otherwise. For example, Mr Forbes stated that he believed the proposed provisions were well balanced between conformance, reducing disruption on surrounding properties, and ensuring that event organisers are still able to practically operate events.
- 6.2. While Mr Forbes supported the proposed plan change overall, he sought clarification on the overnighting of animals as part of an event (namely horses), as the plan change sought to introduce provisions for event-related camping.
- 6.3. The NZDF submission focused on the current definition of temporary events and the ambiguity as to whether or not the definition sufficiently excludes temporary military training activities. As a result, an amendment was proposed to the existing definition to exclude these types of activities from the definition.

## **7.0 Pre-hearing Discussions with Submitters**

### **7.1. Order of the Boar (Mr Forbes) submission**

While Mr Forbes did not wish to be heard in support of his submission, Council responded to his submission point directly. It was reiterated to Mr Forbes that animals of this nature were regarded as 'Stock' under the *Keeping of Stock, Poultry and Bees Bylaw 2005* and that Council has discretion to set conditions for the keeping of such stock accordingly. Additionally, any event located on public (reserves) land is administered by the UHCC Parks Department, and therefore discretion is also extended to this Council department. It was therefore seen as inappropriate for such controls to be afforded to the District Plan also.

- 7.2. Mr Forbes later expressed his satisfaction in this response. This matter therefore does not require any changes to the proposed plan change text to address the clarification matter sought as it is appropriately addressed by other legislative control.

### **7.3. New Zealand Defence Force submission**

The NZDF submission sought to make a specific amendment to the temporary event definition to definitively exclude temporary military training activities (TMTAs) from the temporary event definition. In discussions with NZDF it was affirmed that the structure of the District Plan does not envision that these activities are captured by the temporary event rules, however the current definition does not definitively exclude TMTAs. Secondly, the proposed amended wording by NZDF aligns with terminology used throughout the Plan, namely in Rule 32.4.

- 7.4. The amendment sought is therefore considered appropriate, and is supported as submitted. On the basis of the relief point being supported, NZDF withdrew their request to be heard in a hearing.

## **8.0 Pre-Hearing Legal Advice**

- 8.1. Plan Change 44 establishes a number of provisions to control the level, duration, and measurement of event-related noise. This involved establishing the methodology for noise measurement; namely, at what location event-related noise should be measured from. Following notification of the plan change it was later considered that these measurement provisions may be

misinterpreted, whereby a noise measurement could be taken at the noise source, rather than the location where the noise was causing offence (i.e. on the neighbouring property).

8.2. Legal advice was sought on whether an amendment could be made to this standard, and whether such an amendment would be considered 'minor' in respect of Clause 16(2) of the First Schedule of the Resource Management Act.

8.3. Clause 16(2) of Schedule 1 states:

**16 Amendments of proposed policy statement or plan**

(1) ...

(2) *A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.*

(3) *[Repealed]*

8.4. Legal advice received concluded that changes to parts of the proposed District Plan text which relate to noise measurement included in the proposed provisions would constitute a 'minor effect' and may be amended through Clause 16(2).

8.5. The measurement standard and proposed change applied equally to Rules 8A.2.3.9, 8A.2.3.10, and 8A.2.3.21 as they all establish noise levels, requiring a measurement methodology. A minor amended rule numbering was proposed in order to align with the chapter's rule structure.

8.6. Having regard to the above, it is recommended that an amendment to the proposed District Plan text would be the most effective means to update the District Plan, in light of potential misinterpretation of noise measurement standards. This option is recommended for the following reasons:

- a) Updating these standards would create greater clarity for Plan users and increase the ease of enforceability for event-related noise;
- b) Other mechanisms to update these standards such as Clause 20A and Section 292 are inappropriate and unwieldy; and
- c) It avoids additional costs to update the District Plan through a supplementary plan change at a later date.

## **9.0 Recommended amendments to Plan Change 44**

9.1. The following paragraphs recommend amendments to the notified District Plan text as a response to matters raised by submitters', legal advice, and identified minor administrative errors. An evaluation of the recommended amendments in accordance with Section 32AA of the Act is provided in Section 10 of this report.

### **Amendments related to submissions:**

#### **9.2. Relief sought by New Zealand Defence Force (#1)**

The NZDF sought to amend the Chapter 2 definition of 'Temporary Event' stated in the notified District Plan text as follows:

*an organised event that is of a temporary nature, has a limited duration and that includes public entertainment events, cultural events and organised competitive sporting and recreational events, but excludes commercial promotional events and temporary military training activities.*

- 9.3. Pre-hearing discussions concluded that this amendment was appropriate, as submitted by NZDF. As previously discussed, the appropriateness of this change is related to the structure of current District Plan provisions which address TMTAs (namely Chapter 32), and the fact that the plan change has not anticipated for TMTAs to be addressed under temporary event provisions, and accordingly, have not been drafted with this in mind.

**Amendments related to noise measurement standards:**

- 9.4. As previously stated in Part 8.6 of this report, it is considered appropriate to amend the proposed District Plan text in order to remove the potential for noise measurement standards to be misinterpreted. These changes would be considered as having a 'minor effect' in accordance with Clause 16(2) of Schedule 1 of the Act, as supported through legal advice.
- 9.5. Changes sought relate to Rules 8A.2.3.9, 8A.2.3.10, and 8A.2.3.21 in the temporary event rules proposed for the District Plan.
- 9.6. The recommended amendments to the common 'When measured' noise measurement standard described in rules 8A.2.3.9 and 8A.2.3.10 are as follows:

*When measured:*

- (1) *At any point within the boundary of any site (other than the source site/s) within a Residential zone; and*
- (2) *At any point within the ~~20m~~ notional boundary of any dwelling on a site (other than the source site/s) within a Rural zone; and*
- (3) *At any point within the boundary of any site (other than the source site/s) occupied by a hotel, motel, motor camp, early childhood centre, school or education facility, health care facility or aged care facility within any zone.*

- 9.7. Accordingly, the recommended amendment to rule 8A.2.3.21 is for the 'When measured' noise measurement standard to be inserted as follows:

*Any noise from any temporary event which exceeds 80 dB  $L_{Aeq}$  (5 mins) or 85dB  $L_{Amax}$ .*

*When measured:*

- i. At any point within the boundary of any site (other than the source site/s) within a Residential zone; and*
- ii. At any point within the notional boundary of any dwelling on a site (other than the source sites/s) within a Rural zone; and*
- iii. At any point within the boundary of any site (other than the source sites/s) occupied by a hotel, motel, motor camp, early childhood centre, school or education facility, health care facility or aged care facility within any zone.*

*Exemptions:*

- (a) *Noise produced by crowds;*
- (b) *All activities occurring at the Speedway Area (including temporary events) shall be subject to specific rules pertaining to the Speedway Area in Chapter 21; and*
- (c) *Organised fireworks displays undertaken at Trentham Memorial Park shall be subject to the specific provisions in Rule 21.14A.*



**Amendments related to administrative errors:**

- 9.8. As discussed, the Clause 16(2) amendment also sought to make a minor amendment to the rule numbering in order to match the existing numbering structure. It is therefore recommended that the two exemption standards under Rule 8A.2.3.9 are amended to match the number sequencing as (d) and (e), replacing the existing bullet points.

**10.0 Section 32AA - Further Evaluation of recommended changes to Plan Change 44**

- 10.1 Section 32AA of the Act requires Council to undertake a further evaluation of any changes sought to a proposed Plan Change following the initial Section 32 report, as provided at the notification of Plan Change 44. The level of detail in this evaluation should correspond to the scale and significance of the changes and be made in accordance with section 32(1) to (4) of the Act.

- 10.2 Section 32(1) to (4) states:

**32 Requirements for preparing and publishing evaluation reports**

- (1) *An evaluation report required under this Act must—*
- (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
  - (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
    - (i) *identifying other reasonably practicable options for achieving the objectives; and*
    - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
    - (iii) *summarising the reasons for deciding on the provisions; and*
  - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
- (2) *An assessment under subsection (1)(b)(ii) must—*
- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
    - (i) *economic growth that are anticipated to be provided or reduced; and*
    - (ii) *employment that are anticipated to be provided or reduced; and*
  - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
  - (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*
- (3) *If the proposal (an **amending proposal**) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—*
- (a) *the provisions and objectives of the amending proposal; and*
  - (b) *the objectives of the existing proposal to the extent that those objectives—*
    - (i) *are relevant to the objectives of the amending proposal; and*
    - (ii) *would remain if the amending proposal were to take effect.*

[continued]

(4) *If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.*

- 10.3. Sub-section (3) is of particular relevance here, and directs the evaluation to assess how changes to the proposal (the Plan Change provisions) will maintain the intended objectives of the existing proposal (the Plan Change).
- 10.4. The following provides an evaluation of proposed changes discussed in Part 9, above. Three sets of evaluations are provided below, which cover: submitter amendments; amendments to measurement standards; and minor administrative amendments.
- 10.5. Each evaluation is provided with a summary of the amendments to the proposed District Plan text and a summary of the objectives of the Plan Change. An evaluation focusing on the costs and benefits of the following options is provided at the end of the evaluations:
- ❖ **Option 1:** retain proposed text as notified; and
  - ❖ **Option 2:** implementing the amendments as recommended in this report.

#### **Evaluation of Submitter Relief Points**

- 10.6. The recommended amendment in response to the singular submitter relief point relates only to the definition of 'temporary event' in Chapter 2 of the District Plan.
- 10.7. The amendment seeks to create certainty in the assessment of TMTAs, and to remove any doubt whether any such activity would be assessed as a temporary event, as currently defined.
- 10.8. Part 1.2 of the notified Section 32 report states the intended objectives of Plan Change 44, as follows:
- The objective of the Plan Change is to create appropriate provisions for temporary events, to facilitate and enable these activities within the Upper Hutt District, while also ensuring their environmental effects are appropriately addressed.*
- 10.9. The recommended submitter amendment aligns with the stated objective of Plan Change 44 as it seeks clarity to enable appropriate provisions for temporary events by disassociating TMTAs from general temporary event provisions.
- 10.10. The appropriateness of this separation is demonstrated in the rule structure of Chapter 32, whereby Rule 32.2A directs the Plan user to evaluate all 'temporary events' under Chapter 25A, with all TMTAs still assessed under this chapter via Rule 32.4 – effectively separating the two activities by definition. The proposed amendment therefore reflects the current District Plan Structure.

### Evaluation of Noise Measurement Amendments

10.11. The recommended amendments all relate to proposed sub-chapter 8A (Temporary Events) of Plan Change 44. As a result, the following Rules of the Plan Change would be amended:

- 8A.2.3.9 – Outdoor Amplified Noise;
- 8A.2.3.10 – Non-amplified Noise; and
- 8A.2.3.21 – Non-complying Activities.

10.12. The amendments seek to update the noise measurement methodology for event-related noise in order to clarify where noise levels shall be measured from.

10.13. Reflecting on the objectives of Plan Change 44 in paragraph 10.8 above, the recommended changes are considered to ensure that the adverse effects from noise are appropriately measured. These changes therefore meet the objective of the plan change.

### Evaluation of Administrative Error Amendments

10.14. The recommended clerical error amendments seek to simply update the rule numbering of Rule 8A.2.3.9 to match the existing numbering structure throughout the sub-chapter.

10.15. This change is minor in nature and clarifies the assessment of temporary event provisions, facilitating events to be appropriately managed – meeting the objective of the plan change.

10.16. The following table considers the recommended amendments against section 32 considerations.

<b>Table 1 – Costs and Benefits of Recommended Amendments to Plan Change 44</b>		
	<b>Option 1: Retain proposed text as notified</b>	<b>Option 2: Recommended amendments</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>• Objectives of Plan Change 44 are not best met.</li> <li>• Relief sought from submitters is inadequately addressed.</li> <li>• The District Plan provisions would conflict against one another, giving rise to uncertainty and potentially costs for applicants associated with unintended resource consent applications.</li> <li>• Potential confusion over noise measurement methods and potential to reduce the effectiveness of event operation.</li> <li>• Potential additional monetary cost of further legal proceedings from submitters.</li> <li>• Potential additional monetary cost of further amendments to the District Plan following the legal effect of amendments.</li> <li>• Potential additional monetary and time cost for a supplementary plan change to amend any errors or ambiguous rules and/or definitions.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional time required to update District Plan text.</li> </ul>

<b>Benefits</b>	<ul style="list-style-type: none"> <li>Final notified District Plan text remains the same as was publicly notified, simplifying interpretation to notified parties.</li> </ul>	<ul style="list-style-type: none"> <li>Relief sought by submitters is adequately addressed and additional hearing costs are avoided.</li> <li>Objectives of Plan Change 44 are met.</li> <li>District Plan provisions remain clear and avoid ambiguity.</li> <li>The Plan Change is able to be fully notified earlier, avoiding any additional transaction costs with upcoming Plan Changes.</li> </ul>
<b>Efficiency &amp; Effectiveness</b>	<ul style="list-style-type: none"> <li>Reduces the potential efficiency of District Plan operation and utilisation by potentially created ambiguity in rules and definitions.</li> <li>Reduces the efficiency of Plan Change 44 by potentially requiring a subsequent change to the District Plan.</li> <li>Reduces the effectiveness of District Plan provisions by not providing best-practice guidance to Plan users.</li> </ul>	<ul style="list-style-type: none"> <li>There is a potential time-cost saving to Plan users by providing clear provisions and definitions, increasing the efficiency any application process.</li> <li>By updating provisions and definitions now, the overall plan-making process is expedited, increasing overall efficiency.</li> <li>There is a potential time-cost saving to Plan users by providing accurate provisions, increasing the efficiency any application process.</li> <li>By avoiding the need for a potential subsequent plan change, the overall effectiveness of the plan change process is increased.</li> </ul>
<b>Most Appropriate Option</b>	<p>Adopting the recommended amendments is the most appropriate means to ensure the District Plan is amended in a manner which best gives effect to the objectives of Plan Change 44. There is a minor cost associated with this option, but the overall benefits are considered to outweigh this cost.</p>	

10.17. Table 1 has demonstrated that the recommended amendments to proposed District Plan text are the most appropriate means to achieve the purpose of the Plan Change 44.

10.18. It is important to consider the risk of not acting when preparing a Plan Change. This report has identified changes to give effect to submitter and legal concerns, which seek to accurately reflect resource management best-practice. Not updating these sections of the Plan Change may result in risks concerning interpretation and implementation by the public and applicants alike.

10.19. The recommendations of this report are a result of pre-hearing discussions with submitters, legal advice received, and internal reviews of proposed provisions, as a means to mitigate this risk.

## 11.0 Part 2 Assessment

11.1. Any Plan Change must ultimately serve the purpose of the Act.

11.2. Section 5(1) of the Act states the purpose of the Act to *promote the sustainable management of natural and physical resources*. Section 5(2) expands on this definition, stating:

**sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

- 11.3. PC44 seeks to amend provisions relating to the operation and occurrence of temporary events, in light of their effect on and opportunity for the local community. Therefore of relevance is the direction of section 5(2) to *enable people and communities* as part of the Act's overall purpose, as well as the need to consider their well-being and health and safety, and the management of adverse effects.
- 11.4 The objectives of the Plan Change seek to create provisions to appropriately address anticipated effects during, and as a result of, temporary event operation, while recognising the positive contribution events have on the wellbeing of the community. Proposed provisions are anticipated to enable events which promote social interaction, artistic and cultural expression, and stimulate the local economy.
- 11.5 Sections 6 and 7 of the Act provide for matters of national importance to be recognised and other matters Council must to have regard to, respectively. During pre-notification consultation, cultural matters were discussed with local iwi authority Taranaki Whānui and appropriately addressed. The proposed plan change has had regard to s7(c) and s7(f) by proposing provisions which ensure that events will be operated in a manner whereby residential amenity is maintained, and local character is upheld.
- 11.6 Section 8 of the Act directs Council to take into account the principles of the Treaty of Waitangi (Te Teriti o Waitangi). Consultation has been undertaken with local iwi authorities Ngāti Toa and Taranaki Whānui in order to evaluate their concerns for proposed provisions. Both iwi authorities expressed their neutrality on the proposal and chose not to make a formal submission on the plan change, once notified.

## **12.0 Legal and Financial Implications**

- 12.1. As with any change to the District Plan, the proposed Plan Change will be open to appeal to the Environment Court, which would have financial implications.

## **13.0 Decision on Submitters**

- 13.1 Council is required to issue decisions on submissions. For reasons outlined in this report, it is recommended that the following decisions are made on the two submissions received:

Submitter	Relief Sought	Accept / Reject
#1 New Zealand Defence Force	Amend 'temporary event' definition in Chapter 2	Accept
#2 Order of the Boar – Club Captain, Mr Callum Forbes	Clarify overnighting rules to address the keeping of animals	Reject

## 14.0 Conclusion

14.1. Plan Change 44 seeks to:

- Create a new 'General Rules' chapter and amalgamate all temporary event objectives and provisions under a single sub-chapter;
- Update existing provisions to address established event management practices and potential issues identified during the existing provisions historic consenting evaluation; and
- Improve the clarity of provisions during the consenting assessment while recognising the positive contribution events can have on the local community.

14.2 Taking into account all of the matters raised by submissions and addressed in this assessment, it is my overall conclusion that subject to specific modifications to improve the effectiveness of the provisions, proposed Plan Change 44 will:

- Be consistent with the purpose and principles of the Act
- Be an appropriate means of achieving the Act's purpose
- Fulfil the functions required of Council.

## 15.0 Recommendations

15.1. **THAT** council adopts the recommendations within Section 9 of this report, and resolves:

15.1.1 **THAT** pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991, Council gives notice of its decision on submissions to Plan Change 44 in accordance with the recommendations of this report.

15.1.2 **THAT** the modifications outlined in Appendix 2 be made to Plan Change 44, prior to its inclusion in the District Plan.

15.1.3 **THAT** pursuant to Clause 17 of the First Schedule of the Resource Management Act 1991, Council resolves to make operative Plan Change 44 with the modifications as set out in Appendix 2.

15.1.4 **THAT** pursuant to Clause 20 of the First Schedule of the Resource Management Act 1991, Council gives notice of Plan Change 44 becoming operative.

Report prepared by:



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POLICY PLANNER

Report reviewed by:



Angela Bell  
PLANNING POLICY MANAGER

Report approved for submission by:



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