

**HIS WORSHIP THE MAYOR AND COUNCILLORS
FULL COUNCIL MEETING (2 OCTOBER 2019)**

(From Consultant Planner)

(Through the Director of Planning and Regulatory Services)



Item:

File: 351/12/050

Ref: BO

Date: 20/09/19

Proposed Plan Change 45 to the Upper Hutt District Plan 2004: Signs

1.0 Purpose of report

1.1 This report accompanies the final recommendation report on proposed Plan Change 45 - Signs (PC45). The report was delivered by the Hearings Panel on 2 August 2019.

1.2 This report seeks Council's decision on the proposed Plan Change.

1.3 Attached as appendices to this report are:

- Appendix 1: Hearing panel recommendation report to Council
- Appendix 2: Recommended Amendments to the relevant District Plan chapters.

2.0 Recommendations

2.1 **THAT** Council adopts the recommendations of the Hearing Panel report (Appendix 1) on the provisions and matters raised in submissions on proposed Plan Change 45 in accordance with clause 10 of the First Schedule of the Resource Management Act 1991.

2.2 **THAT** Council approves proposed Plan Change 45 in accordance with clause 17 of the First Schedule of the Resource Management Act 1991 for the reasons set out in the Hearing Panel report (Appendix 1).

2.3 **THAT** pursuant to clause 10 of the First Schedule of the Resource Management Act 1991, Council gives notice of its decision on proposed Plan Change 45 in accordance with the Hearing Panel recommendations as set out in the Hearing Panel report (Appendix 1).

2.4 **THAT** if no appeals are received by the close of the appeal period, proposed Plan Change 45 be made operative in accordance with clause 20 of the First Schedule of the Resource Management Act 1991.

2.5 **THAT** Council delegate authority to the Chief Executive to correct minor errors to the operative Plan Change that may be required.

3.0 Background

3.1 Plan Change 45 (PC45) involved a review and update of the existing operative signs provisions within the District Plan. The provisions were due for review in accordance with the Resource Management Act 1991 (“RMA”) as they had not been updated since becoming operative in 2004. The review was undertaken at the same time as the review of the Council’s Control of Advertising Signs Bylaw (now the Control of Temporary Signs Bylaw) to ensure an integrated approach to the management of signs in Upper Hutt.

3.2 The plan change consolidates the existing signs provisions into a new chapter (Chapter 8A.3) while also proposing relevant updates to the provisions. These changes improve District Plan navigation, reduce repetition, improve usability and integrate with the recent changes to temporary signs within the updated Signs Bylaw.

The format of the plan change adopts the most recent chapter structure where both objectives and rules are contained within a single chapter, centralising all information relevant to signs.

3.3 As a result of the plan change, the signs provisions which are currently spread through the various zone chapters, will be removed, and all associated provisions will be located within a new Chapter 8A (General Rules). This results in the changes to the following chapters of the district plan:

Table 1: Summary of changes.

Chapter Number	Chapter Title	Proposed Change
Chapter 2	Definitions	Amended definition of sign and new definitions for temporary sign and health and safety sign.
Chapter 4	Residential Zone	Remove Policy 4.4.8
Chapter 8A.3	General Rules (New Chapter)	Insert a new chapter - Chapter 8A.3: Signs. New objective, policies and rules, including matters of discretion.
Chapter 15	Environmental Quality	Remove Policy 15.4.5 Remove methods which relate to signs
Chapter 18	Residential Zone Rules	Remove rules for signs and matters for consideration and matters of discretion relating to signs.
Chapter 19	Rural Zone Rules	
Chapter 20	Business Zone Rules	
Chapter 21	Open Space Rules	
Chapter 22	Special Activity Zone Rules	

3.4 Overall the revised signs provisions within PC45 update the provisions addressing illumination and digital signage and remove duplication across the zone chapters while continuing to enable commercial signage and provide for residential amenity. The temporary signs duration and exemptions are also aligned with the Signs Bylaw to avoid conflicting requirements.

Submissions

3.5 The submission period for Plan Change 45 opened on 6 June 2018 and closed on 18 July 2018. Further submissions opened on 10 October 2018 and closed 25 October 2018. Six submissions and four further submissions were received and all submitters requested to be heard.

- 3.6 The scope of the submission points and relief sought included changes to the proposed permitted standards as well as the addition of new standards to support the proposed rule framework. The submissions also identified issues within PC45 and sought resolution on the following matters;
- Temporary signage requires a clearer definition;
 - Health and Safety signs require a definition;
 - Illumination of signs to be addressed;
 - relative to the zone;
 - at the appropriate activity status; and,
 - for all signs (temporary and permanent).
 - Illumination standards for digital signs; and
 - Traffic Safety standards clarified and the permitted standards applied to both temporary and permanent signs.
- 3.7 Pre-hearing communication was undertaken to address some of the key submission points. This resulted in agreement on some matters to the extent three submitters advised they no longer wished to be heard. This left three submitters (NZTA, the Oil Companies and Ms Tinsdale) who still wished to be heard and they circulated evidence ahead of the hearing.
- 3.8 A hearing was held on 8 May 2019 by a Hearing Panel comprising Councillor Glenn MacArthur and Councillor John Gwilliam, and chaired by Independent Hearing Commissioner Jane Black.

4.0 Hearing panel recommendations

- 4.1 The Hearing Panel considered the material before them. This included the section 42A report from the council planning advisor, the submissions and further submissions, evidence provided at the hearing, together with requirements of s32 of the RMA and other statutory requirements. The Panel then made an overall recommendation to Council at section 13 of the report:

“The Panel makes the recommendations to reject, reject in part, accept in part or accept submissions as recorded in this report. The Panel considers that the proposed plan change is consistent with Part 2 of the Act and that the Council can approve PPC45 with the recommended amendments.”

- 4.2 The recommended amendments are identified within the Hearing Panel report (Appendix 1) and are illustrated through use of ‘strikethrough’ amendments to the relevant chapters (Appendix 2).

5.0 Council to make a decision

- 5.1 Council delegated the power to hold the hearing and hear submissions on PC45 to a Hearing Panel chaired by Independent Hearing Commissioner Jane Black. The panel was not given the final power to make a decision under clause 10 of the First Schedule to the RMA, but rather, was given the power to hear submissions and make recommendations to the Council.
- 5.2 As the Council did not directly hear the submissions on the plan change, its ability to impose outcomes that differ from, or that are additional to, those recommended by the Hearing Panel is

limited. As a result, the decision-making options available to the Council on the PC45 recommendations are limited to either:

- (a) Accepting the Hearing Panel's recommendations entirely; or
- (b) Rejecting the Hearing Panel's recommendations entirely, if there are good reasons to do so.

5.3 If rejection is considered then Council would need to consider either withdrawing the plan change or re-running the hearing process with the full council hearing submissions and forming a decision under clause 10.

5.4 If the Council adopts the Plan Change and notifies its decision, there will be an appeal period of 30 working days. If no appeals are received by the close of the appeal period, PC45 can be made operative in accordance with clause 20 of the First Schedule of the Resource Management Act 1991.

5.5 Council can amend the operative Plan Change to correct any minor errors under Clause 20A of Schedule 1 of the RMA if powers to do so are appropriately delegated.

6.0 Legal implications

6.1 There are no legal implications arising from Council's decision in this case, noting that Council's process is prescribed by the Resource Management Act 1991.

7.0 Financial implications

7.1 There are no significant financial implications if Council decides to adopt the Hearing Panel's recommendations. In the event of an appeal, significant professional and legal costs could potentially be incurred.

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