

Proposed District Plan Change 16

AMENDMENTS TO NOTIFICATION PROCEDURES AND MISCELLANEOUS
CHANGES

Summary of Submissions

Publicly Notified: 23 November 2010

Further Submissions Close: 7 December 2010 at 5.00pm

PUBLIC NOTICE

Availability of Summary of Submissions on Proposed District Plan Change 16 to the City of Lower Hutt District Plan

Clause 8 of the First Schedule – Part 1 of the Resource Management Act 1991

Hutt City Council has prepared the summary of submissions received on
Proposed District Plan Change 16 – Amendments to Notification Procedures and Miscellaneous Changes

The summary of the decisions sought and full copies of the submissions are available and can be inspected at:

- All Hutt City Council Libraries, and
- Customer Service Counter, Council Administration Building, 30 Laings Road, Lower Hutt

Alternatively, the summary of submissions is available on the Council website:

- <http://www.huttcity.govt.nz/Your-Council/Plans-and-publications/District-Plan/District-Plan-Changes>

Copies can also be requested by contacting the Council:

- Phone: (04) 570 6666 or
- Email: district.plan@huttcity.govt.nz

Further Submissions close on Tuesday 7th December at 5.00pm

Persons who are representing a relevant aspect of the public interest or persons who have an interest in the proposed plan change that is greater than the interest of the general public can make a submission in support of, or in opposition to, the submissions already made.

You may do so by sending a written submission to Council:

- Post: Environmental Policy Division, Hutt City Council, Private Bag 31912, Lower Hutt
- Deliver: Council Administration Building, 30 Laings Road, Lower Hutt
- Fax: (04) 570 6799
- Email: district.plan@huttcity.govt.nz

You must also send a copy of your further submission to the person on whose submission you are supporting or opposing within five working days of sending your further submission to Hutt City Council.

The further submission must be on RMA Form 6 and must state whether or not you wish to be heard on your submission.

Copies of this form are available from the above locations and the Council website:

<http://www.huttcity.govt.nz>

Please state clearly the submission reference number to which your further submission relates.

**Tony Stallinger
Chief Executive
23rd November 2010**

SUBMISSIONS RECEIVED

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SUMMARY OF SUBMISSIONS - PROPOSED PLAN CHANGE 16

Any new text that is proposed to be added is underlined, while any text proposed to be deleted has been ~~struck through~~.

Submission Number: DPC16/01					
Submitter	Sub. Ref.	Amendment & Provision	Support / Oppose	Reasons	Decision/Relief Sought
New Zealand Historic Places Trust	1.1	General	Support	They are supportive of the Plan Change with the amendments suggested in their submission.	That the amendments suggested in their submission be made to the Plan Change.
	1.2	Amendment 16 17.1.1 (g) (viii)	Support with amendments	Current provision under 17.1.1 (g) (iii) does not specifically mention archaeological sites and as a consequence they are likely to be missed. They also request that the requirement for a value judgement to be made, as to whether a proposal will affect a historic site or item, be removed from the District Plan.	Replace 17.1.1(g) (viii) with: The identification of any historic place, <u>archaeological site</u> or other <u>heritage items, on site or in proximity to the proposed works.</u> which affects the cultural and historic heritage of New Zealand, which is to be removed or modified by the application.
	1.3	Amendment 16 17.1.2	Support with amendments	The lack of a requirement to provide heritage information for a subdivision application is an oversight.	Include in 17.1.2: <u>The identification of any historic place, archaeological site or other heritage items, on site or in proximity to the proposed works.</u>

Submission Number: DPC16/02					
Submitter	Sub. Ref.	Amendment & Provision	Support / Oppose	Reasons	Decision/Relief Sought
Petone Planning Action Group	2.1	Amendment 12 14B 2.2(d)(i)	Support	Agree that signs on sites with frontages to the roads listed become restricted discretionary rather than controlled activities.	
	2.2	Amendment 14 14H 2.1 (a) (i)	Oppose	There is a public interest in the development of habitable buildings and workplaces in a natural hazard area and therefore these types of applications should not be precluded from notification.	Delete the non-notification clause for Rule 14H 2.1 (a).
	2.3	Amendment 15 Chapter 17 Explanation and Reasons	Support with amendments	Suggests a number of amendments in order to make the Explanation and Reasons section of Chapter 17 clearer and to better reflect the provisions of the Resource Management Act.	Amend the Explanation and Reasons: - Controlled activities: Are precluded from public notification and limited notification <u>unless special circumstances exist in relation to the application.</u>

					<p>- Restricted discretionary activities: There is a presumption of non-public notification and non-limited notification for all restricted discretionary activities, with some exceptions <u>or where there are affected persons or where there are special circumstances</u>. The presumption of non-public notification and non-limited notification for restricted discretionary activities allows public notification or limited notification in appropriate circumstances, for example where a restricted discretionary activity will have adverse effects on the environment which are more than minor.</p> <p>Delete from the explanation and reasons: District Plan users should note that for activities where public notification is precluded, there are circumstances under the Act where the resource consent application may still be publicly notified, for example the Council may publicly notify an application if it decides that special circumstances exist.</p>
2.4	Amendment 16 17.1.1 and 17.1.2	Support	Support the addition of “Cross section drawings of any earthworks showing cut and fill and any retaining structures.” Also support the addition of “Any areas of the site which contain contaminated land.”		
2.5	Amendment 18 17.2.1	Support with amendments	The rule states that public and limited notification for all controlled activities is precluded, however this is not strictly true in terms of the Act, which still allows for notification in special circumstances.	<p>Amend 17.2.1 Controlled Activities <u>Except where Council considers that special circumstances exist in relation to the application</u></p> <p>(a) Public notification of applications for resource consent for all controlled activities is precluded. (b) Limited notification of applications for resource consent for all controlled activities is precluded.</p>	
2.6	Amendment 19 17.2.2	Support with amendments	Agree that public and limited notification of resource consents for restricted discretionary activities need not be required, as this still provides for officer discretion. However, they submit that the words ‘Or the Plan provides otherwise’ needs to be added under the heading of 17.2.2 Restricted Discretionary Activities,	<p>Amend 17.2.2 Restricted Discretionary Activities <u>Or the Plan provides otherwise</u></p> <p>(a) Public notification of applications for resource consent for all restricted discretionary activities need not be required. (b) Limited notification of applications for resource</p>	

				before (a) and (b) and 17.2.3 Discretionary and Non-complying Activities.	consent for all restricted discretionary activities need not be required Amend 17.2.3 Discretionary and Non-complying Activities <u>Or the Plan provides otherwise</u> The notification provisions of the Act or any subsequent amendments shall apply to notification decisions on applications for resource consent for all discretionary and non-complying activities.
2.7	Amendment 20 Appendix Notification Procedures 1	Support with amendments	Submits that some wording changes are needed to points 5 and 6 of Appendix Notification Procedures 1 to better reflect the Resource Management Act. The explanation of terms can be further simplified.	Amend Appendix Notification procedures 1 5. Are the potential adverse environmental <u>Will the adverse effects of the activity on the environment be more than minor or are they likely to be more than minor? considered to be minor?</u> 6. Are there any affected persons or affected order holders who <u>will be</u> are -adversely affected by <u>the activity in a way that is minor or more than minor?</u> proposal? Explanation of terms: Limited Notified: Only those persons who are adversely affected by the resource consent application are notified of the application by the Council and can make a submission.	
	Section 32 Report		Submits that several statements within the Section 32 report are incorrect and need to be deleted and seeks clarification regarding a reference to restricted discretionary activities.		

Submission Number: DPC16/03						
Submitter	Sub. Ref.	Amendment & Provision	Support / Oppose	Reasons	Decision/Relief Sought	
Simon Byrne	3.1	Amendment 1 4C 2.1 (d)	Support with amendments	The words 'to the above permitted activities' are superfluous, potentially confusing and could be interpreted as changing the way accessory buildings are defined for this activity area, which he believes is not intended.	Remove the words 'to the above permitted activities' in Rule 4C2.1 (d) 4C2.1 Permitted Activities (a) Residential Activities	

				Accessory buildings are fully defined in section 3 of the plan as 'incidental' to any other buildings on the site.	(b) Home occupations (c) Childcare and Kohanga Reo facilities (d) Accessory Buildings to the above permitted activities
3.2	Amendment 1 4C 2.1.1 (a) (ii)	Oppose	<p>The condition states only one 'residential activity' is allowed on sites pre 1995 no matter how large a site is. The submitter has reason to believe the council does not believe that this is the intent of this rule and effectively ignores it when a site is much larger than the required minimum.</p> <p>If council officers advise that this rule should not be interpreted this way (for pre 1995 large sites) then the Environment Court decision Byrne v Hutt City Council (W060/09) should be examined closely. In the decision the Environment Court found just one dwelling was permitted on the (4ha) site whereas the council stated in its submissions 2 dwellings were permitted (2ha per dwelling), consequently no consent was granted for the breach of the net site area per dwelling rule.</p> <p>If the council does not apply the rule properly to pre 1995 sites larger than the minimum, there will be multiple pre 1995 sites in the Hutt City district (like 395 Moores Valley Rd) that contain multiple dwellings without the required consent for having insufficient net site area for each dwelling. In addition there are historical consent decisions based on the incorrect assumption a 'second dwelling is permitted anyway' all of which exposes the council needlessly to legal action.</p> <p>Plan Change 16 should not perpetuate this 'pre 1995' error.</p>	Change condition Rule 4C2.1.1 (a) (ii) to indicate it only applies to sites smaller than 300m2.	
3.3	Amendment 15 17 Resource Consent and Notification Procedures	Oppose	The proposed Restricted Discretionary notification process has been made very confusing, even more so than it currently is. Whilst it is proposed that there is a 'presumption' of non notification for Restricted Discretionary activities there is also a statement it will be	Requests that Council either: <ol style="list-style-type: none"> 1. Not make the proposed changes in relation to notification of restricted discretionary activities (reject the proposed changes as a whole). 2. Clarify when notification is not required for 	

				<p>required where an 'activity will have adverse effects on the environment which are more than minor'. This appears to be the same 'test' for notification as for a discretionary activity and would negate any 'presumption' of non notification.</p> <p>Earthworks are identified in the plan change as an activity often needing a restricted discretionary consent. Earthworks over the permitted limits will nearly always cause (temporary) adverse effects of noise/dust/run off so it appears under the new rules earthworks will require notification whereas previously they did not. I do not believe that was the intent of the proposed plan change.</p>	<p>restricted discretionary activities including removing the proposed example of '<i>when an activity will have adverse effects on the environment which are more than minor</i>'</p>
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Submission Number: DPC16/04					
Submitter	Sub. Ref.	Amendment & Provision	Support / Oppose	Reasons	Decision/Relief Sought
Petone Residents Association	4.1	General	Support	<p>It is attractive for all residents to support the statement that 'no significant changes are proposed to how the existing notification rules work; and that the main changes to notification procedures are to the wording etc to make them easier to understand and use'.</p> <p>Taking this on face value the Residents Association should support and celebrate any minor changes by the Council to review notification procedures so as to ensure they are more effective and easy to use.</p>	Support PPAG submission on specific provisions of the Plan Change and support their comments to the specific clauses therein identified.

Submission Number: DPC16/05					
Submitter	Sub. Ref.	Amendment & Provision	Support/ Oppose	Reasons	Decision/Relief Sought
Petone Beach Trust Incorporated	5.1	Amendment 19 17.2.2		The Petone Beach Trust has obtained a consent order in the Environment Court which means that the presumption of non notification in Rule 17.2.2 does not apply to 4A 2.3.1 (j) in Plan Change 12. We do not want that consent order affected by Plan Change 16.	That Plan Change 16 acknowledges our consent order concerning child care centres.

Submission Number: DPC16/06					
Submitter	Sub. Ref.	Amendment & Provision	Support/ Oppose	Reasons	Decision/Relief Sought
Angus Gibb	6.1	General	Support in part	<p>Generally in favour of having as much public notification as possible. The council should be obliged to notify all concerned even if the application does not have to be publicly notified. This is the only way that the resource consent process and applications can be fairly administered for all parties concerned.</p> <p>The submitter makes a special point regarding adverse effects resulting from an adjoining vacant property. The submitter was not notified that the house on the adjoining property would be demolished and advises that as the effects were major, the activity should have been publicly notified or notified to the adjoining property. The submitter believes that there should be more regulations about this, such as a time limit on empty sections.</p>	The submitter requests to be kept fully informed in writing from council or the land owner about future plans for the adjoining property and requests that any future use of the site be publicly notified even if the land owner wishes to keep the site as residential.

Submission Number: DPC16/07					
Submitter	Sub. Ref.	Amendment & Provision	Support/ Oppose	Reasons	Decision/Relief Sought
The New Zealand Institute of Surveyors (Wellington Branch)	7.1	Entire Plan Change	Support	We generally support the plan change.	Approve the plan change.

ADDRESS FOR SERVICE – PROPOSED PLAN CHANGE 16

Submission No.	Name/Organisation	Address	Address
DPC16/01	New Zealand Historic Places Trust - Pouhere Taonga c/- Sacha Walters Heritage Adviser Planning – Kaiwhakatakoto Kaupapa	PO Box 19173	WELLINGTON
DPC16/02	Petone Planning Action Group c/- Pam Hanna	PO Box 33 326	[REDACTED]
DPC16/03	Simon Byrne	[REDACTED] [REDACTED]	WELLINGTON 5373
DPC16/04	Petone Residents Association c/- Terence Broad	[REDACTED]	[REDACTED]
DPC16/05	Petone Beach Trust Incorporated c/- Lorna Lovegrove	[REDACTED] [REDACTED]	LOWER HUTT 5012
DPC16/06	Angus Gibb	[REDACTED] [REDACTED]	LOWER HUTT 5010
DPC16/07	New Zealand Institute of Surveyors Inc (Wellington Branch) c/- David Gibson	[REDACTED] [REDACTED]	WELLINGTON 6022