

**DISTRICT PLAN COMMITTEE**

**HEARINGS FOR PROPOSED PLAN CHANGE 13 –  
TEMPORARY ACTIVITIES AND FILMING CHAPTERS**

Minutes of a meeting of the District Plan Committee held in The Hutt  
City Council Chambers, Administration Building, 30 Laings Road,  
Lower Hutt on 16<sup>th</sup> February 2010  
Deliberations held on 16<sup>th</sup> February 2010

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**PRESENT:**

Cr RW Styles (Chair)  
Cr J Baird (Deputy Chair)  
Cr D Hislop  
Cr WR Wallace (Part only)

**IN ATTENDANCE:**

Ms R Helme, Policy Analyst  
Ms C Smith, Policy Analyst  
Ms B Little, Divisional Manager Environmental  
Policy  
Mr N Lloyd, Consultant Acoustic Engineer  
Mrs D Hunter, Committee Advisor

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In accordance with a delegation by Council, pursuant to the provisions of section 34 of the Resource Management Act 1991, the District Plan Committee had power to act in determination of Changes to the Operative District Plan for recommendation to Council following the hearing of submissions.

**DISTRICT PLAN - CITY OF LOWER HUTT**

**HEARINGS FOR PROPOSED PLAN CHANGE 13 –  
TEMPORARY ACTIVITIES AND FILMING CHAPTERS**

## 1. SUBMISSIONS

The following submitters lodged submissions on Plan Change 13. Those submitters who appeared at the hearing are highlighted:

<b>Name of Original Submitters</b>	<b>Submission Reference</b>
Michael and Jane Curtis	1.1
Winstone Aggregates	2.1; 2.2
Geraldine Mary Laing	3.1; 3.2; 3.3; 3.4; 3.5; 3.6
Leisure Active	4.1; 4.2; 4.3; 4.4; 4.5; 4.6; 4.7; 4.8
New Zealand Historic Places	5.1; 5.2; 5.3
Film New Zealand	6.1; 6.2; 6.3; 6.4; 6.5; 6.6; 6.7
Film Wellington	7.1; 7.2; 7.3; 7.4; 7.5; 7.6; 7.7
Hutt Ethnic Council	8.1
Wainuiomata Community Board	9.1
Petone Community Board	10.1
Vicky Fitchett	11.1; 11.2; 11.3; 11.4; 11.5; 11.6; 11.7; 11.8; 11.9; 11.10
Jackson Street Programme and HV Community Arts	12.1

<b>Name of Further Submitters</b>	<b>Submission Reference</b>
Film New Zealand	13.1; 13.2; 13.3; 13.4; 13.5; 13.6; 13.7
Film Wellington	14.1; 14.2; 14.3; 14.4; 14.5; 14.6; 14.7

## 2. THE HEARING

The parties who appeared presented additional written and oral submissions and statements of evidence. The hearing addressed matters raised in submissions and the further submissions on Proposed District Plan Change 13 – Temporary Activities and Filming chapters. Copies of all submissions and the further submissions were available to all parties. A background report, specific comments and recommendations, addressing all submissions and the further submissions were pre-circulated to all parties to the hearing.

### 3. **DELIBERATIONS OF THE COMMITTEE**

#### **Statutory Regime and Legal Framework**

This Proposed Plan Change is the result of concerns raised by various groups regarding the lack of support in the District Plan for filming and temporary activities. After investigating this concern, it was found it was appropriate to address the broader issue of temporary activities which includes temporary works in recreation areas, temporary buildings, temporary events and filming.

The relevant chapters in the City of Lower Hutt District Plan (referred to as the District Plan) which are affected by the Proposed Plan Change are:

- Chapter 3 Definitions;
- Chapter 7A General Recreation Activity Area;
- Chapter 7C River Recreation Activity Area;
- Chapter 7D Passive Recreation Activity Area;
- Chapter 14A Transport.

The following chapters are proposed to be added to the District Plan:

- Chapter 14J Temporary Activities; and
- Chapter 14K Filming.

Although this report is intended as a stand-alone document, a more in-depth understanding of the Proposed Plan Change, the process undertaken, and related issues may be gained by reading the Section 32 Evaluation and associated Proposed Plan Change documents as publicly notified in August 2009.

In the case of Plan Change 13 the purpose of the Proposed Plan Change was to address the need for temporary activities and filming to be provided for in the City of Lower Hutt. The issues addressed in Proposed Plan Change 13 relate to:

- Temporary works in recreation areas
- Temporary Activities
- Accessory construction buildings and storage
- Filming

In preparing the Proposed Plan Change the following consultation was carried out:

- Consultation with officers from relevant divisions in Council;
- Consultation with officers from other Territorial Authorities;
- Consultation with stakeholders in the filming industry;
- Letters inviting discussion to relevant stakeholders in the community and the Minister for the Environment;
- Consultation with an expert in the field of traffic engineering; and
- Consultation with an expert in the field of acoustic engineering.

Plan Change 13 was notified on 4 August 2009, with submissions closing on 1 September 2009. The summary of submissions was notified on 15 September 2009, with further submissions closing on 13 October 2009.

A total of 12 original submissions and 2 further submissions were received with regard to the Proposed Plan Change.

A hearing of submissions and further submissions was held on the 16<sup>th</sup> February 2010.

Part II of the RMA underpins the exercise of all functions, duties and powers. Section 5 is fundamental to any assessment. The approach in section 5 is to weigh the matters in section 5(2) in order to reach a broad judgement as to whether a policy or rule would promote the sustainable management of natural and physical resources.

Section 31 outlines the functions of the Council under the Act and includes: *The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district, and the methods used to carry out any functions under subsection (1) may include the control of subdivision.*

Section 74 requires the Council to change its plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32 and any regulations.

Section 76 outlines the contents that a District Plan must contain, including objectives, policies and rules. Section 76 enables the Council to include rules in the District Plan, for the purpose of carrying out its functions under the Act, and to achieve the objectives and policies of the Plan. In making a rule the Council:

*“...shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect;...”*

The following passage from the Environment Court decision *Wakatipu Environmental Society v Queenstown Lakes District Council (2000, NZRMA 59)* is applicable to a District Plan in general:

*“A district plan must provide for the management of the use, development and protection of land and associated natural and physical resources. It must identify and then state (inter alia) the significant resource management issues, objectives, policies and proposed implementation methods for the district. In providing for those matters the territorial authority (and on any reference to the Environment Court) shall prepare its district plan in accordance with:*

- *its functions under section 31;*
- *the provisions of Part II;*

- *section 32;*
- *any regulations;*

*and must have regard to various statutory instruments.”*

The following passage from the Planning Tribunal’s decision *Nugent v Auckland City Council (1996, NZRMA 481)* summarises the requirements derived from section 32(1):

*“A rule in a proposed district plan has to be necessary in achieving the purpose of the Act, being the sustainable management of natural and physical resources (as those terms are defined); it has to assist the territorial authority to carry out its functions of control of actual or potential effects of the use, development or protection of land in order to achieve the purpose of the Act; it has to be the most appropriate means of exercising that function; and it has to have a purpose of achieving the objectives and policies of the plan.”*

### **Procedural Matters**

The hearing to consider submissions on Proposed Plan Change 13 commenced on 16<sup>th</sup> February 2010 at the Council Chambers. The Committee consisted of Councillor Styles (Chair), Councillor Baird, Councillor Wallace and Councillor Hislop. In attendance at the hearing were Bronwyn Little (Manager, Environmental Policy), Rachel Helme and Chloe Smith (Environmental Policy Division), Nigel Lloyd (Acousafe Consulting & Engineering Ltd) and Debbie Hunter (Committee Secretary).

The Chair opened the hearing and Rachel Helme spoke to the Officers Report on the Plan Change. Three submitters appeared at the hearing and spoke in support of their submission - Natalie Crane (Film New Zealand), Delia Shanley (Film Wellington) and Robert Hutton (Jackson Street Programme). Mike Holloway of Red Locations also spoke on behalf of Film New Zealand and Film Wellington.

The Committee gave careful consideration of the issues raised by the submitters.

Members of the Committee, Councillors Wallace and Baird, advised that they had not taken part in any discussion or voting with regards to the submissions from the Wainuiomata Community Board and the Petone Community Board.

The following provides a summary of the submissions received and the verbal and written evidence presented to the Committee during the hearing.

### **Conclusion**

After evaluating all matters, it was considered that the Proposed Plan Change (incorporating the amendments recommended by the Committee) offers the

most appropriate way of achieving the purpose and principles of the Resource Management Act 1991 and seeks to ensure that amenity values are protected.

## **DECISION AND REASONS**

### **RESOLVED:**

*That the Committee notes that, in making its decisions on submissions and further submissions lodged on Proposed District Plan Change 13 – Temporary Activities and Filming chapters, Council is restricted to the relief sought in those submissions and further submissions.*

*That in exercise of the powers delegated to it by Council pursuant to the provisions of section 34 of the Resource Management Act 1991 the District Plan Committee hereby resolves, pursuant to Schedule 1 of the Resource Management Act 1991, to make the following decisions on submissions and further submissions lodged, resulting in the amendments to Plan Change 13, as shown in Appendix 1, for recommendation to Council.*

### **Summary of Submissions and Proposed Plan Change Provisions**

The following sections of this report provide a brief summary of each submission and a decision in response to each of the relief sought.

The submissions are addressed in groups based on issues or concerns raised and where the content of the submissions is the same or similar. In summarising submissions, the name of the submitter is shown in **bold**, with their submission number shown in normal font within [square brackets]. In summarising further submissions, the name of the further submitter is shown in ***bold italics***, with their submission number shown in italics within [*square brackets*].

Where amendments to the District Plan are to be made as a result of a decision, additional text is shown as underlined and text to be removed is shown as being ~~struck out~~.

Attached to this report as Attachment 1 are the revised amendments to the District Plan provisions further to the decisions contained in this report. Where there is any inconsistency between the provisions contained in Attachment 1 and amendments made by the decisions below, then the provisions in Attachment 1 shall be considered correct.

Where changes are made as a result of decisions, the effectiveness and efficiency of such changes has been assessed in accordance with the requirements of Section 32 of the Resource Management Act 1991 (referred to as the Act).

Where a submission is determined to be outside the scope of the Proposed Plan Change the submission is rejected. With respect to determining the scope of a

submission reference is made to Clause 6 of the First Schedule to the Act which stated:

*“6. Making submissions*

*Any person, including the local authority in its own area, may, in the prescribed form, make a submission to the relevant local authority on a proposed policy statement or plan that is publicly notified under clause 5.”*

A submission on a plan change is therefore limited in that it must be “on” the Proposed Plan Change.

In the case of Proposed Plan Change 13, the purpose was to address the need for temporary activities and filming to be provided for in the City of Lower Hutt.

The issues addressed in Proposed Plan Change 13 were related to:

- Temporary works in recreation areas
- Temporary Activities
- Accessory construction buildings and storage
- Filming

Accordingly, for a submission to be deemed to be within the scope of Plan Change 13 the submission must relate to:

- Any one of the issues addressed in the Proposed Plan Change and detailed above; and
- Any other change to the District Plan as a result of the Proposed Plan Change.

#### **4. DECISIONS:**

##### **4.1 SUPPORT**

##### **4.1.1 General Support**

##### **4.1.1.1 Submissions**

**Michael and Jane Curtis** [1.1], **Leisure Active** [4.1], [4.3], [4.8], **New Zealand Historic Places Trust** [5.1], **Film New Zealand** [6.1] [6.2] [6.3], **Film Wellington** [7.1] [7.2] [7.3], **Hutt Ethnic Council** [8.1], **Wainuiomata Community Board** [9.1], **Petone Community Board** [10.1], **Vicky Fitchett** [11.1] and **the Jackson Street Programme** and **Hutt Valley Community Arts** [12.1] submitted general support for the Plan Change.

**Michael and Jane Curtis** [1.1] supported changes to the District Plan that will make it easier to hold special events, festivals and parades, temporary events and filming.

**Hutt Ethnic Council** [8.1] submitted that they supported the Proposed Plan Change as it endeavours to ensure that temporary activities and filming are adequately provided for in the District Plan and to ensure any adverse effects on the environment from temporary activities and filming are avoided, remedied or mitigated.

**Wainuiomata Community Board** [9.1] supported the Proposed Plan Change because the proposed provisions would make it easier to hold community events that are currently not undertaken due to the cost and inconvenience of obtaining resource consent and, as filming is an activity that can be beneficial for the community. They would like to see it become easier for filming to occur in the area.

**Petone Community Board** [10.1] supported the Proposed Plan Change.

**The Jackson Street Programme and Hutt Valley Community Arts** [12.1] supported having provisions for temporary activities and filming in the District Plan because of the benefits of these types of activities for Hutt City.

**Leisure Active** [4.1], [4.3], [4.8] supported the proposed Plan Change subject to amendments to specific provisions as detailed in their submission.

**New Zealand Historic Places Trust** [5.3] was generally supportive of the Plan Change subject to the amendment that the potential effects of filming on heritage and culture are included as an issue in section 14K 1 – issues, objectives and policies.

**Film New Zealand** [6.1], [6.2], [6.3] and **Film Wellington** [7.1], [7.2], [7.3] supported the intention to incorporate in the District Plan specific provisions relating to filming activities. In particular they supported the proposed objectives and policies in Chapter 14K and the proposed permitted activity conditions, except in relation to waste.

**Vicky Fitchett** [11.1] was generally supportive of the Proposed Plan Change but has concerns in several areas (works necessary for management of reserves, river recreation, noise, sanitation facilities, waste, bulk and location and duration) and requests amendments to ensure consistency, clarification or to ensure environmental effects of temporary events and filming are mitigated.

#### **4.1.1.2 Discussion**

Five of the supporting submissions supported the Proposed Plan Change as notified. The other submissions supported the intention of the Proposed Plan Change but sought specific amendments.

While the Committee recommends some changes to the proposed rules in response to the submissions, in general it recommends that the general intent and concepts of the Proposed Plan Change be adopted as notified.



Justification for the Proposed Plan Change is provided in the notified Section 32 Evaluation and reasons for the recommended changes are provided throughout the decision. It has been concluded that the Proposed Plan Change, including recommended changes as a result of this decision, is appropriate in terms of achieving the purpose of the Resource Management Act.

The Committee accepts the submissions in part, taking into consideration the recommendations made to amend the Proposed Plan Change as sought by other points of submission.

#### **4.1.1.3 Decision**

Accept in part the submissions of **Michael and Jane Curtis** [1.1], **Leisure Active** [4.1], [4.3], [4.8], **New Zealand Historic Places Trust** [5.1], **Film New Zealand** [6.1] [6.2] [6.3], **Film Wellington** [7.1] [7.2] [7.3], **Hutt Ethnic Council** [8.1], **Wainuiomata Community Board** [9.1], **Petone Community Board** [10.1], **Vicky Fitchett** [11.1] and **the Jackson Street Programme and Hutt Valley Community Arts** [12.1].

Those parts of the submissions which are accepted in part either relate to retaining and implementing the Proposed Plan Change or consequentially amending the Proposed Plan Change.

#### **4.1.1.4 Reason**

While some amendments to the Proposed Plan Change provisions are made as a result of this recommendation, the Proposed Plan Change intent and concept as notified remain unchanged and is considered the most appropriate in terms of achieving the purpose of the Act.

## **4.2 OPPOSITION**

### **4.2.1 General Opposition**

#### **4.2.1.1 Submissions**

**Winstone Aggregates** [2.1] submitted general opposition to the Plan Change.

**Winstone Aggregates** [2.1] considered that while the intent of the Proposed Plan Change has merit, the Proposed Plan Change as notified fails to recognise the potential for reverse sensitivity effects to arise from temporary activities and filming. **Winstone Aggregates** considers that the Proposed Plan Change as written is too loose, fails to address reverse sensitivity effects and overall is inconsistent with the Regional Policy Statement and fails to meet the purpose of the Resource Management Act 1991.

**Winstone Aggregates** sought that the Proposed Plan Change be withdrawn and a new one prepared that addresses reverse sensitivity effects which may arise as a result of temporary activities and filming in close proximity to quarrying and other activities which are incompatible with such development. Alternatively,

Winstone Aggregates suggested that appropriate amendments are made to the Proposed Plan Change to address the matters raised in their submission.

*Film Wellington [13.1] and Film New Zealand [14.3] opposed the submission of Winstone Aggregates. The Plan Change is appropriate and addresses an important resource management issue.*

#### **4.2.1.2 Discussion**

The Committee considered that the issue of reverse sensitivity can be adequately addressed through amendments to the proposed provisions.

Justification for the Proposed Plan Change is provided in the notified Section 32 Evaluation and reasons for the changes are provided throughout the decision. The consistency of the Proposed Plan Change with higher level planning documents has been assessed in the Section 32 Evaluation.

The Committee concluded that the Proposed Plan Change, including changes, is appropriate in terms of achieving the purpose of the Act and is consistent with the Regional Policy Statement.

#### **4.2.1.3 Decision**

Reject the submission of **Winstone Aggregates** [2.1].

Accept the further submissions of *Film Wellington [13.1]* and *Film New Zealand [14.3]*.

#### **4.2.1.4 Reason**

The issue of reverse sensitivity can be appropriately addressed by amendments to the proposed provisions however the Proposed Plan Change intent and concept as notified remains unchanged and the Proposed Plan Change is considered appropriate in terms of achieving the purpose of the Act.

### **RECREATION ACTIVITY AREAS**

#### **4.3 ALL RECREATION ACTIVITY AREAS**

##### **4.3.1 Submission**

**Vicky Fitchett** [11.4] submitted that the provision for Council to undertake maintenance works such as track maintenance within Recreation Activity Areas would still be captured by the earthworks and Significant Natural Resources rules (in the General Rules section of the Plan). She requested Council address this issue carefully so that large bulk earthworks or vegetation clearance cannot be undertaken without the requirement for consent. She suggested that new rules for earthworks and vegetation clearance be introduced for such activities.

##### **4.3.2 Discussion**

The Committee considered that the submitter is correct that the General Rules, Chapter 14, would apply to maintenance works within Recreation Activity Areas. Permitted activity conditions within General, River and Passive Recreation (Rules 7A 2.1.1 (l), 7C 2.1.1 (b), 7D 2.1.1 (b)) require that all permitted activities comply with the General Rules, Chapter 14. The General Rules chapter contains provisions which apply to all Activity Areas, such as signs, noise, significant natural, cultural and archaeological resources, heritage buildings and structures, trees and earthworks. Minor maintenance works would require resource consent if they didn't comply with the general rules, for example exceeding the maximum permitted volume of earthworks. The Committee noted that large areas of land within the Recreation Activity Areas are located within Significant Natural Resources. Rule 14E 2.1 (b) allows for activities and works associated with the protection, preservation, enhancement and conservation of Significant Natural, Cultural and Archaeological Resources as a permitted activity; and some maintenance works may be permitted by this provision.

The Committee considered it appropriate that the General Rules apply to maintenance activities within reserves in order to ensure that adverse effects on the environment are avoided, remedied or mitigated. The General Rules contain appropriate provisions to manage the environmental effects of activities, regardless of whether the activities are permanent or temporary. This is consistent with the existing District Plan provisions for Recreation Activity Areas and will contribute to achieving the Anticipated Environmental Results (Rule 7A 3) for the Recreation Activity Areas.

The Committee noted that the General Rules apply to all temporary activities and filming activities, except where specifically stated, being the car parking provision within Transport, Chapter 14A (Rules 14J 2.1.1 (h) and 14K 2.2 (h) require compliance with all other general rules).

### **4.3.3 Decision**

Reject the submission of **Vicky Fitchett** [11.4].

### **4.3.4 Reason**

The Committee agreed that it is appropriate that the General Rules within the District Plan apply to temporary works necessary for the maintenance of reserves. This is consistent with the approach taken in the District Plan, where the General Rules apply to all activity areas. Overall, this approach is considered to be the most appropriate to avoid, remedy or mitigate adverse effects and to achieve the Anticipated Environmental Results identified in the District Plan.

## **4.4 PASSIVE RECREATION ACTIVITY AREA**

### **4.4.1 Submission**

**Vicky Fitchett** [11.2] noted that there is inconsistency in the Proposed Plan Change where all other Recreation Activity Areas except the Passive Recreation Activity Area are proposed to be amended to allow for maintenance works of reserve land by Hutt City Council as a permitted activity. She submitted that maintenance works on reserve land should be a permitted activity in all Recreation Activity Areas.

#### **4.4.2 Discussion**

The Passive Recreation Activity Area generally consists of reserve land in the Eastern Hills, Stokes Valley and Wainuiomata Hills. The District Plan identifies the importance of protecting areas of the city with high conservation and amenity values within the Passive Recreation Activity Area. Maintenance activities within reserve areas identified as Passive Recreation Activity Areas will be necessary, just as maintenance is necessary in the General and River Recreation Activity Areas.

The Committee has considered the background to the way in which the District Plan has dealt with maintenance within reserves and agrees that it is necessary to clarify that maintenance within reserves is a permitted activity. The Committee agrees that maintenance within reserves be added as a permitted activity within reserves identified as Passive Recreation Activity Areas and that this is consistent with the provisions for the General and River Recreation Activity Areas.

The Committee noted that the use of the term ‘reserves’ in the proposed amended provision is appropriate given there is a wide understanding of the term and as its inclusive of, but not limited to, parks and public open spaces and includes the reserve classifications identified in Council’s Reserves Policy.

The intention of the Proposed Plan Change was to provide for maintenance within reserves as a permitted activity. The Committee recommended that the relevant provisions within General, River and Passive Recreation Activity Areas be amended accordingly in order to clarify that the proposed provisions refer to maintenance, rather than wider management activities.

The Committee agreed that it is unnecessary to add the provision of maintenance within reserves to the Special Recreation Activity Area.

#### **4.4.3 Decision**

Accept the submission of **Vicky Fitchett** [11.2].

That Rules 7D 2.1 (e), 7A 2.1 (e) and 7C 2.1 (a) be amended as follows:

*Passive Recreation Activity Area:*

##### ***7D 2 Rules***

##### ***7D 2.1 Permitted Activities***

***(a) Parks, reserves and picnic areas.***

- (b) Walkways.
- (c) Landscape furniture.
- (d) Informal recreation, excluding all types of motorised recreation activities except those used for the purpose of farming and maintenance.
- (e) Works necessary for the management of any river or stream by the Wellington Regional Council or Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.

*General Recreation Activity Area:*

**7A 2 Rules**

**7A 2.1 Permitted Activities**

- (a) Recreation activities and ancillary activities.
- (b) Any farming activity in the Belmont Regional Park, including grazing, cropping, market gardens, orchards and nurseries, but excluding intensive farming.
- (c) At the Bracken Street Depot, Bracken Street, Petone, Section 979 Hutt District, SO 33425 -
  - (i) Plant propagation, and associated office functions and buildings.
  - (ii) The storage and maintenance of equipment for the purposes of maintaining parks and reserves.
- (d) Landscape furniture.
- (e) Works necessary for the management of any ~~reserve~~, river or stream by the Wellington Regional Council or Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.

*River Recreation Activity Area*

**7C 2 Rules**

**7C 2.1 Permitted Activities**

- (a) Works necessary for the management of any ~~reserve~~, river or stream by the Wellington Regional Council or the Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.
- (b) All recreation and leisure activities, but excluding motorised activities.
- (c) Landscape furniture.

- (d) *On the land identified in DP 72284 but excluding that area identified as 'G' and shown on Appendix River Recreation 1, extraction activities limited to extraction, processing, storage, removal, ancillary earthworks, removal and deposition of overburden and rehabilitation works, and ancillary administrative activities*

#### **4.4.4 Reason**

The proposed amendments are appropriate as allowance for maintenance within reserves in the Passive Recreation Activity Area is consistent with the approach taken for the General and River Recreation Activity Areas within the Plan Change. In addition, the amendments clarify that maintenance works are a permitted activity within reserves. The amendments will allow maintenance activities within reserves which will contribute to achieving the Anticipated Environmental Results identified within these Recreation Activity Areas (Chapters 7A, 7C and 7D).

### **4.5 RIVER RECREATION ACTIVITY AREA**

#### **4.5.1 Submission**

**Vicky Fitchett** [11.3] submitted that discretionary activity Rule 7C 2.2 (a), motorised recreation activities on the surface of rivers, would conflict with the proposed temporary activity rules if a jet sprinting event were to be held on the river. She submitted that the effects of such an activity would be controlled by proposed temporary activity rules or by consent from Greater Wellington Regional Council (if stream works are required to be undertaken).

#### **4.5.2 Discussion**

The Committee noted the information provided in the Officers Report regarding the responsibility of District Plans for managing the effects of activities on the surface of water as section 9 of the Act includes, in the definition of land, the surface of water on lakes or rivers.

The River Recreation Activity Area seeks to ensure that activities that occur on the surface and margins of rivers have no more than minor adverse effects on natural and ecological qualities and access to these areas is maintained (7C 1.1.1). Rule 7C 2.2 (a) of the District Plan provides for motorised recreation activities on the surface of rivers as discretionary activities.

The submitter's interpretation of the Proposed Plan Change is that a motorised temporary activity involving recreation on a river that was permitted by the proposed provisions in Rule 14J 2 would be a discretionary activity under Rule 7C 2.2 (a). However, the Committee agreed that the correct interpretation is that if the temporary motorised recreation activity met the temporary activity definition and met all the permitted activity conditions within Rule 14J 2, it would be a permitted activity. Rule 7C 2.2 (a) would not apply because the activity falls within the General Rules, Chapter 14, which apply to all activity areas. The Committee considered that the proposed permitted activity

conditions and the temporary nature of temporary activities as defined in the Proposed Plan Change will adequately manage the effects of temporary motorised recreation on the surface of water. Overall, no amendments are required to the Proposed Plan Change as a result of this submission.

It is appropriate for motorised recreation activities on the surface of rivers which do not fall within the temporary activity rules to be assessed as discretionary activities in order to ensure that the natural and ecological qualities of rivers are maintained and enhanced. No changes are required to Rule 7C 2.2 (a).

#### **4.5.3 Decision**

Reject the submission of **Vicky Fitchett** [11.3].

#### **4.5.4 Reason**

Temporary motorised recreation activities on the surface of water which meet the rules within 14J 2 would be permitted activities. This is appropriate given their temporary nature and as the proposed permitted activity conditions for temporary activities would apply. It is also appropriate that Rule 7C 2.2 (a) remains unchanged as it controls the effects on the environment of permanent motorised recreation activities on the surface of water.

### **ACCESSORY CONSTRUCTION BUILDINGS AND STORAGE**

#### **4.6 MAXIMUM DURATION**

##### **4.6.1 Submission**

**Leisure Active** [4.2] suggested that the proposed provisions include terms and conditions regarding the maintenance of temporary buildings and structures as a means of minimising safety risks and establishing an acceptable standard of aesthetic appearance of temporary buildings and structures.

##### **4.6.2 Discussion**

The Committee considered that an additional permitted activity requiring the maintenance of temporary buildings would not be necessary given the temporary nature of the buildings and structures. Structural and safety aspects of temporary buildings and structures would be dealt with under the Building Act 2004, if a building consent was required. The temporary nature of the buildings would contribute to reducing adverse effects on visual amenity values. The Committee noted that if the temporary buildings and structures were of acceptable standard and appearance there would be little justification for requiring their removal from the site. However, given the recommendation in section 4.7 below (to delete the proposed rules for accessory construction buildings and storage) no further discussion in relation to submission [4.2] is relevant.

### **4.6.3 Decision**

Reject the submission of **Leisure Active** [4.2].

### **4.6.4 Reason**

Additional permitted activity conditions for the maintenance of accessory buildings and structures would not be necessary given their temporary nature. However, the recommendation in section 4.7 below addresses the issue of accessory buildings and storage and consequently the relief sought from submission [4.2] is not relevant.

## **4.7 BULK AND LOCATION**

### **4.7.1 Submission**

**Vicky Fitchett** [11.8] submitted that there is often little room for construction sheds on construction sites and they often need to be located on the boundary. She considers it would be better if temporary construction buildings were exempt from complying with the bulk and location rules, providing they meet size and duration requirements.

### **4.7.2 Discussion**

The submitter's proposal would mean that temporary buildings would not need to comply with the permitted activity conditions for the activity area in which they are located, such as yard setbacks, height, recession planes and site coverage. The Committee noted that there is no proposed size restriction for temporary buildings under the proposed permitted activity conditions (Rule 14J 2.1.2).

The Committee considered that temporary buildings which did not have to comply with bulk and location provisions would have potential adverse effects, particularly on residential amenity values, such as visual effects and shading of adjoining properties, as there is no restriction on the size of these buildings and they could remain on a site for a significant period of time. Temporary construction buildings would be allowed to remain on a site until three months after the completion of construction. As such it would be inappropriate for temporary buildings to be exempt from the development controls.

There may be benefits of exempting temporary construction buildings and temporary storage structures of a limited size from the bulk and location rules, such as flexibility for sites where space is constrained. However, a thorough analysis of the options and issues associated with exempting temporary buildings and structures from the bulk and location rules would be required given the potential for adverse effects on residential amenity values. As there is not an opportunity within this Proposed Plan Change to undertake the research and consultation necessary relating to this issue, the Committee recommends that the proposed provisions for accessory construction and storage be deleted



and for this issue to be reviewed at a later stage as part of a separate plan change process.

### **4.7.3 Decision**

Reject the submission of **Vicky Fitchett** [11.8].

That the provisions for accessory construction buildings and storage be deleted as follows:

#### ***Chapter 3 - Definitions***

**Building:** *means any structure or part of a structure, whether temporary or permanent, movable or immovable, but for the purposes of this Plan excludes:*

- (a) any fence not exceeding 2 metres in height;*
- (b) any retaining wall not exceeding 1.2 metres in height;*
- (c) satellite dishes with a diameter not exceeding 0.6m and antennas 2.5m above the maximum height permitted in the activity area or the rules in Chapter 13 - Utilities.*
- (d) all structures less than 1.2 metres in height and 20m<sup>2</sup> in area;*
- (e) all tents and marquees erected on a temporary basis for a period not exceeding 3 months;*
- (f) all signs, as defined in this Plan;*
- ~~*(g) accessory construction buildings and storage.*~~

#### ~~***Accessory construction buildings and storage:***~~

~~*Buildings or structures located temporarily on a site and used in association with construction or building works, such as a site office on a construction site, or used for storage, such as storage of goods during residential additions or when moving house.*~~

#### ***Chapter 14J - Temporary Activities***

##### ***Introduction***

*Temporary activities include a wide range of temporary events, such as concerts, festivals and markets, and temporary buildings for construction and storage. Temporary events are varied in nature and scale; they could be one-off events or regular occurrences which are planned well in advance, they are usually relatively short in duration and often involve activities outside of normal working hours, such as evenings and weekends. Temporary activities are necessary to satisfy a wide range of social, cultural and economic needs and as such, should be provided for in*

*a flexible manner while ensuring any adverse effects on the environment are appropriately managed.*

## **14J 2 Rules**

### **14J 2.1 Permitted Activities**

*(a) Temporary activities*

~~*(b) Accessory construction buildings and storage*~~

#### ~~**14J 2.1.2 Permitted Activities – Conditions for accessory construction buildings and storage in all activity areas**~~

##### ~~**(a) Maximum duration**~~

~~*Accessory construction buildings and storage must only be used in association with a permitted activity on the site and must be removed from the site within three months of the completion of the building or construction works or if used for temporary storage for any other reason, within three months of being placed on the site.*~~

~~*Except that where accessory construction buildings and storage are not visible from any public road or are not visible from any adjoining properties or where they are within a commercial or business activity area, the maximum duration shall not apply.*~~

##### ~~**(b) Bulk and location**~~

~~*All accessory construction buildings and storage must comply with the permitted activity conditions of the Activity Area in which they are located.*~~

##### ~~**(c) General Rules**~~

~~*Compliance with all other General Rules.*~~

### **14J 2.2 Restricted Discretionary Activities**

*(a) In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.*

~~*(b) In all activity areas any accessory construction buildings and storage which do not comply with any one or more of the Permitted Activity Conditions.*~~

#### **14J 2.2.1 Matters in which Council has restricted its discretion and standards and terms**

**~~(a) In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.~~**

- (i) *Amenity values*
  - *The nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values.*
  - *The noise effects of the proposal, including the nature of the noise and the duration of any amplified sound.*
  - *The visual, dust, light-spill and glare, odour and vibration effects of the activity and the effectiveness of any mitigation measures proposed.*
  
- (ii) *Environment*
  - *The extent to which the environment in and surrounding the site is sensitive to modification.*
  - *The effects on the natural environment including natural landscapes, native vegetation and habitats and fauna.*
  - *The effect of the activity on public recreational values.*
  - *The effects on cultural and heritage values.*
  
- (iii) *Waste, health and safety*
  - *The effects on the environment of the waste generated by the activity.*
  - *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*
  - *The manner in which sanitary facilities are managed.*
  - *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
  - *The provision for appropriate emergency management if the proposal may endanger public safety.*
  
- (iv) *Traffic*
  - *The traffic effects of the activity on the safety and efficiency of the surrounding road network.*
  - *The provision for vehicle access, servicing and car parking and the potential impacts on the environment and the road network.*
  - *The provision of temporary traffic management measures to mitigate the traffic effects of the proposal.*
  - *The effects of traffic and car parking on the amenity of the surrounding area.*
  - *The provision made for pedestrian access and safety.*
  - *The provision made for encouraging the use of alternative transport modes to the activity such as public transport, cycling and walking.*

**~~(b) In all activity areas any accessory construction buildings or storage which do not comply with any one or more of the Permitted Activity Conditions.~~**

*Amenity values:*

- ~~— Whether the appearance, scale and condition of buildings or structures will be sympathetic to the site and the neighbourhood.~~
- ~~— The duration in which the buildings or structures will be located on the site and whether it is associated with works or construction which will be undertaken within a specific time period.~~
- ~~— The ability of the buildings or structures to be screened on the site and the effectiveness of any other mitigation measures proposed.~~

#### **4.7.4 Reason**

The Committee agreed that it is appropriate to delete the proposed provisions relating to accessory construction buildings and storage as it is considered that there may be other options for addressing this issue that have not been identified in the Section 32 Evaluation. Additional investigation and consultation regarding this issue is required which can not be undertaken within this plan change. The Committee noted that the issues relating to temporary construction and temporary storage buildings and structures are not urgent and this matter can wait until a later review.

### **TEMPORARY ACTIVITIES**

#### **4.8 CULTURE AND HERITAGE**

##### **4.8.1 Submission**

The **New Zealand Historic Places Trust** [5.2] supported provisions relating to culture and heritage as proposed in section 14J Temporary Activities because it will prompt decision makers to identify the negative effects that can occur, in respect of temporary activities, to cultural and historic heritage. They supported the inclusion of provisions relating to culture and heritage due to the importance given to heritage protection by the RMA. They sought that the provisions relating to culture and heritage as proposed in section 14J – Temporary Activities are adopted.

##### **4.8.2 Discussion**

The submission agrees with one of the Proposed Plan Change's intents, which is to recognise that temporary activities can have adverse effects on culture and heritage. The submission also recognises that if an activity falls within the restricted discretionary status, adverse effects on culture and historic heritage can be assessed.

##### **4.8.3 Decision**

Accept the submission of the **New Zealand Historic Places Trust** [5.2].

#### **4.8.4 Reason**

The Committee agrees that it is important to provide decision makers with a tool that will help identify if a temporary activity would have adverse effects on cultural values and historic heritage.

### **4.9 DURATION**

#### **4.9.1 Submissions**

**Geraldine Mary Laing** [3.1] opposed the proposed permitted activity condition because it is undefined and could potentially expose residents or businesses to continuous noise at high decibel levels for a period of three days. She requests that a new sub clause is added in Chapter 14J 2.1.1 (a) Duration: “(iii) *The activity area site location shall be at the discretion of the Council*”.

**Leisure Active** [4.5] submitted that the proposed five day, maximum site occupancy is not consistent with set up and pack down requirements for pre-existing Council run events, such as the Petone Winter Carnival, and would also be too limiting on the scope of future Council run events, such as the events associated with the Rugby World Cup 2011. Leisure Active recommended that Option C from the Section 32 Evaluation be adopted “*To have a maximum occupancy of 10 consecutive days and a total duration of the temporary activity of 5 days on a site*”.

#### **4.9.2 Discussion**

The Committee agreed that the basis of submission [3.1] has merit, however the relief sought is not considered to be best planning practice. To amend the permitted activity condition 14J 2.1.1 (a) Duration to include “(iii) *The activity area site location shall be at the discretion of the Council*” does not provide certainty to District Plan users. The Committee considered that the submitters concerns about continuous noise exposure are addressed in section 4.10 and section 4.11 of this report.

Submission [4.5] supported option C in the Section 32 Evaluation - a maximum occupancy of ten consecutive days and a total duration of the temporary activity of five days on a site. The submission refers to 2011 Rugby World Cup activities as the kind of activities that should determine the District Plan approach to duration. The Committee considers that large scale infrequent events should not determine permitted activity status. However, the Committee agreed that a longer permitted duration for temporary activities would be appropriate to cater for a wider range of events and activities and to provide a greater level of flexibility.

Council’s Consultant Acoustic Engineer, Nigel Lloyd, has advised that a duration of five days would not be appropriate for temporary activities as a

permitted activity if noise limits were to be generated up to 70dBA L<sub>10</sub> and 80dBA L<sub>max</sub> throughout the period. The Committee does not fully accept the advice given by the Council's Consultant Acoustic Engineer and believe that it would be appropriate to provide for temporary activities to generally occur as permitted activities for a longer duration than three days at permitted noise limits of 70dBA L<sub>10</sub>.

The Committee notes that permitted duration for temporary activities varies widely as shown by further investigation into the permitted duration rules of other District Councils. Taupo, Wellington, Kapiti and Porirua Councils all specify a maximum of three days as being permitted in certain zones. Hamilton City Council permits temporary activities for 48 hours on a site in any calendar year. Timaru and Queenstown Lakes Council's are more permissive, allowing for seven days total duration (including set up and pack up). Upper Hutt City Council allows for a temporary event to be six days and the total occupation on a site (including set up and pack up) to be ten days. The Committee considers that a longer duration for permitted temporary activities is a consistent approach, and that allowing a longer duration will provide the appropriate level of flexibility for temporary activities in Lower Hutt.

#### **4.9.3 Decision**

Reject the submission of **Geraldine Mary Laing** [3.1] and accept the submission of **Leisure Active** [4.5].

That Rule 14J 2.1.1 (a) Duration is amended as follows:

#### ***14J 2.1.1 Permitted Activities – Conditions for temporary activities in all activity areas***

##### ***(a) Duration:***

- (i)*** *The total occupation of a site for temporary activities (includes erection and removal of all associated structures and buildings and includes removal of waste and restoration of the site) shall not exceed a period of ~~5~~10 days in total.*
- (ii)*** *The total duration of a temporary activity on a site shall not exceed ~~3~~6 consecutive days at any one time.*

#### **4.9.4 Reason**

With regards to submission [3.1], it is not considered appropriate for discretion over duration of temporary activities to be a permitted activity condition as it would not provide the level of certainty required in District Plan rules.

With regards to submission [4.5], the Committee agrees with the submitter that a longer permitted occupancy and duration for temporary activities is appropriate. The Committee considers that in order to provide sufficient

flexibility temporary activities should have a maximum occupancy of 10 consecutive days and a total duration of 6 days on a site. The Committee considered that this duration is appropriate and any effects on the environment would be no more than minor. The longer duration will provide an appropriate balance between providing for temporary activities and ensuring that they are temporary in nature. The Committee notes that temporary activities will be required to comply with the other permitted activity conditions, such as maximum allowable noise of 70dBA L<sub>10</sub>. It is appropriate that the effects on the environment of temporary activities of longer durations be assessed through a resource consent process.

The Committee noted that the submission of Leisure Active is consistent with the approach taken for temporary activities by Upper Hutt City Council. The Committee looked at a range of durations between some of the more permissive and more restrictive Councils. In conclusion, the Committee has considered it appropriate to permit a maximum occupancy of ten consecutive days and a total duration of 6 days for a temporary activity on a site.

#### **4.10 HOURS OF OPERATION**

##### **4.10.1 Submissions**

**Geraldine Mary Laing** [3.2] opposed the proposed hours of operation as some residents expect a quiet period at 7am Saturday/Sunday, not exposure to 70dBA after a hard week.

**Leisure Active** [4.6] opposed the proposed hours of operation as they are not consistent with the set up and pack down requirements of pre-existing Council run events such as the Hutt City Triathlon, the Petone Winter Carnival and the Jackson Street Fiesta. Leisure Active requests hours of operation are specified for each day of the week (including set up and pack down) as follows:

Sunday to Thursday	6am – 11pm
Friday and Saturday	6am – 12 midnight

Leisure Active submitted that the provisions should also include special extension hours to 1am the following day for New Years Eve. The Committee noted that the Proposed Plan Change already has an exception for the 31<sup>st</sup> of December which would allow temporary activities to finish at 1.00am the following day (Rule 14J 2.1.1 (b)).

Leisure Active submitted that an additional option is to restrict the period in which any amplified sound may be emitted or heavy machinery operated (generators, carnival rides etc), being:

Sunday to Thursday	7am – 10pm
Friday and Saturday	7am – 11pm

##### **4.10.2 Discussion**

In respect to submission reference [3.2], it was submitted that the duration of temporary activities would be too long at three days, and that 7am would be too early to commence activities at 70dBA on Saturdays and Sundays. No specific relief was sought by this submitter on these matters with respect to temporary activities.

The proposed hours of operation provision for temporary activities (Rule 14J 2.1.1 (b)) requires that all temporary activities only operate between the hours of 7.00am and 10.00pm from Sunday to Thursday inclusive; and between the hours of 7.00am and 11.00pm on Fridays and Saturdays.

Advice regarding the hours of operation provision was obtained from Council's Consultant Acoustic Engineer, Nigel Lloyd. Mr Lloyd advised that the District Plan currently treats Sundays as deserving of stricter noise rules because in Rule 14C 2.1(d) the lower (night time) levels are applied to Sundays. However, is it appropriate to allow temporary activities to operate on Sundays because Sundays are important leisure days for the wider population. It is equally appropriate to provide some respite from noise on a Sunday morning. With respect to Saturday mornings, the District Plan treats Saturday mornings the same as any other day. Mr Lloyd advised that temporary activities should be restricted (other than set up and pack up, see discussion for submission [4.6] below) before 8.30am on Sundays. The Committee agrees with the advice of Mr Lloyd - the hours of operation for Sundays be amended to 8.30am to 10.00pm in order to protect residential amenity values.

In addition, given the proposed hours of operation for temporary events there is no need to apply the  $L_{max}$  limit in proposed Rule 14J 2.1.1 (d). This control is primarily to protect against sleep disturbance. As such, the Committee agreed that the 80dBA  $L_{max}$  limit should be deleted.

In respect to submission reference [4.6], the submission sought to change the hours of operation for temporary activities by allowing an earlier start by one hour in the morning (from 7am to 6am) and extending them by one hour in the evening (from 10pm to 11pm Sunday to Thursday and from 11.00pm to midnight on Fridays and Saturdays) to allow for set up and pack down activities. The submission identified the tension that occurs at such events where pack up inevitably occurs when the event ends and can extend into the early hours of the morning (depending on the size of the event). The submission identified that amplified sound or heavy machinery operations could be made more restrictive.

The proposed hours of operation provision Rule 14J 2.1.1 (b), does not provide additional time for set up and pack up activities for temporary activities. As such, set up and pack up activities would need to occur within the hours of operation specified. Council's Consultant Acoustic Engineer, Mr Lloyd, advised that set up and pack up activities, and sound testing, can be treated separately to the temporary activity and can arguably represent construction, demolition and maintenance work in terms of the District Plan (which are controlled by District Plan Rule 14C 2.1 (f)). Mr Lloyd recommended that provision for set up and pack up activities be added to the hours of operation rule for temporary activities. Given the nature of temporary set up and pack up activities, the



Committee considered it appropriate that additional allowance be made for these activities to occur. As such, the Committee recommends that the hours of operation be amended to provide for an additional hour for set up and pack up activities on either side of the start and finish times.

#### **4.10.3 Decision**

Accept in part the submissions of **Geraldine Mary Laing** [3.2] and **Leisure Active** [4.6].

Those parts of the submission which are recommended to be accepted relate to amending the time a temporary activity commences on Sundays and the hours of operation of set up and pack up of activities. Those parts of the submissions which are not recommended to be accepted relate to amending the total duration of a temporary activity and amending the time a temporary activity commences on Saturdays.

That Rule 14J 2.1.1 (b) be amended as follows:

##### ***14J 2.1.1 (b) Hours of Operation***

~~All temporary activities shall only operate (including set up and pack up activities) between the hours of 7.00am and 10.00pm from Sunday to Thursday inclusive; and between the hours of 7.00am and 11.00am on Fridays and Saturdays.~~

~~Exception:~~

~~On December 31<sup>st</sup> of any calendar year the finish time of temporary activities may be extended to 1.00am the following day.~~

All temporary activities shall only operate between the hours of:

Mondays to Thursday inclusive – 7.00am to 10.00pm

Fridays and Saturdays – 7.00am to 11.00pm

Sundays – 8.30am to 10.00pm

Associated set up and pack up activities shall only operate between the hours of 6.00am and 11.00pm from Sunday to Thursday inclusive; and between the hours of 6.00am and midnight on Fridays and Saturdays.

Exception:

On December 31<sup>st</sup> of any calendar year the finish time of temporary activities may be extended to 1.00am the following day.

#### **4.10.4 Reason**

It is appropriate to provide additional protection for residential amenity values by restricting temporary activities (other than set up) before 8.30am on Sundays.

The start time of 8.30am on Sundays achieves a reasonable balance between providing for temporary activities on Sundays and maintaining residential amenity values. It is appropriate to provide for set up and pack up activities separately to temporary activities in terms of hours of operation.

## **4.11 NOISE**

### **4.11.1 Submissions**

**Geraldine Mary Laing** [3.3] opposed Rule 14J 2.1.1 (d) Noise and states that no decibel level has been set for non-residential sites. She submitted that many people are unaware of the harmful effects of loud noise on hearing for young children who may be present at an activity. The submission noted that shop, office, business and farming staff should not have to cope with the proposed maximum noise level, especially as there is nothing in the Proposed Plan Change to prevent the noise level being maintained throughout the whole allowable duration – up to 30 days.

**Vicky Fitchett** [11.5] sought that the wording for Rule 14J 2.1.1 (d) Noise be clarified to provide greater certainty. She stated that it is unclear whether this rule applies to a residentially zoned property or a property which contains a residential activity but is not within a residential activity zone (for example an apartment within the Central Commercial Activity Area). This confusion could also exist with land in a Rural Activity Area on which a dwelling is constructed.

### **4.11.2 Discussion**

Council's Consultant Acoustic Engineer, Mr Lloyd, advised that it is appropriate to set a noise limit for commercial areas which may include noise sensitive business activities or residential activities. The Committee concur with the advice from Mr Lloyd and recommend that the noise rule should be amended to include noise limits for commercial areas. It is appropriate to amend the noise provision by adding that the maximum noise limit for temporary activities shall not be exceeded at the boundary of any site within a Commercial and Business Activity Area other than the site of the temporary activity. This amendment will provide suitable protection for noise sensitive activities within these areas.

The Committee also considered that it is appropriate that the noise rule be applied at the notional boundary of dwellings in rural activity areas. The notional boundary is a line 20 metres from the façade of the dwelling or the site boundary if that is closer and is used to protect residential amenity where that amenity exists at and near to rural dwellings. The District Plan noise limits would otherwise be applied at the site boundaries in the Rural Activity Areas.

The Committee gave consideration to the use of 'Rural Activity Areas' and, if the rule was accepted, whether the Rural Residential Activity Area should be considered a 'Residential Activity Area' rather than a 'Rural Activity Area' for

the purposes of applying Rule 14J 2.1.1 (d). The Committee concluded that rural residential amenity values can be protected and maintained effectively through use of the notional boundary concept for Rural Activity Areas. The Committee agreed that Rule 14J 2.1.1(d) should be amended by changing the words “*at any residential site boundary*” to “*at any point within any other site in a Residential Activity Area and at any point within the notional boundary of any dwelling in a Rural Activity Area*”.

The Committee considered that submission [11.5] provides for these amendments to also be applied to Rule 14K 2.2 (c) Noise. It is appropriate that these amendments are also applied to filming activities for consistency and in order to provide protection for amenity values.

The Committee also concurred with the advice of Mr Lloyd that set up and pack up activities should be treated separately to the temporary activity (as discussed in section 4.10 of this report).

#### **4.11.3 Decision**

Accept the submission of **Geraldine Mary Laing** [3.3] and accept the submission of **Vicky Fitchett** [11.5].

That Rule 14J 2.1.1 (d) be amended as follows:

#### ***Rule 14J 2.1.1(d) Noise***

*Any noise resulting from temporary activities shall not exceed 70dBA  $L_{10}$  ~~and 80dBA  $L_{max}$~~  when measured at any point within any other site in a Residential Activity Area and at any point within the notional boundary of any dwelling in a Rural Activity Area. Any noise resulting from temporary activities shall not exceed 70dBA  $L_{10}$  at the boundary of any site within a Commercial or Business Activity Area other than the site of the temporary activity.*

*The notional boundary is defined as a line 20 metres from any side of a dwelling, or the legal boundary of the site where this is closer to the dwelling.*

*Associated set up and pack up activities are deemed to be construction activities in terms of Rule 14C 2.1(f). Sound testing for the temporary activity shall be permitted as part of the set up activities but if undertaken on the day before the temporary activity commences then the sound testing shall end no later than 3 hours after the sound testing commences (e.g. if the sound testing starts at 10am it shall finish by 1pm).*

#### **4.11.4 Reason**

The amended wording clarifies Rule 14J 2.1.1(d) and ensures that the noise limits are applied appropriately within residential and rural activity areas. The amenity values of rural activity areas can be protected and maintained effectively through use of the notional boundary concept. It is appropriate to amend the noise provision to include noise limits for commercial areas on the grounds that the rule confers a permitted activity baseline and it is appropriate to

set a noise limit for commercial areas which may include noise sensitive business activities or residential activities.

## **4.12 SANITATION FACILITIES**

### **4.12.1 Submission**

**Vicky Fitchett** [11.6] submitted that the sanitation permitted activity condition is too vague and is concerned how an applicant would show that Rule 14J 2.1.1 (f) has been met. She sought that the wording of Rule 14J 2.1.1 (f) be clarified to provide greater certainty.

### **4.12.2 Discussion**

The proposed sanitation facility provision (Rule 14J 2.1.1 (f)) states that all temporary activities shall be undertaken to ensure that sanitary facilities to service the activity are provided on the site for the duration of the activity to the satisfaction of the Council. The Committee agree that the phrase ‘to the satisfaction of the Council’ does not provide the level of certainty required for a permitted activity condition. The proposed provision creates uncertainty as to what the standard or threshold is and how it will be measured. The Committee notes the difficulties with finding appropriate sanitation standards which the District Plan could refer to.

A review of other District Plans has shown that most District Council’s with provisions for temporary activities do not include a sanitation facility rule. Rather, sanitation requirements are dealt with by other, non-statutory processes within Council or bylaws.

The Committee consider that the risk of adverse effects on the environment of the District Plan not controlling sanitation facilities is low given that a number of the larger scale temporary activities are events organised by the Hutt City Council or are held on Council land. In both cases Council Officers would have the opportunity to require that appropriate sanitation facilities are provided. The non-Council run temporary activities are also not considered a significant risk given that events are often smaller scale and/or event holders are likely to choose to provide sanitation facilities for the convenience of participants.

In conclusion, the Committee agreed that the sanitation provision should be deleted as it does not provide adequate certainty. It is also considered unnecessary to replace the sanitation provision as there is either low potential for adverse effects on the environment or potential for other Council processes (outside of the District Plan) to manage sanitation facilities at temporary events.

The management of sanitary facilities is included in the assessment criteria for restricted discretionary temporary activities and filming activities (Rule 14J 2.2.1 (a) (iii)). It is appropriate that this assessment criteria be retained as the effects on the environment relating to inadequate sanitation facilities is a relevant effect on the environment of larger scale events and filming activities.

However, it is recommended that the wording of these assessment criteria be amended in order to clarify that sanitary facilities are required. A consequential change is also required to the restricted discretionary assessment criteria, Rule 14K 2.3.1 (iii), for the same reason.

#### **4.12.3 Decision**

Reject the submission from **Vicky Fitchett** [11.6].

The Committee requests that Council Officer's are instructed to carry out further investigation into the options available outside of the District Plan to address the provision of sanitation facilities at temporary events.

That Rule 14J 2.1.1 (f) be deleted as follows:

~~*(f) Sanitation facilities:*~~

~~*All temporary activities shall be undertaken to ensure that sanitary facilities to service the activity are provided on the site for the duration of the activity to the satisfaction of the Council.*~~

That Rule 14J 2.2.1 (a) (iii) and Rule 14K 2.3.1 (iii) be amended as follows:

- (iii) *Waste, health and safety*
  - *The effects on the environment of the waste generated by the activity.*
  - *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*
  - ~~*The manner in which sanitary facilities are managed.*~~ *The provision for adequate sanitation facilities to service the activity.*
  - *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
  - *The provision for appropriate emergency management if the proposal may endanger public safety.*

#### **4.12.4 Reason**

The Committee agreed that given the difficulties in creating a suitable rule with sufficient certainty, the low potential for adverse effects on the environment and potential for sanitation facilities to be required by other Council processes, it is appropriate to delete the sanitation facility permitted activity condition and provide an amended sanitation assessment criteria for restricted discretionary activities.

## **4.13 WASTE**

### **4.13.1 Submission**

**Vicky Fitchett** [11.7] supported of the Waste Minimisation Plan provision Rule 14K 2.2 (g), but was concerned about the wording of the rule. She questioned how the Waste Minimisation Plan would be assessed by the Council and asked how a Waste Minimisation Plan would be judged if it was not up to standard.

### **4.13.2 Discussion**

Proposed permitted activity condition 14J 2.1.1 (g) Waste requires that a Waste Minimisation Plan be provided to the Council prior to the operation of a temporary activity and that the temporary activity be carried out in accordance with the Waste Minimisation Plan. The rule does not require an approval process, only that the Plan is provided to the Council and the activity is undertaken in accordance with that Plan. The intention of the proposed rule was to encourage temporary activities to minimise their waste. The Section 32 Evaluation explains that the emphasis of the rule was on education because event and film organisers would be responsible for creating an achievable Waste Minimisation Plan for themselves.

Waste Minimisation is desirable and is consistent with the direction given in Hutt City Council's Environmental Sustainability Strategy. Temporary events and filming activities can generate significant volumes of waste which can be minimised by reducing use of materials, avoiding generating waste in the first place, and recycling and reusing materials where possible. By reducing waste valuable resources can be conserved and the adverse effects on the environment can be reduced, such as greenhouse gases from landfills and pollution from litter.

There is the potential for waste minimisation to be promoted and encouraged by way of a bylaw or through non-statutory measures, such as the Council's Events Strategy. A review of other District Plans with rules for temporary activities shows that non-statutory methods of encouraging waste minimisation such as guidelines and directories of recycling services, or bylaws to require waste management plans for temporary events are favoured.

The Committee agrees with the submitter in part, in that the proposed rule has the potential to result in a level of uncertainty inappropriate in a District Plan. There must be certainty over whether a proposal complies with rules in a plan and that the rules can be applied in a consistent manner. Consideration has been given to amending the wording of the provision in order to provide certainty. However, it is considered appropriate that the proposed permitted activity condition relating to waste be deleted from the plan change as the best option at the present time is for the Council to pursue other non-District Plan methods to promote waste minimisation. This is consistent with the amendments to the provisions for filming as discussed in section 4.18 of this report.

The Committee considers it appropriate to retain assessment criteria relating to waste for those temporary activities which fall within the restricted discretionary category as waste generation is a relevant effect on the environment. However, the Committee considers that the Proposed Plan Change should use the term ‘waste management’ instead of ‘waste minimisation’ (the reasons for this are discussed in section 4.22 of this report). Although waste minimisation is desirable, the term ‘waste management’ is more appropriate for use in the District Plan as it is a well recognised term and is widely understood as meaning the provision of waste storage facilities, site clean up and disposal of event related waste. The more onerous requirement to minimise waste is considered to be best addressed through non-District Plan methods. As such, the Committee recommend that the restricted discretionary criteria should require waste management through a Waste Management Plan.

In addition, the Committee considers that it is necessary to reduce and simplify the number of assessment criteria relating to waste management in order to make the requirements for a Waste Management Plan easier to understand and easier to comply with.

The submissions requested that specific guidance be provided on the scope and detail of a Waste Minimisation Plan required for restricted discretionary filming activities (submission reference [6.7] and [7.7], [4.8] of this report). It is also appropriate that Rule 14J 2.2.1 (iii) be amended to provide specific guidance on what is required for a Waste Management Plan for restricted discretionary temporary activities.

#### **4.13.3 Decision**

Reject the submission of **Vicky Fitchett** [11.7].

The Committee requests that Council officer’s are instructed to carry out further investigation into methods outside of the District Plan to reduce waste from temporary activities and to promote waste minimisation.

That permitted activity condition 14J 2.1.1 (g) be deleted as follows:

#### ***14J 2.1 Permitted Activity Conditions***

##### ***14J 2.1.1***

##### ***(g) — Waste:***

- (i) — A Waste Minimisation Plan shall be provided to the Council prior to the operation of the temporary activity.*
- (ii) — The temporary activity shall be carried out in accordance with the Waste Minimisation Plan.*

That Rule 14J 2.2.1 be amended as follows:

#### ***14J 2.2.1 Matters in which Council has restricted its discretion and standards and terms***

(a) ***In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.***

(iii) *Waste, health and safety*

- ~~— *The effects on the environment of the waste generated by the activity.*~~
- ~~— *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*~~
- *The extent to which satisfactory arrangement is made for waste management through a Waste Management Plan that shall include:*
  - *A description of the method for the waste and recyclable material to be collected from the site and arrangements for delivering materials to be reused, recycled and disposed of.*
  - *The arrangements for site clean up, including removal of litter.*
- *The manner in which sanitary facilities are managed.*
- *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
- *The provision for appropriate emergency management if the proposal may endanger public safety.*

#### **4.13.4 Reason**

The permitted activity condition relating to waste does not provide sufficient certainty and as such it is appropriate that the proposed rule be deleted. It is appropriate that the Council investigate non-District Plan methods to reduce waste generated by temporary activities.

The amendment to the assessment criteria for restricted discretionary temporary activities is necessary in order to provide guidance on the detail required for the Waste Management Plan and is consistent with the recommended amendments to the provisions for filming activities, as discussed in section 4.18 of this report.

### **4.14 GENERAL: PERMITTED ACTIVITY CONDITIONS**

#### **4.14.1 Submission**

**Leisure Active** [4.4] supported that no maximum number of participants has been set for permitted activities but seeks that Council consider implementing other permitted activity conditions for temporary activities. The submitter suggested additional permitted activity conditions relating to traffic and parking



management, security and crowd control, first aid and emergency management, portable sanitation and public notification.

#### **4.14.2 Discussion**

Leisure Active requested that other permitted activity conditions be added to Rule 14J 2.1.1. The Committee considers that it would be inappropriate to accept the additional permitted activity conditions requested by the submitter as these matters relate to matters which are either non-resource management issues or are best dealt with by way of methods outside of the District Plan. The Committee consider that the permitted activity conditions which are recommended to be retained are adequate to manage the adverse effects of permitted temporary activities involving any number of participants. The proposed permitted activity conditions for temporary activities cover duration, hours of operation, light spill and glare, noise, dust and wind blown debris.

With regards to public notification of temporary activities requiring resource consent, the Committee notes that the provisions of the Act and Section 17 of the District Plan will apply. This submission may be referring to notifying members of the public about the occurrence of permitted temporary activities, for example, requiring a letter drop to residents within a certain radius prior to the operation of the activity. The Committee considers this to be unnecessary as the proposed permitted activity conditions will adequately manage adverse effects, and it is also inappropriate due to the uncertain nature of such a provision.

#### **4.14.3 Decision**

Reject the submission of **Leisure Active** [4.4].

#### **4.14.4 Reason**

The Committee considered that the additional matters suggested by the submitter are either unnecessary or inappropriate to include as permitted activity conditions in the District Plan.

## **FILMING**

### **4.15 CULTURE AND HERITAGE**

#### **4.15.1 Submissions**

The **New Zealand Historic Places Trust** [5.3] submitted that there is no mention of culture and heritage in the issue, objectives and policies section of the proposed filming chapter (14K 1). The New Zealand Historic Places Trust commented that heritage and culture would be required to be considered as the significant natural, cultural and archaeological resources rules apply and if the filming activity is restricted discretionary. The New Zealand Historic Places Trust requested that culture and heritage be included as an issue in 14K 1, as it is in Chapter 14J 1 (Temporary Activities) to provide a clear link between the

issues, objectives, policies and the rules and confirm that the effects on culture and heritage are important issues for Lower Hutt.

*Film Wellington [13.7] and Film New Zealand [14.1] opposed the submission by the New Zealand Historic Places Trust and requested that in the absence of specific relief sought, the Proposed Plan Change remain as notified.*

#### **4.15.2 Discussion**

The proposed rules for both temporary activities and filming activities seek to ensure that any adverse effects on the environment are avoided, remedied or mitigated. The proposed rules recognise that temporary activities and filming activities can have adverse effects on cultural and heritage values. The submitter is concerned that the issue, objective and policies provision 14K 1.1 does not specifically identify culture and heritage as an issue to be managed. The Committee agrees that a specific reference to adverse effects on heritage and culture within the issues section would better clarify the link between the objectives, policies and rules.

The Proposed Plan Change recognises that both temporary activities and filming activities can have adverse effects on cultural and heritage values, as well as other types of adverse environmental effects, and the Committee consider it appropriate that the effects on cultural and heritage values, and other environmental effects, such as noise and traffic, be identified under the Issue for provision 14K 1.1. This does not change the intention of the Proposed Plan Change or the effect of the rules but it is appropriate to better clarify the proposed provisions. It is also consistent with the wording of Issue 14J 1.1 for temporary activities.

#### **4.15.3 Decision**

Accept the submission of the **New Zealand Historic Places Trust** [5.3].

Reject the further submissions of *Film Wellington [13.7]* and *Film New Zealand [14.1]*.

That the issues, objectives and policies in Chapter 14K Filming be amended as follows:

##### ***14K Filming***

##### ***14K 1 Issues, Objectives and Policies***

##### ***14K 1.1 Enabling film making activities while managing environmental impacts***

##### ***Issue***

***Filming can have positive economic, social, cultural and environmental effects. However, filming can also have adverse environmental effects if not managed well. Provision needs to be made for filming activities within the city while ensuring that any adverse effects, such as noise, traffic, recreation,***

**heritage, cultural and visual effects, are adequately avoided, remedied or mitigated.**

#### **4.15.4 Reason**

The Committee consider it appropriate to strengthen the links between the issues, objectives and policies and the rules for filming activities. Identifying specific potential adverse effects of filming activities within the issue section is consistent with the wording used for Chapter 14J and clarifies that adverse effects on the environment from filming activities, including effects on cultural and heritage values, is an important issue.

### **4.16 DURATION**

#### **4.16.1 Submission**

**Vicky Fitchett** [11.9] sought amendments to the wording of the duration permitted activity condition in order to prevent filming activities occurring for 30 days, then another 30 days on the same site, with only a short break in between. The submitter asked what would constitute a break in filming duration. The submitter was concerned that if filming takes a few days break after one filming period of 30 days, another 30 days of filming could occur on the site, which they believe could lead to quite significant effects on local residents.

#### **4.16.2 Discussion**

The Committee notes the background information provided in the Section 32 Evaluation and Officers Report on the reasons for the proposed permitted duration for filming activities. In determining the appropriate permitted duration for filming activities the Committee has taken into account that the effects on the environment of temporary filming are often minimal as discussed in the officers report and that the other permitted activity conditions as recommended to be amended in this report, will work together to control the adverse effects of temporary filming activities.

Providing for a maximum duration for the filming activity helps to manage the effects on the environment. The duration rule of 30 days acts as a trigger to ensure that larger scale filming activities, those likely to have adverse environmental effects, are able to be assessed through a resource consent process. Filming over 30 days will be a restricted discretionary activity and will be assessed against a number of criteria, including criteria relating to the protection of residential amenity values, such as *‘the nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values’* (Rule 14K 2.3.1 (i)).

The Committee notes that the filming provisions relate to each individual filming activity. As such the proposed duration rule does not restrict multiple filming operators on a site, in other words each individual filming activity is allowed a maximum of 30 days. This provides flexibility for filming while

managing effects and ensuring that filming activities longer than 30 days require resource consent. The Committee considered it unrealistic that a large scale filming activity would attempt to utilise a site for 30 days (which includes set up, filming and pack up), then the same filming activity recommence after a short break. Aside from being unpractical, it would be apparent to the Council that the filming activity was not a temporary activity of 30 days and therefore resource consent would be required. The Committee consider that the probability of adverse cumulative effects is sufficiently low given the infrequent occurrence of filming activities. Taking into account the benefits of providing flexibility for filming activities and the low risk that filming activities will occur frequently on sites, on balance the proposed duration provision is considered to be appropriate.

The alternative methods for controlling the duration of permitted filming activities have been considered by the Committee. The Officer's Report provided a summary of the review undertaken of other District Plans with provisions for temporary activities and filming, including Council's located in the Wellington Region. A diverse range of rules are used to control the maximum duration of permitted filming activities.

The intention of the Proposed Plan Change is to provide flexibility for temporary activities and filming to occur in Lower Hutt while maintaining residential amenity values. A restriction on the number of times an activity can occur on a site does not provide the desired level of flexibility and also creates an additional complication, in that the number of times that a filming activity occurred on a site in the time period (being a year or a certain number of months) would have to be recorded. In addition, as discussed above, there is a low potential for temporary filming activities to occur frequently on the same site. Should temporary filming activities occur at a site on numerous occasions it is considered that their adverse effects can be adequately controlled by the proposed permitted activity conditions, in particular, the rules controlling noise. As such, it is unnecessary to amend the rule by adding restrictions on the number of times that temporary filming activities can occur on a site in a certain time period.

Although the Committee consider it unnecessary that the proposed duration provision restrict the number of times that a filming activity can use a site, given the concern raised by the submitter regarding this matter, it is appropriate to ensure that all parts of the temporary filming activity, including site restoration, are contained within a 30 day period. As such, an amendment is appropriate to the definition of filming activity to include the setting up and packing up of film sets and associated facilities and site clean up and restoration. In addition, the permitted activity condition for site restoration should be deleted, as this rule would be redundant if site restoration is required as part of the 30 day filming activity.

The Committee considers that the 30 day period is an appropriate length of time to allow set up, filming, pack up and site restoration for a temporary filming activity. In addition, given the concerns about the 30 day duration rule (which would allow temporary filming activities to occur any number of times on a

site), it is considered appropriate that site restoration be carried out within the 30 day period. The amendment to the definition of filming activity and the deletion of the site restoration rule are considered to be within the scope of the Proposed Plan Change given that they are closely linked to the duration rule. The amendment to the filming activity definition and the deletion of the site restoration rule will emphasise that the whole temporary filming activity from set up to pack up, site clean up and restoration, must be contained within 30 days to meet the duration permitted activity condition. This contributes to restricting the scale of filming undertaken as a permitted activity and reinforces the temporary nature of a permitted filming activity.

#### **4.16.3 Decision**

Reject the submission of **Vicky Fitchett** [11.9].

*That Rule 14K 2.2 (d) be deleted as follows:*

**(d) Site Restoration:**

~~*Any site where filming activities occur shall be restored to its original condition or better within 15 days of the completion of the filming activity.*~~

That the definition of filming activity be amended as follows:

#### ***Chapter 3 Definitions***

##### ***Filming Activity:***

*Is the recording of images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means) and the use of land associated with the filming activity including temporary construction, use and dismantling of structures and sets and all associated setting up and packing up of structures, equipment and materials, clean up and restoration of the site, but does not include:*

- (a) still photography;*
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, event or celebration;*
- (c) recording images as a visitor or tourist for non commercial purposes;*
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.*

#### **4.16.4 Reason**

No change is recommended to Rule 14K 2.2 (a) Duration for filming activities as a result of this decision. The duration provision is considered the most

appropriate rule to provide flexibility for temporary filming activities and ensure that filming activities of longer duration apply for resource consent as restricted discretionary activities. The recommended amendment to the definition of filming activity and the deletion of the site restoration rule will more effectively contain temporary filming activities and will reinforce their temporary nature.

## 4.17 NOISE

### **4.17.1 Submissions**

**Geraldine Mary Laing** [3.5] opposed the proposed noise rule for filming activities as the proposed permitted noise levels well exceed NZS 6801:2008 “acoustics and measurement of environmental sound” guidelines 8.6.2 “for the reasonable protection of health and amenity associated with use of land for residential purposes”. She stated that there is nothing in the proposed amendments to prevent the maximum noise level being maintained throughout the permitted duration of 30 days. She submitted that the proposed filming rules have the potential to remove any protection for health and amenity of a large number of people. She sought that Rule 14K 2.2 (c) be amended to read “*Any noise resulting from filming activities shall not exceed 60dBA  $L_{10}$  and  $L_{max}$  65dBA when measured at any boundary*”.

*Film Wellington* [13.4] and *Film New Zealand* [14.6] opposed the submission from Geraldine Mary Laing for the reason that the proposed limit of 70dBA  $L_{10}$  limit is appropriate and reasonable.

**Vicky Fitchett** [11.10] submitted that the proposed rules would allow filming activities to generate a significant amount of noise 24 hours per day, which could generate significant adverse effects. She sought that hours of operation be specified for maximum noise limits for filming to ensure the amenity values of the local environment are maintained.

### **4.17.2 Discussion**

The Submissions of Geraldine Mary Laing and Vicky Fitchett above identify that the proposed filming duration and noise rules would allow a high level of noise for up to 24 hours for up to 30 days and that this would have significant adverse effects on residential amenity values.

The Council obtained acoustic advice from Consultant Acoustic Engineer, Nigel Lloyd, who advised that filming activities generating 70dBA  $L_{10}$  for a full period of 30 days, without limits applied to day or night time operations would represent a significant adverse impact on residential amenity. However, Mr Lloyd advises that it is appropriate that some relaxation of the noise limits is provided in the same way that it is appropriate for some relaxation of noise limits to be provided for temporary activities.

Mr Mike Holloway, who spoke at the hearing on behalf of Film Wellington and Film New Zealand, advised that that the proposed noise rule as recommended to be amended in the Officers Report is too restrictive. Mr Holloway requested that the noise rule be amended to allow 5 days within each filming activity where filming shall not exceed 70dBA L10 between the hours of 5am and 12 midnight. Mr Holloway also requested that an amendment be included to allow the possibility of extending the operating hours of night filming without the need for resource consent. Mr Holloway advised that a normal procedure for the film industry is to undertake letter box drops to inform neighbours of night shooting.

When questioned by the Committee regarding Mr Holloway's suggested amendments, Mr Lloyd acknowledged that noise effects are a difficult area but advised that five days would be starting to push the boundaries and that he is not comfortable recommending that the hours be extended beyond 7am and 10pm.

The Committee concur with the advice from Mr Lloyd and conclude that it is appropriate to reduce the number of days on which filming can operate at 70 dBA. However, the Committee consider that a longer duration of 10 days is appropriate providing the hours of operation are restricted in order to maintain residential amenity values. This would allow each temporary filming activity to operate at the maximum noise level of 70dBA for 10 days but only between the hours of 7.00am to 10.00pm.

As such, the Committee recommended that the submissions be accepted insofar as filming be a permitted activity for a 30 day period provided the filming activity can meet the District Plan noise limits set out in 14C of the District Plan for that locality, but that a daytime relaxation is provided, similar to the way that a relaxation in 14J 2.1.1(d) for temporary activities is allowed, with a duration limited to 10 days.

A 10 day period in which filming activities would be allowed to operate at the higher noise level, will maintain residential amenity values as noisier filming activities would be restricted to a temporary period and would be limited to hours of operation from 7.00am to 10.00pm. This will be consistent with the provisions for temporary activities, which would have similar restrictions on hours of operation. It is appropriate for filming activities that exceed these noise limits and durations to require resource consent to allow the noise effects to be assessed.

The Committee recognise that filming activities require a high level of flexibility in their operations due to the nature of this industry. The proposed provisions seek to provide a balance between enabling filming activities and managing their environmental effects. In this respect the proposed noise provision is considered to be necessary to manage environmental effects, particularly the maintenance of residential amenity values, while still allowing filming activities to occur.

The Committee have considered the way in which noise limits are applied to temporary activities and filming in other District Plans and conclude that the

recommended noise provision is consistent with other District Plans in New Zealand.

In conclusion, the Committee recommended that the most appropriate way to ensure amenity values in each activity area are protected is to use the existing general noise rules in the District Plan, except for the allowance of 10 days as discussed above.

As discussed in section 4.11, it is also appropriate that the measurement location of noise levels be clarified by adding the other activity areas and the notional boundary concept, which is consistent with the provisions for temporary activities as recommended in this report.

A consequential change resulting from the above is the removal of the  $L_{max}$  limit. Council's Consultant Nigel Lloyd has advised that there is no need to apply the  $L_{max}$  limit where the activities are limited to daytime (not after 10.00pm). The  $L_{max}$  limit is primarily used to protect against sleep disturbance. It is therefore recommended that the  $L_{max}$  limit be deleted. The  $L_{max}$  limit is also recommended to be removed from Rule 14J 2.1.1 (d) Noise for temporary activities, as discussed in section 4.10.

#### **4.17.3 Decision**

Accept the submission by **Vicky Fitchett** [11.10] and accept the further submissions of *Film Wellington* [13.4] and *Film New Zealand* [14.6].

Accept in part the submission by **Geraldine Mary Laing** [3.5].

That part of the submission that is recommended to be accepted relates to restricting the noise level of filming activities.

That Rule 14K 2.2 (c) be amended as follows:

#### ***14K 2.2(c) Noise***

*Filming activities shall comply with the District Plan noise limits for the activity area in which they are located except that on a maximum of 10 days within each filming activity (of up to 30 days) any noise resulting from filming activities shall not exceed 70dBA  $L_{10}$  and 80dBA  $L_{max}$  between the hours of 7.00am and 10.00pm measured at any point within any other site in a Residential, Commercial or Business Activity Area and at any point within the notional boundary of any dwelling in a Rural Activity Area.*

*The notional boundary is defined as a line 20 metres from any side of a dwelling, or the legal boundary of the site where this is closer to the dwelling.*

#### **4.17.4 Reason**

It is appropriate that the noise rule for filming activities be amended in order to protect residential amenity values. Filming activities of 30 days in duration are appropriate as permitted activities provided they can meet the District Plan



noise limits set out in 14C of the District Plan for that locality; but within this an allowance of 10 days is provided for filming activities to operate at 70dBA between the hours of 7.00am to 10.00pm. This is consistent with the approach taken in 14J 2.1.1(d) for temporary activities and will ensure that the adverse noise effects of filming activities are managed appropriately.

## **4.18 WASTE**

### **4.18.1 Submissions**

**Film New Zealand** [6.5] and **Film Wellington** [7.5] opposed the proposed permitted activity condition because it is not consistent with permitted activity status under the Resource Management Act 1991. For example, it is uncertain what constitutes a Waste Minimisation Plan and any Council approval process is unclear. Film New Zealand and Film Wellington sought that Rule 14K 2.2 (g) Waste be removed.

**Film New Zealand** [6.7] and **Film Wellington** [7.7] also requested that specific guidance be provided on the scope and detail of a Waste Minimisation Plan required under Rule 14K 2.3.1 (iii) Waste, health and safety.

### **4.18.2 Discussion**

Proposed permitted activity condition 14K 2.2 (g) Waste requires that a Waste Minimisation Plan be provided to the Council prior to the operation of the filming activity. The Committee agrees that the rule would result in a level of uncertainty that is not appropriate for a permitted activity condition. As such, the Committee recommends that the proposed permitted activity condition relating to waste be deleted and that Council officers be instructed to investigate other methods for promoting waste minimisation associated with filming activities. The reasons for this recommendation are discussed within section 4.13 of this report which addresses submissions [6.5] and [7.5].

Submissions [6.7] and [7.7] request that specific guidance be provided on the scope and detail of a Waste Minimisation Plan required for filming activities which are restricted discretionary activities. A matter over which Council has restricted its discretion within Rule 14K 2.3.1 (iii) is *'the effectiveness and efficiency of the Waste Minimisation Plan for the activity in terms of reduction in waste and enabling reuse and recycling'*.

The Committee considered that it is appropriate to retain assessment criteria relating to waste management as filming activities over 30 days in duration could generate significant amounts of waste. Measures to manage waste on site and minimise waste, such as reduction, recycling, and reusing materials, could be addressed by way of a Waste Management Plan as discussed in section 4.13. It is considered that the provision of specific guidance on the scope and detail of the Waste Management Plan within Rule 14K 2.3.1 (iii) would provide assistance to both applicants and Council officers in interpreting what is required by this rule and in assessing the effects of filming activities but that this assessment criteria be reduced and simplified as discussed in section 4.13.

### **4.18.3 Decision**

Accept the submissions of **Film New Zealand** [6.5, 6.7] and **Film Wellington** [7.5, 7.7].

That Rule 14K 2.1 (g) Waste be deleted as follows:

~~(g) **Waste:**~~

- ~~(i) *A Waste Minimisation Plan shall be provided to the Council prior to the operation of the filming activity.*~~
- ~~(ii) *The filming activity shall be carried out in accordance with the Waste Minimisation Plan.*~~

That Rule 14K 2.3.1 (iii) be amended as follows:

#### ***14K 2.3.1 Matters in which Council has restricted its discretion and standards and terms***

*(iii) Waste, health and safety:*

- ~~*— The effects on the environment of the waste generated by the activity.*~~
- ~~*— The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*~~
- *The extent to which satisfactory arrangement is made for waste management through a Waste Management Plan that shall include:*
  - *A description of the method for the waste and recyclable material to be collected from the site and arrangements for delivering materials to be reused, recycled and disposed of.*
  - *The arrangements for site clean up, including removal of litter.*
- *The manner in which sanitary facilities are managed.*
- *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
- *The provision for appropriate emergency management if the proposal may endanger public safety.*

### **4.18.4 Reason**

The deletion of the permitted activity condition relating to waste is appropriate as the provision did not provide sufficient certainty. It is appropriate that Council investigate non-statutory methods to promote waste minimisation.

The amendment to the assessment criteria relating to waste for restricted discretionary filming activities is necessary in order to provide guidance on the detail required for a Waste Management Plan.

## **4.19 GENERAL: PERMITTED ACTIVITY CONDITIONS**

### **4.19.1 Submissions**

**Film New Zealand** [6.4] and **Film Wellington** [7.4] supported permitted activity conditions in Chapter 14K Filming that relate to duration, structures, noise, site restoration, light spill and glare and dust and wind blown debris (Permitted Activity Conditions 14K 2.2 (a) to (f)).

### **4.19.2 Discussion**

The permitted activity conditions, such as duration, structures, noise, light spill and glare, dust and wind blown debris contribute to controlling the adverse effects on the environment of temporary filming activities. Amendments to Rules 14K 2.2 (c) and (d) are recommended in order to address other issues raised by submissions and these are discussed in sections 14.16 and 14.17 of this report. The permitted activity conditions for filming activities are intended to avoid, remedy and mitigate the adverse effects on the environment of temporary filming activities, which is consistent with the purpose and principles of the Act.

### **4.19.3 Decision**

Accept in part the submissions of **Film New Zealand** [6.4] and **Film Wellington** [7.4].

Those parts of the submissions that are recommended to be accepted relate to Rule 14K 2.2 (a), (b), (e) and (f), duration, structures, light spill and glare, dust and wind blown debris. Those parts of the submission which are not accepted relate to the permitted activity conditions for noise and site restoration given the amendments recommended to these rules.

### **4.19.4 Reason**

The proposed permitted activity conditions and those recommended to be amended are considered to be appropriate to control the adverse effects on the environment of temporary filming activities.

## **4.20 NEW FILMING PROVISIONS**

### **4.20.1 Submissions**

**Geraldine Mary Laing** [3.4] requested a new rule under 14K 2.1 Permitted Activities “(b) No filming activity will be allowed within 500 metres of a residential area” or “(b) No filming activities will be allowed within 500 metres of a residential area which is contiguous to a site already classed as a ‘permitted activity’”.

*Film Wellington [13.3] and Film New Zealand [14.5] opposed the submission by Geraldine Mary Laing. The 500 metre separation distance is excessive and would result in no filming activities taking place anywhere in a residential area or within 500 metre of a residential area. Other conditions (e.g: noise and lighting) will provide for the necessary amenity protection.*

**Geraldine Mary Laing [3.6]** requested the addition of a permitted activity condition in 14K 2.2 Permitted Activity Conditions “(h) Traffic: Where non-metered traffic spaces are required, the operator of the filming activity shall contribute to the Council an amount commensurate with its commercial area parking fees.” And subsequently amend the numbering of “(h) General Rules:” to be “(i) General Rules:”

*Film Wellington [13.5] and Film New Zealand [14.7] opposed the submission of Geraldine Mary Laing. The matter is not relevant to have as a permitted activity condition. Council can exercise its discretion as the roading authority on a case by case basis outside of the District Plan (as the road controlling authority)*

#### **4.20.2 Discussion**

Geraldine Mary Laing [3.4] sought that no filming activities be allowed within 500 metres of a residential area. The submitter is concerned about the potential adverse effects of filming activities on residential amenity values.

The Committee consider it appropriate that restrictions are placed on filming activities in order to protect residential amenity values. Amendments to the proposed provisions are recommended within this report to address the concerns relating to adverse effects of filming activities on residential amenity values, such as restricting noise and hours of operation. It is considered that the 500 metre restriction proposed by the submitter is unnecessary due to the Committee’s recommendations to amend the proposed noise provisions which will ensure that residential amenity values are adequately protected.

Geraldine Mary Laing [3.6] requested that where non-metered traffic spaces are required, the operator of the filming activity shall contribute to the Council an amount commensurate with its commercial area parking fees.

The Hutt City Council has controls and processes outside of the District Plan in order to manage the effects of traffic associated with temporary activities and filming on public roads. Overall, the Committee consider that the rule suggested by Geraldine Mary Laing [3.6] is unnecessary.

#### **4.20.3 Decision**

Reject the submissions of **Geraldine Mary Laing [3.4]** and [3.6].

*Accept the further submissions **Film Wellington [13.3, 13.5]** and **Film New Zealand [14.5, 14.7]**.*

#### **4.20.4 Reason**

In relation to submission [3.4], a rule which does not allow filming within 500 metres of residential areas is not considered appropriate or necessary. The recommended amendments to the permitted activity conditions are considered adequate to maintain residential amenity values.

In relation to submission [3.6], it is unnecessary for the Proposed Plan Change to include the additional rule for filming activities suggested by the submitter given the temporary nature of the effects on the environment and due to the other controls outside of the District Plan that the Council has as road controlling authority.

## **TEMPORARY ACTIVITIES AND FILMING**

### **4.21 REVERSE SENSITIVITY**

#### **4.21.1 Submissions**

**Winstone Aggregates** [2.2] submitted that the Proposed Plan Change fails to recognise the potential for reverse sensitivity effects to arise from temporary activities and filming. Winstone Aggregates sought amendments to the Proposed Plan Change that will address reverse sensitivity issues generated by temporary activities and filming activities that may locate close to a mineral extraction or processing site. Winstone Aggregates requested that the Proposed Plan Change be withdrawn or alternatively, that appropriate amendments be made to address reverse sensitivity effects. Specifically, they requested a rule be added that requires any filming activity within 500m of a mineral extraction and processing site be a restricted discretionary activity and that reverse sensitivity be added to the matters over which discretion is restricted.

***Film Wellington** [13.2] and **Film New Zealand** [14.4] opposed the submission of Winstone Aggregates. A 500 metre buffer zone is excessive and beyond that which a quarry operator can reasonably expect to exert control over activities on adjoining properties.*

#### **4.21.2 Discussion**

The Committee has considered the information provided in the submission and the officers report about the existing quarries in Lower Hutt.

Reverse sensitivity arises where a new incompatible activity is introduced into an environment which has the potential to limit the operation of existing activities. The submitters concern is that there is the potential for reverse sensitivity effects to arise where these activities seek to locate in close proximity to mineral extraction and processing activities. For example some temporary activities and filming may be susceptible to noise and vibration effects from quarries, such as filming requiring low background noise.

The Committee recognise that some types of community and special events and filming activities could give rise to adverse reverse sensitivity effects if they

took place close to Extraction Activity Areas or close to other incompatible activities such as industry, due to the sensitivity of some types of events and filming activities. The Committee agrees that it is important that activities are not unreasonably constrained by temporary activities and filming activities taking place in close proximity to them. However, there is considered to be low potential for temporary activities and filming activities to result in adverse reverse sensitivity effects given their temporary nature.

Overall it is considered unnecessary for the Proposed Plan Change to require that any filming or temporary activity within 500 metres of a mineral extraction and processing site be a restricted discretionary activity. However, it is appropriate for restricted discretionary temporary activities and filming to address adverse reverse sensitivity effects, given their longer duration. Although the submitter raises the issue of reverse sensitivity in relation to quarrying, it is appropriate that the assessment criteria address reverse sensitivity effects in general, as other types of activities could be affected by the close proximity of temporary events and filming activities.

#### **4.21.3 Recommendation**

Accept in part the submission of **Winstone Aggregates** [2.2].

Accept in part the further submission of **Film Wellington** [13.2] and **Film New Zealand** [14.4].

That part of Winstone Aggregates submission that is accepted relates to the creation of a restricted discretionary assessment criteria for the issue of reverse sensitivity. That part of the submission that is rejected relates to the creation of a 500 metre restriction area around mineral extraction and processing sites.

That part of Film Wellington and Film New Zealand's submissions recommended to be accepted relates to the recommendation to reject the submission requesting a 500 metre buffer zone. That part of the submission recommended to be rejected relates to the request for total rejection of Winstone Aggregates submission [2.2].

That Rules 14J 2.2.1 and Rule 14K 2.3.1 be amended as follows:

#### ***14J 2.2.1 Matters in which Council has restricted its discretion and standards and terms***

~~***(a) In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.***~~

#### ***(i) Amenity values***

- *The nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values.*
- *The noise effects of the proposal, including the nature of the noise and the duration of any amplified sound.*

- *The visual, dust, light-spill and glare, odour and vibration effects of the activity and the effectiveness of any mitigation measures proposed.*
- (ii) *Environment*
- *The extent to which the environment in and surrounding the site is sensitive to modification.*
  - *The effects on the natural environment including natural landscapes, native vegetation and habitats and fauna.*
  - *The effect of the activity on public recreational values.*
  - *The effects on cultural and heritage values.*
  - *The extent to which the temporary activity may result in adverse reverse sensitivity effects on existing activities. The provision of adequate measures, such as separation distance and design of the temporary activity, to ensure that the temporary activity will not unduly limit the operation of any existing activity.*
- (iii) *Waste, health and safety*
- *The effects on the environment of the waste generated by the activity.*
  - *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*
  - *The manner in which sanitary facilities are managed.*
  - *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
  - *The provision for appropriate emergency management if the proposal may endanger public safety.*
- (iv) *Traffic*
- *The traffic effects of the activity on the safety and efficiency of the surrounding road network.*
  - *The provision for vehicle access, servicing and car parking and the potential impacts on the environment and the road network.*
  - *The provision of temporary traffic management measures to mitigate the traffic effects of the proposal.*
  - *The effects of traffic and car parking on the amenity of the surrounding area.*
  - *The provision made for pedestrian access and safety.*
  - *The provision made for encouraging the use of alternative transport modes to the activity such as public transport, cycling and walking.*

**14K 2.3.1 Matters in which Council has restricted its discretion and standards and terms**

- (i) *Amenity values*

- *The nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values.*
  - *The noise effects of the proposal, including the nature of the noise and the duration of any amplified sound.*
  - *The visual, dust, light-spill and glare, odour and vibration effects of the activity and the effectiveness of any mitigation measures proposed.*
- (ii) *Environment*
- *The extent to which the environment in and surrounding the site is sensitive to modification.*
  - *The effects on the natural environment including natural landscapes, native vegetation and habitats and fauna.*
  - *The effect of the activity on public recreational values.*
  - *The effects on cultural and heritage values.*
  - *The extent to which the filming activity may result in adverse reverse sensitivity effects on existing activities. The provision of adequate measures, such as separation distance and design of the filming activity, to ensure that the filming activity will not unduly limit the operation of any existing activity.*
- (iii) *Waste, health and safety*
- *The effects on the environment of the waste generated by the activity.*
  - *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*
  - *The manner in which sanitary facilities are managed.*
  - *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
  - *The provision for appropriate emergency management if the proposal may endanger public safety.*
- (iv) *Traffic*
- *The traffic effects of the activity on the safety and efficiency of the surrounding road network.*
  - *The provision for vehicle access, servicing and car parking and the potential impacts on the environment and the road network.*
  - *The provision of temporary traffic management measures to mitigate the traffic effects of the proposal.*
  - *The effects of traffic and car parking on the amenity of the surrounding area.*
  - *The provision made for pedestrian access and safety.*
  - *The provision made for encouraging the use of alternative transport modes to the activity such as public transport, cycling and walking.*

#### **4.21.4 Reason**



Reverse sensitivity is a recognised effect under the Act which can adversely affect the management of existing physical resources. It is appropriate that those temporary activities and filming activities which fall within the restricted discretionary criteria address any relevant adverse reverse sensitivity effects.

## **4.22 WASTE**

### **4.22.1 Submissions**

**Leisure Active** [4.7] opposed the provisions for waste in Chapter 14J Temporary Activities and Chapter 14K Filming as the separate terms ‘Waste Minimisation’ and ‘Waste Management’ do not provide clear enough definitions of what will be required. They submit that minimisation implies that the event organiser must make every effort to reduce event related waste whereas management implies that the event organiser is responsible for clean-up and disposal of event related waste. Leisure Active recommended Rule 14J 2.1.1 (g) and 14K 2.2 (g) be amended to “*A Waste Minimisation and Management Plan is required for all filming and temporary activities*”.

*Film Wellington* [13.6] and *Film New Zealand* [14.2] opposed the submission of Leisure Active because the requirement to prepare, and get approval for, a Waste Minimisation Plan undermines the status of a permitted activity. They request the requirement to prepare a Waste Minimisation Plan for a permitted activity be deleted from the Proposed Plan Change.

### **4.22.2 Discussion**

The submission does not oppose the requirement for a Waste Minimisation Plan but opposes the use of the term ‘Waste Minimisation plan’ as it does not imply that waste management is also required. The Committee has considered the meanings of the terms waste management and waste minimisation. The Committee agrees that waste management and waste minimisation are different but related concepts.

The Committee agree in part with the submission by Leisure Active. It is considered appropriate to amend the name ‘Waste Minimisation Plan’ to ‘Waste Management Plan’. The title ‘Water Management Plan’ shows more clearly that it is the responsibility of the event organiser to provide waste storage facilities, clean-up and dispose of event related waste, rather than the more onerous responsibility of waste minimisation which requires demonstrating that waste has been reduced. Furthermore, the Committee consider that the deletion of the permitted activity condition for a Waste Minimisation Plan and the provision of amended assessment criteria for activities which fall within the restricted discretionary category (sections 4.13 and 4.18) also address submission [4.7].

### **4.22.3 Decision**

Accept in part the submission of **Leisure Active** [4.7].

Accept the further submissions of *Film Wellington* [13.6] and *Film New Zealand* [14.2].

That all references to Waste Minimisation Plan within Chapters 14J and 14K be amended to Waste Management Plan.

#### **4.22.4 Reason**

It is appropriate to retain the criteria relating to waste for restricted discretionary temporary activities and filming, as discussed in sections 4.13 and 4.18 of this report. However, it is considered appropriate to rename 'Waste Minimisation Plan' to 'Waste Management Plan' as it shows more clearly that it is the responsibility of the event organiser to provide waste storage facilities, clean-up and dispose of event related waste, rather than the more onerous responsibility of waste minimisation which requires demonstrating that waste has been reduced.

## **MISCELLANEOUS**

### **4.23 OTHER DISTRICT PLAN PROVISIONS**

#### **4.23.1 Submission**

**Film New Zealand** [6.6] and **Film Wellington** [7.6] sought confirmation that resource consent applications under Rule 14K 2.3 (a) will come within the scope of Rule 17.2.2 (a) and be processed on a non-notified basis.

#### **4.23.2 Discussion**

Those filming activities which do not meet the proposed permitted activity conditions will be assessed as restricted discretionary activities (Rule 14K 2.3 (a)). Restricted discretionary filming activities will be assessed against the matters over which Council has restricted its discretion within Rule 14K 2.3.1.

The Act allows consent authorities to make rules specifying the activities which must be publicly notified or are precluded from being notified. The District Plan states that the consent of any persons need not be required and applications need not be publicly notified for restricted discretionary activities (Rule 17.2.2 (a)).

Although Rule 17.2.2 (a) applies to temporary activities and filming, the Council can not give confirmation that resource consent applications for restricted discretionary activities will be processed on a non-notified basis because of provisions in the Act which allow notification under certain circumstances regardless of any rules in a District Plan. For example, a consent authority must publicly notified an application if requested by the applicant or if there are special circumstances (s 95A 3 (a)), or if the Council has requested further information from the applicant and the applicant has refused to comply with this request (s 95C). The Council may also need to publicly notify an application if the effects on the environment are more than minor or, if there are

affected parties which haven't provided written approval, would need to notify an application on a limited basis. However, provided the circumstances above do not apply, the Council can process restricted discretionary activities on a non-notified basis.

#### **4.23.3 Decision**

Reject the submission of **Film New Zealand** [6.6] and **Film Wellington** [7.6].

#### **4.23.4 Reason**

The notification provisions of the Act and the notification provisions of the District Plan apply to restricted discretionary temporary activities and filming. However, the Committee note the matters in which Council has restricted is discretion for the assessment of restricted discretionary temporary activities and filming are well specified. Providing restricted discretionary temporary activities and filming meet the criteria they can be processed on a non-notified basis. In addition, given the flexibility provided by the Proposed Plan Change, most temporary activities and temporary filming will be able to occur as permitted activities.

## ATTACHMENT 1: AMENDMENTS

The Committee's decisions result in the following amendments to the Proposed Plan Change:

*(Note for the purpose of this report only the changes made as a result of a decision in this report have been shown here).*

### **Chapter 3 – Definitions**

**Building:** *means any structure or part of a structure, whether temporary or permanent, movable or immovable, but for the purposes of this Plan excludes:*

- (a) any fence not exceeding 2 metres in height;*
- (b) any retaining wall not exceeding 1.2 metres in height;*
- (c) satellite dishes with a diameter not exceeding 0.6m and antennas 2.5m above the maximum height permitted in the activity area or the rules in Chapter 13 - Utilities.*
- (d) all structures less than 1.2 metres in height and 20m<sup>2</sup> in area;*
- (e) all tents and marquees erected on a temporary basis for a period not exceeding 3 months;*
- (f) all signs, as defined in this Plan;*
- ~~*(g) accessory construction buildings and storage.*~~

#### ~~**Accessory construction buildings and storage:**~~

~~*Buildings or structures located temporarily on a site and used in association with construction or building works, such as a site office on a construction site, or used for storage, such as storage of goods during residential additions or when moving house.*~~

#### **Filming Activity:**

*Is the recording of images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means) and the use of land associated with the filming activity including temporary construction, use and dismantling of structures and sets and all associated setting up and packing up of structures, equipment and materials, clean up and restoration of the site, but does not include:*

- (a) still photography;*
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, event or celebration;*

- (c) *recording images as a visitor or tourist for non commercial purposes;*
- (d) *recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.*

**7D - Passive Recreation Activity Area**

**7D 2 Rules**

**7D 2.1 Permitted Activities**

- (a) *Parks, reserves and picnic areas.*
- (b) *Walkways.*
- (c) *Landscape furniture.*
- (d) *Informal recreation, excluding all types of motorised recreation activities except those used for the purpose of farming and maintenance.*
- (e) *Works necessary for the management of any river or stream by the Wellington Regional Council or Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.*

**7A - General Recreation Activity Area**

**7A 2 Rules**

**7A 2.1 Permitted Activities**

- (a) *Recreation activities and ancillary activities.*
- (b) *Any farming activity in the Belmont Regional Park, including grazing, cropping, market gardens, orchards and nurseries, but excluding intensive farming.*
- (c) *At the Bracken Street Depot, Bracken Street, Petone, Section 979 Hutt District, SO 33425 -*
  - (i) *Plant propagation, and associated office functions and buildings.*
  - (ii) *The storage and maintenance of equipment for the purposes of maintaining parks and reserves.*
- (d) *Landscape furniture.*
- (e) *Works necessary for the management of any ~~reserve~~ river or stream by the Wellington Regional Council or Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.*

**7C - River Recreation Activity Area**

**7C 2 Rules**

## **7C 2.1 Permitted Activities**

- (a) Works necessary for the management of any ~~reserve~~, river or stream by the Wellington Regional Council or the Hutt City Council and maintenance activities within reserves by Wellington Regional Council or Hutt City Council.
- (b) All recreation and leisure activities, but excluding motorised activities.
- (c) Landscape furniture.
- (d) On the land identified in DP 72284 but excluding that area identified as 'G' and shown on Appendix River Recreation 1, extraction activities limited to extraction, processing, storage, removal, ancillary earthworks, removal and deposition of overburden and rehabilitation works, and ancillary administrative activities

## **Chapter 14J Temporary Activities**

### **Introduction**

Temporary activities include a wide range of temporary events, such as concerts, festivals and markets, ~~and temporary buildings for construction and storage.~~ Temporary events are varied in nature and scale; they could be one-off events or regular occurrences which are planned well in advance, they are usually relatively short in duration and often involve activities outside of normal working hours, such as evenings and weekends. Temporary activities are necessary to satisfy a wide range of social, cultural and economic needs and as such, should be provided for in a flexible manner while ensuring any adverse effects on the environment are appropriately managed.

### **14J 2.1.1 Permitted Activities – Conditions for temporary activities in all activity areas**

#### **(a) Duration:**

- (i) The total occupation of a site for temporary activities (includes erection and removal of all associated structures and buildings and includes removal of waste and restoration of the site) shall not exceed a period of ~~5~~10 days in total.
- (ii) The total duration of a temporary activity on a site shall not exceed ~~3~~6 consecutive days at any one time.

#### **(b) Hours of Operation**

All temporary activities shall only operate between the hours of:

Mondays to Thursday inclusive – 7.00am to 10.00pm

Fridays and Saturdays – 7.00am to 11.00pm

Sundays – 8.30am to 10.00pm

Associated set up and pack up activities shall only operate between the hours of 6.00am and 11.00pm from Sunday to Thursday inclusive; and between the hours of 6.00am and midnight on Fridays and Saturdays.

Exception:

On December 31<sup>st</sup> of any calendar year the finish time of temporary activities may be extended to 1.00am the following day.

**(d) Noise**

~~Any noise resulting from filming activities shall not exceed 70dBA L10 and Lmax80 when measured at any residential site boundary.~~

Any noise resulting from temporary activities shall not exceed 70dBA L10 when measured at any point within any other site in a Residential Activity Area and at any point within the notional boundary of any dwelling in a Rural Activity Area. Any noise resulting from temporary activities shall not exceed 70dBA L10 at the boundary of any Commercial or Business Activity Area site other than the site of the temporary activity.

The notional boundary is defined as a line 20 metres from any side of a dwelling, or the legal boundary of the site where this is closer to the dwelling.

Associated set up and pack up activities are deemed to be construction activities in terms of [District Plan] Rule 14C 2.1(f). Sound testing for the temporary activity shall be permitted as part of the set up activities but if undertaken on the day before the temporary activity commences then the sound testing shall end no later than 3 hours after the sound testing commences (e.g. if the sound testing starts at 10am it shall finish by 1pm).

**~~(f) Sanitation facilities:~~**

~~All temporary activities shall be undertaken to ensure that sanitary facilities to service the activity are provided on the site for the duration of the activity to the satisfaction of the Council.~~

**~~(h) Waste:~~**

~~(iii) A Waste Minimisation Plan shall be provided to the Council prior to the operation of the temporary activity.~~

~~(iv) The temporary activity shall be carried out in accordance with the Waste Minimisation Plan.~~

**~~14J 2.1.2 Permitted Activities – Conditions for accessory construction buildings and storage in all activity areas~~**

**~~(a) Maximum duration~~**

~~Accessory construction buildings and storage must only be used in association with a permitted activity on the site and must be removed from the site within three months of the completion of the building or construction works or if used for temporary storage for any other reason, within three months of being placed on the site.~~

~~Except that where accessory construction buildings and storage are not visible from any public road or are not visible from any adjoining properties or where they are within a commercial or business activity area, the maximum duration shall not apply.~~

~~**(b) Bulk and location**~~

~~All accessory construction buildings and storage must comply with the permitted activity conditions of the Activity Area in which they are located.~~

~~**(c) General Rules**~~

~~Compliance with all other General Rules.~~

**14J 2.2 Restricted Discretionary Activities**

~~(a) In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.~~

~~(b) In all activity areas any accessory construction buildings and storage which do not comply with any one or more of the Permitted Activity Conditions.~~

**14J 2.2.1 Matters in which Council has restricted its discretion and standards and terms**

~~(a) In all activity areas any temporary activity which does not comply with any one or more of the Permitted Activity Conditions.~~

~~(i) Amenity values~~

- ~~- The nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values.~~
- ~~- The noise effects of the proposal, including the nature of the noise and the duration of any amplified sound.~~
- ~~- The visual, dust, light-spill and glare, odour and vibration effects of the activity and the effectiveness of any mitigation measures proposed.~~

~~(ii) Environment~~

- ~~- The extent to which the environment in and surrounding the site is sensitive to modification.~~
- ~~- The effects on the natural environment including natural landscapes, native vegetation and habitats and fauna.~~



- *The effect of the activity on public recreational values.*
- *The effects on cultural and heritage values.*
- *The extent to which the temporary activity may result in adverse reverse sensitivity effects on existing activities. The provision of adequate measures, such as separation distance and design of the temporary activity, to ensure that the temporary activity will not unduly limit the operation of any existing activity.*

(iii) *Waste, health and safety*

- ~~- *The effects on the environment of the waste generated by the activity.*~~
- ~~- *The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.*~~
- *The extent to which satisfactory arrangement is made for waste management through a Waste—Minimisation Management Plan that shall include:*
  - *A description of the method for the waste and recyclable material to be collected from the site and arrangements for delivering materials to be reused, recycled and disposed of.*
  - *The arrangements for site clean-up, including removal of litter.*
- ~~- *The manner in which sanitary facilities are managed. The provision for adequate sanitation facilities to service the activity.*~~
- *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
- *The provision for appropriate emergency management if the proposal may endanger public safety.*

(iv) *Traffic*

- *The traffic effects of the activity on the safety and efficiency of the surrounding road network.*
- *The provision for vehicle access, servicing and car parking and the potential impacts on the environment and the road network.*
- *The provision of temporary traffic management measures to mitigate the traffic effects of the proposal.*
- *The effects of traffic and car parking on the amenity of the surrounding area.*
- *The provision made for pedestrian access and safety.*
- *The provision made for encouraging the use of alternative transport modes to the activity such as public transport, cycling and walking.*

~~(b) In all activity areas any accessory construction buildings or storage which do not comply with any one or more of the Permitted Activity Conditions.~~

~~Amenity values:~~

- ~~— Whether the appearance, scale and condition of buildings or structures will be sympathetic to the site and the neighbourhood.~~
- ~~— The duration in which the buildings or structures will be located on the site and whether it is associated with works or construction which will be undertaken within a specific time period.~~
- ~~— The ability of the buildings or structures to be screened on the site and the effectiveness of any other mitigation measures proposed.~~

## Chapter 14K Filming

### 14K 1.1 Enabling film making activities while managing environmental impacts

#### Issue

**Filming can have positive economic, social, cultural and environmental effects. However, filming can also have adverse environmental effects if not managed well. Provision needs to be made for filming activities within the city while ensuring that any adverse effects, such as noise, traffic, recreation, heritage, cultural and visual effects, are adequately avoided, remedied or mitigated.**

### 14K 2.2 Permitted Activities – Conditions for filming in all activity areas

#### (c) Noise

~~Any noise resulting from filming activities shall not exceed 70dBA L<sub>10</sub> and L<sub>max</sub>80 when measured at any residential site boundary.~~

~~Filming activities shall comply with the District Plan noise limits for the activity area in which they are located except that on a maximum of 10 days within each filming activity (of up to 30 days) any noise resulting from filming activities shall not exceed 70dBA L<sub>10</sub> between the hours of 7.00am and 10.00pm measured at any point within any other site in a Residential, Commercial or Business Activity Area and at any point within the notional boundary of any dwelling in a Rural Activity Area.~~

~~The notional boundary is defined as a line 20 metres from any side of a dwelling, or the legal boundary of the site where this is closer to the dwelling.~~

#### (d) Site Restoration:

~~Any site where filming activities occur shall be restored to its original condition or better within 15 days of the completion of the filming activity.~~

**~~(g) Waste:~~**

- ~~(i) A Waste Minimisation Plan shall be provided to the Council prior to the operation of the filming activity.~~
- ~~(ii) The filming activity shall be carried out in accordance with the Waste Minimisation Plan.~~

**14K 2.3.1 Matters in which Council has restricted its discretion and standards and terms**

**(i) Amenity values**

- The nature, duration, hours of operation and frequency of the activity and any cumulative effects on amenity values.
- The noise effects of the proposal, including the nature of the noise and the duration of any amplified sound.
- The visual, dust, light-spill and glare, odour and vibration effects of the activity and the effectiveness of any mitigation measures proposed.

**(ii) Environment**

- The extent to which the environment in and surrounding the site is sensitive to modification.
- The effects on the natural environment including natural landscapes, native vegetation and habitats and fauna.
- The effect of the activity on public recreational values.
- The effects on cultural and heritage values.
- The extent to which the filming activity may result in adverse reverse sensitivity effects on existing activities. The provision of adequate measures, such as separation distance and design of the filming activity, to ensure that the filming activity will not unduly limit the operation of any existing activity.

**(iii) Waste, health and safety**

- ~~— The effects on the environment of the waste generated by the activity.~~
- ~~— The effectiveness and efficiency of the Waste Minimisation Plan for the temporary activity in terms of reduction in waste and enabling reuse and recycling.~~
- The extent to which satisfactory arrangement is made for waste management through a Waste ~~Minimisation~~ Management Plan that shall include:
  - A description of the method for the waste and recyclable material to be collected from the site and arrangements for delivering materials to be reused, recycled and disposed of.
  - The arrangements for site clean-up, including removal of litter.

- ~~*The manner in which sanitary facilities are managed. The provision for adequate sanitation facilities to service the activity.*~~
- *The potential effects relating to hazards, including natural hazards and risk from hazardous facilities and, if relevant, whether they are taken into account and addressed.*
- *The provision for appropriate emergency management if the proposal may endanger public safety.*

*(iv)Traffic*

- *The traffic effects of the activity on the safety and efficiency of the surrounding road network.*
- *The provision for vehicle access, servicing and car parking and the potential impacts on the environment and the road network.*
- *The provision of temporary traffic management measures to mitigate the traffic effects of the proposal.*
- *The effects of traffic and car parking on the amenity of the surrounding area.*
- *The provision made for pedestrian access and safety.*
- *The provision made for encouraging the use of alternative transport modes to the activity such as public transport, cycling and walking.*