

IN THE MATTER OF

The Resource
Management Act 1991

AND

IN THE MATTER OF

Submissions on
Proposed Plan Change
42 to the Selwyn District
Plan

Report on submissions relating to Proposed Plan Change 42

**A proposed change to provisions relating to Temporary
Activities and Electoral Signage within the Rural and
Township Volumes of the Selwyn District Plan**

To:
From:
Hearing Date:

Hearing Commissioner – M Garland
Consultant Planner – S Flewellen
Thursday 6 March 2014

This report analyses submissions made on Plan Change 42 (PC 42) to the Selwyn District Plan (SDP) and has been prepared under s42A of the RMA. The purpose of the report is to assist the Hearing Commissioner in evaluating and deciding on submissions made on PC 42 and to assist submitters in understanding how their submission affects the planning process. The report includes recommendations to accept or reject points made in submissions and to make any amendments to the SDP. These recommendations are the opinions of the Reporting Officer(s) only. The Hearing Commissioner will decide on each submission after hearing and considering all relevant submissions, the Officer's Report(s) and the Council's functions and duties under the RMA.

ATTACHMENTS

Attachment A	Summary of submissions/further submissions and Reporting Officer recommendations on submissions
Attachment B	Recommended amendments to PC 42

1. INTRODUCTION

Qualifications and experience

- 1.1 My full name is Samuel David Flewellen. I am a Senior Planner with Planz Consultants Limited (formerly Planit R. W. Batty & Associates Ltd) a Christchurch based resource management consulting company. I hold the qualifications of a Bachelor of Resource Studies and a Postgraduate Diploma in Resource Studies from Lincoln University. I have eleven years experience as a planner. I am a member (grad) of the New Zealand Planning Institute.
- 1.2 I have been asked by the Selwyn District Council to prepare this s42A report for the Commissioner's consideration. I have not omitted to consider material facts known to me, which might alter or detract from the opinions I have expressed.

2. PURPOSE OF REPORT

- 2.1 The purpose of this report is to bring to the attention of the Commissioner the relevant information and issues regarding this Plan Change. It must be emphasised that the conclusions and recommendations made in this report are my own and are not binding upon the Commissioner. It should not therefore be assumed that the Commissioner will reach the same conclusion following consideration of all the evidence to be presented at the hearing.
- 2.2 This report:
- outlines the statutory provisions relevant to the Plan Change process;
 - discusses the background and outline of the Plan Change;
 - discusses the submissions and further submissions received following the public notification of the Plan Change;
 - provides a statutory review; and
 - concludes with an overall recommendation based on the preceding discussion in the report.

3. STATUTORY CONSIDERATIONS

- 3.1 The following is a brief summary of the key statutory considerations, which must be noted as part of considering this Plan Change.
- 3.2 Section 73 of the Act enables a Territorial Authority to change its District Plan. The process for this change is set out in Schedule 1 of the Act. Part 1 of the First Schedule sets out the requirements for a Council initiated Plan Change. Among other things, consideration of sections 31, 32, 75(2) and Part 2 of the Act are required in preparing a change to a District Plan. Section 31 of the Act sets out the functions of territorial authorities in giving effect to the purpose of the RMA and the provisions of Part 2 of the Act.
- 3.3 The preparation of a Plan Change must be undertaken in accordance with Section 32 of the Act, including the duty to consider alternatives, benefits and costs of the proposed change. The Resource Management Amendment Act 2013 came into effect on 3 December 2013 and made changes to Section 32 (s32) of the Act. However, where a proposed policy statement or plan is at or past the last day for making further submissions at the time the s32 changes take effect, the further evaluation is to be carried out according to the previous s32 requirements. For this proposed Plan Change, the further submission period closed on 29 November 2013, therefore it is the previous s32 requirements that are applicable rather than those introduced through the 2013 RMA Amendment Act.

- 3.4 In addition, Section 75(2) also requires the District Plan not to be inconsistent with the Regional Policy Statement or Regional Plan. For completeness, it is noted that in making a decision on the Plan Change, the Council is guided by Clause 10 of the First Schedule to the RMA.

4. BACKGROUND OF PLAN CHANGE

Temporary Activities

- 4.1 Temporary Activities are defined in both the Township and Rural Volumes of the Plan and limit activities to short periods and frequencies. Given their short term use, such events are typically completed (including set up and pack up) within a short number of days. Examples of well known events that occur within (or through part of) Selwyn District are:
- A & P Shows/field days;
 - Coast to coast race;
 - School fairs and galas; and
 - Markets.
- 4.2 The Plan is currently permissive to any type of Temporary Activity meaning that there is little control or recourse available to Council over the adverse effects of such activities when they establish. In early 2013 Selwyn District Council decided to investigate how the Plan provides for Temporary Activities to ensure that its provisions are:
- consistent with other similar District Plans;
 - sufficient to provide on-going flexibility for most Temporary Activities to continue to operate; and
 - provide adequate control of their potential effects.
- 4.3 An Issues and Options report was prepared in early 2013 which highlighted a number of issues with the current Plan provisions, compared these provisions with other similar District Plans, and provided recommendations to be undertaken via a Plan Change. These included:
- The potential introduction of a new policy to provide improved direction specifically for Temporary Activities/events.
 - The potential amendment of the Plan definition of Temporary Activities to better define and list what activities are intended to be encompassed by the definition.
 - The potential amendment of the Plan limits i.e. timing and frequency, for Temporary Activities.
 - The potential introduction of a new traffic management rule to enable consideration of matters such as the adequacy of car parking, access and traffic management associated with higher trip generating Temporary Activities.
 - The potential amendment of noise related definitions to include a cross reference to applicable New Zealand noise standards concerning the assessment of noise.
- 4.4 Plan Change 42 was subsequently prepared and notified with the intent of providing additional controls, particularly for commercial type activities, while still enabling community based and other specifically listed Temporary Activities to operate throughout the District within Living and Rural zones provided their associated effects are appropriately managed. Business zone rules were not proposed to be altered due to their general absence of residential or other sensitive activities compared to Living and Rural zones and also the absence of specific provisions for temporary activities within Business rules at present.

Temporary Electoral Signage

- 4.5 Temporary Electoral Signage is controlled by the *Electoral (Advertisements of a Specified Kind) Regulations 2005*. Council had also raised the necessity of Plan controls around Temporary Electoral Signs particularly given the overriding regulations for these signs and the potential duplication and unnecessary requirement for resource consent generated through the existing Plan rules. Consequently, it was proposed through this Plan Change to specify that temporary electoral signage is exempt from the signage rules provided it meets the requirements of the overriding Electoral (Advertisements of a Specified Kind) Regulations 2005.

5. OUTLINE OF PLAN CHANGE 42

- 5.1 PC42 seeks to change the Selwyn District Plan provisions that relate to Temporary Activities and Temporary Electoral Signage.
- 5.2 As described in the Plan Change documents, the Plan Change proposes the amendments to the following sections of the District Plan:

Temporary Activities

- Provide a new definition of Temporary Activity to list out specific activities that are anticipated to be encompassed by this definition (Part D, Definitions, Rural and Township Volumes).
- Alter the limit on the total number of days per month that a single event i.e. non-consecutive days, can operate. The new limit will be no more than one single day event per month i.e. a total of up to 12 per year (Part D, Definitions, Rural and Township Volumes).
- Insert new policy for Temporary Activities in both Plan volumes (Part B, 3 People's Health, Safety and Values, Rural and Township Volumes).
- Insert supporting explanations and reasons in both Plan volumes (Part B, 3 People's Health, Safety and Values, Rural and Township Volumes).
- Insert 'anticipated environmental results' in Township Volume to support policy (Part B, 3 People's Health, Safety and Values, Rural and Township Volumes).
- Insert reference to *NZS6802 Acoustics –Environmental Noise* in the definition of "noise limit" of the Rural Volume (Part D, Definitions, Rural and Township Volumes).
- Insert a new traffic management plan rule for Temporary Activities through Rule 9.13 (Part C, 9 Activities, Rural Volume) and Rule 10.9 (Part C, 10 Activities, Township Volume).
- Remove the exemption for seasonal rural activities from the Rural volume definition of Temporary Activity and insert a note similar to the equivalent noise exemption note under the respective rural traffic generation rule (Part C, 9 Activities, Rule 9.13, Rural Volume).

Temporary Electoral Signage

- Insert a new exemption in both the Township and Rural volumes of the District Plan under Chapter 7 (Living zone rules – outdoor signs), Chapter 19 (Business zones rules – outdoor signs) and Chapter 6 (Rural rules – Outdoor signs) specifying that temporary electoral signage is exempt from the signage rules provided it meets the requirements of the overriding Electoral (Advertisements of a Specified Kind) Regulations 2005.

6. NOTIFICATION AND SUBMISSIONS

6.1 The Plan Change was publicly notified on 28th September 2013 with submissions closing on 25 October 2013. A total of 7 submissions were received, 6 in support or support in part and one in opposition. Further submissions were notified on 16 November 2013 and closed on 29 November 2013. Further submissions were received from one submitter.

6.2 **Attachment A** provides a summary of submissions and further submissions set out in general categories.

6.3 Those submitters who supported in whole or in part are listed below:

- J Vincent – Support in part
- E Prebble - Support
- H Prebble - Support
- R Steel - Support
- A Bowkett - Support
- New Zealand Transport Agency – Support

6.4 Those submitters/further submitters who opposed in whole or in part are listed below:

- B Woods - Oppose temporary activities in entirety with the exception of the proposed changes to noise provisions and temporary electoral signage.

6.5 The key issues listed in these submissions and further submissions are listed below:

In support or support in part:

- Limiting the permitted frequency to once per month will reduce the regularity of adverse impacts from temporary activities;
- Traffic generation from some temporary activities can be significant. Traffic management provisions supported.
- Proposed traffic management rule and trigger limit to manage construction and other listed activities supported.
- Noise can be disruptive and distressing. Noise provisions supported including the ability to consider special audible characteristics.
- Current provisions are ineffective.
- Some clarity around temporary signage sought. Regulations to manage temporary signage should be clearly defined and enforced as they can be in place for extended periods of time.
- Greater clarity in definition sought.

6.6 In opposition (submission and further submissions):

- Plan Change seen as a 'knee-jerk' reaction to the Horror Maze operation and further restrictions other than noise are not considered appropriate.
- Plan Change seen as converting an 'effects-based' Plan to 'activities-based' Plan.
- Should specifically define activities that are not permitted rather than permitted to reduce interruption in the Plan.
- Will increase the need for consents through catching activities that operate without issue.
- Issuing a consent will not guarantee a solution to problem activities.
- There will not be sufficient time to arrange traffic management plans.

- Traffic numbers are unknown and applicants will simply state a lower number of numbers to implement a plan.

7. ASSESSMENT OF SUBMISSIONS AND ENVIRONMENTAL EFFECTS

- 7.1 The assessment of the submissions received have been grouped into the key topic areas and assessed accordingly. Recommendations on each submission point are described in this section and summarised in **Attachment A**.

TEMPORARY ACTIVITIES

Definition of Temporary Activity - Frequency Limits

- 7.2 It is proposed to alter the definition of Temporary Activities within the Rural and Township volumes of the Plan. This includes:
- Altering the limit from 12 days per year to no more than one day per month that Temporary Activities could operate for. This will have the effect of reducing the concentration of effects rather than total number of Temporary Activities.
 - Providing greater clarification and direction as to the type of activities anticipated to be encompassed by these provisions.
- 7.3 Five submissions supported the proposed changes to the definition. One submission and 3 further submissions (Woods) opposed the Plan Change (with the exception of the noise and temporary electoral sign provisions) in its entirety. The submitter's primary concerns being that PC 42:
- Is a 'knee jerk' reaction to the Horror Maze situation which arose during the summer months of 2012-13 and attempted to utilise the temporary activity provisions of the Plan to operate a retail entertainment activity that generated large amount of complaints with regard to noise and traffic in particular;
 - Is an attempt to change an 'effects-based' Plan into an 'activities-based' Plan; and
 - Will create of more difficulties for citizens and increasing the need for consents due to the proposed changes.
 - Will capture a significant number of activities not mentioned in the permitted list. Rather than list permitted activities, the submitter suggests listing only those activities that are not anticipated and to regulate these.
 - Will result in issuing consents that lasts for just one day but will not guarantee a solution.
- 7.4 With regard to the Horror Maze activity, I note that the circumstances and complaints surrounding this activity did serve as the catalyst for analysing the Plan provisions in more detail. However, I am also aware that issues have arisen with Motocross activities and early morning sports classes near residential activities. The subsequent investigation and analysis of the Plan provisions also highlighted that the Plan was not particularly consistent with other similar district plans i.e. it was highly permissive, and provided very little or no control around types of activities, noise and traffic. Therefore, although only a limited number of issues have arisen to date i.e. where they were reported and enforcement action taken, it was considered that the Plan was not sufficiently robust in its regulation of temporary activities and had the potential for significant adverse effects to occur with little or no control or recourse.

- 7.5 The use of an activities list for Temporary Activities is not attempting to move the Plan away from an effects-based format to an activities-based format. Rather, it was considered the most effective mechanism to address the issues surrounding temporary activities and followed a similar definition format to most other effects-based plans. It is also noted that the Plan already utilises activity lists throughout a number of other sections including:
- Living Zones - Rule 1.1 - Status of Activities,
 - Living Zones – Rule 10.1.1 – Activities and Contaminated land
 - Business Zones - Rule 13.1 - Status of Activities,
 - Business Zones – Rule 22.1.1 – Activities and Contaminated land
 - Rural Zones – Rule 9.2 - Listed Activities,
 - Rural Zones – Rule 9.6 – Activities and Contaminated land
- 7.6 The proposed approach is therefore not considered to be inconsistent or incongruent with the current Plan format.
- 7.7 Submitter Woods also considers that the proposed changes will generate a significant number of activities not mentioned in the permitted list nor will guarantee a successful outcome by using a consent process. I note that no other submissions have been received in opposition including from any temporary activity operators nor have any other specific activities been listed by the submitter as examples of what will be caught by the proposed changes. I consider that any activities that would now be excluded from being considered a temporary activity under the proposed changes where they would be permitted under the current definition provisions would be minimal. The primary categories that I considered this to include would be non listed retail/commercial activities only. This represents a narrow band of activities which would not generally be anticipated within an out of zone environment as of right and which have more limited community benefits. In the event that consent is required for an event, it will also provide the ability to impose mitigation conditions and limits and provide Council with sufficient ability to undertake monitoring and enforcement should the parameters of a consent be breached, even if the activity were just for one day. However, many temporary activities reoccur more frequently than a 'one-off' event in which case the performance of an activity can be managed through monitoring of a consent.
- 7.8 In considering submitter Woods' suggestion to specifically list only those (unanticipated) activities, I note that this will not be straightforward and would have a similar if not greater level of uncertainty as listing anticipated activities. This is due to the added complication of either being too narrow in listing either a very specific activity e.g. Horror Maze, or too broad e.g. retail or commercial which could technically include markets, fairs, and any events where an entrance fee is charged. I therefore consider that the provision of a broad list of permitted activities is a more effective mechanism to addressing this issue while also being more consistent with the approach taken in other similar District Plans.

- 7.9 I agree with submitter Woods that in regulating temporary activities there may be some activities which are relatively benign in terms of effects that may potentially be captured unintentionally. This is a symptom of almost any planning rule as there are always exceptions. However, I consider the number of instances where a temporary activity would be captured under the proposed provisions but would have otherwise been permitted under the current provisions is more limited than the 'significant' level than suggested by the submitter. This is due primarily to the existing limit of a total of 12 days per year for any temporary activity. As this overall total limit is not changing, it would only be seasonal activities that operate greater than once per month e.g. weekly, but no more than 12 times per year, or retail activities, that may now potentially require resource consent that wouldn't have previously. I consider that this would be a very narrow band of activities. I have given this additional consideration and note that most seasonal activities are those associated with sporting and recreation activities e.g. touch rugby competitions, boot/exercise classes and mountain biking/running series. All of these activities are typically undertaken over the course of a season or limited time period e.g. 12 weeks, but occur at least once per week. They are also typically undertaken within Council owned reserves whereby they are permitted to operate in accordance with the recreation designation and therefore the Plan rules would not apply to such activities. This is the same scenario for sports clubs and facilities.
- 7.10 With regard to temporary retail activities that are not markets, galas, or shows, the number of these are expected to be minimal. I also note that where activities are undertaken on private property and do not fit within the definition of a temporary activity, they may still be permitted subject to the 'scale of activity' provisions for living and rural zones. An example of this is non-rural activities up to 100m² with no more than two full time equivalent staff being permitted (Rural Volume Rule C9.4.1.1).
- 7.11 Overall, I consider that the proposed changes to the definition of Temporary Activities will provide greater clarification and direction within the Plan definition as to the type, frequency and duration of activities anticipated and do not consider that any amendments to the proposed changes are required.

Recommendation on Submissions

- J Vincent (D1.4) - Accept
- B Woods (D2.2) (FS01, FS02, FS03) - Reject
- E Prebble (D3.2) – Accept
- H Prebble (D4.2) – Accept
- R Steel (D5.7-5.8) – Accept
- A Bowkett (D6.1) – Accept

Recommended Amendments

None

Noise

- 7.12 The Plan Change contains a report from Dr Trevathan from Acoustic Engineering Services on the various options to improve the way the Plan deals with noise during night time hours, particularly with the ability to apply noise penalties in circumstances where activities have unusual noise characteristics e.g. noise from bass beat. At present, there is a reference to the measurement and assessment of noise within the 'Introduction to Rules' section of both Plan volumes (Part C). However, there is no clear link between the definition of 'Noise Limit' and the 'Introduction to Rules' section which has historically led to confusion around the implementation of the noise rules.

- 7.13 It was proposed to amend the definition of 'Noise Limit' within the Plan to ensure that noise can be assessed in accordance with section 6.3 of *NZS6802:2008 Acoustics – Environmental Noise*. However, following further discussions with Mr Trevathan and the fact that the 'Introduction to Rules' noise information references both the 1991 and 1999 standards, it is considered preferable to simply cross reference this section of the plan to the definition of 'Noise Limit'. This will ensure that 'Special Audible Characteristics' can still be considered while reducing any potential confusion between through referencing multiple noise standards.
- 7.14 All submissions supported the intent of the proposed technical change to the noise provisions of the Plan. Of these, one submitter (Vincent D1.3) added the comment that noise related definitions need to be clearly defined by the proposed change.
- 7.15 I consider that cross referencing the 'noise limit' definition to the "Noise Measurement and Assessment" section of the Plan is within the scope of the technical change proposed, makes essentially no difference in terms of the outcome, and will ensure that the Plan is sufficiently worded to ensure robust assessment of noise from Temporary Activities can occur with as much confusion removed as possible under the current format. Overall, the proposed amendment will provide for greater clarity than wording proposed within the notified Plan Change.

Recommendation on Submissions

- J Vincent (D1.4) – Accept
- B Woods (D2.2) - Accept
- E Prebble (D3.2) – Accept
- H Prebble (D4.2) – Accept
- R Steel (D5.7-5.8) – Accept
- A Bowkett (D6.1) – Accept
- NZTA (D7.1) – Accept

Recommended Amendments

Township Volume

Noise Limit: means a L_{10} , L_{eq} or L_{max} sound level in A-frequency-weighted decibels that is not to be exceeded during a measurement sample time in a specific time-frame. See NZS 6801:1999 *Acoustics – Measurement of Environmental Sound* ~~and section 6.3 of NZS 6802:2008 *Acoustics – Environmental Noise*~~ and the 'Noise Measurement and Assessment' section within Part C - Introduction to Rules.

Rural Volume

Noise Limit: means a L_{10} , L_{eq} or L_{max} sound level in A-frequency-weighted decibels that is not to be exceeded during a measurement sample time in a specific time-frame. See NZS 6801:1999 *Acoustics – Measurement of Environmental Sound* ~~and section 6.3 of NZS 6802:2008 *Acoustics – Environmental Noise*~~ and the 'Noise Measurement and Assessment' section within Part C - Introduction to Rules.

Traffic Management

- 7.16 It is proposed to introduce a new requirement for Temporary Activities where they breach the permitted traffic generation standards for permanent activities to submit a temporary Traffic Management Plan (TMP) for approval in advance of the temporary activity being undertaken on private property.
- 7.17 This change is proposed as the Plan does not presently provide a specific limit or rule trigger with regard to traffic associated with Temporary Activities. Consequently, traffic generation levels are effectively unlimited for Temporary Activities in all zones at present meaning that in the event that it is not undertaken, there is no recourse through the Plan for Council to control adverse traffic effects generated from a private property. The use of a permitted TMP rule is also to reduce the need to obtain a resource consent which in effect would likely involve the preparation and consideration of a TMP in any case.
- 7.18 Of the submissions received on this proposed change, most were in unconditional support. Submitter Vincent commented that further elaboration on what would be deemed to be adequate traffic management may be required. Submitter Steel commented that from their experience with regard to the Horror Maze activity which established under the Temporary Activity provisions over the summer of 2012/13, that this approach would help to improve road safety and potentially mitigate concerns on motorist behaviour and traffic movements. NZTA also submitted their support with regard to the proposed traffic management changes noting that the proposed introduction of a 'net' trigger based on the permitted traffic generation standards for permanent activities will ensure good traffic outcomes for temporary activities.
- 7.19 Discussions with Council's Traffic Engineer, Andrew Mazey, considered that any approval would not be a one size fits all approach and would be tailored to the scale and intensity expected of the proposed activity. Therefore, for smaller activities or those which are not expected to generate high volumes of traffic or safety issues, a short TMP would be sufficient. For larger activities, a more comprehensive TMP would be expected. The proposed reference to the Code of Practice for Temporary Traffic Management (CoPTTM) through a proposed note beneath the rule will also provide suitable guidance for persons looking to prepare or review a TMP to ensure it is undertaken to a suitable standard.
- 7.20 There was one submitter in opposition (Woods) who considered the requirement to prepare a TMP a 'nonsense' as some activities will take place at such short notice that there will not be sufficient time to prepare one and that traffic numbers for an activity will not be known and therefore inaccurate numbers will be used in TMPs.
- 7.21 Although temporary activities are short term, most require a reasonable level of preparation and therefore I do not consider that they would be undertaken at such short notice as suggested by the submitter so as to not have sufficient time to arrange for a TMP to be prepared and approved. Many temporary activities e.g. sports races/events, carnivals, markets, require advertising and substantial preparation to ensure the public are well informed about them to allow them to attend and participate. In addition, many are regular such as markets and annual events in which case they are planned well in advance and for which anticipated numbers of people and traffic can be estimated to a greater degree of accuracy. For these reasons, I consider that there would be very few activities that would occur at such short notice that they would not be in a position to comply with the TMP rule timeframes.
- 7.22 I have however, given further consideration to the concerns around timing of the proposed notice period for preparing a TMP i.e. to be approved at least 10 days prior to the activity being undertaken. This period was intended to ensure that both the applicant and council are agreed on the TMP sufficiently in advance of the activity taking place. There are few other Plans that have a specialist TMP rule with most either exempting the requirement to comply with the traffic generation rules altogether or requiring resource consent should the permanent activity traffic generation standards be breached.
- 7.23 In order to provide greater certainty around the ability for both the applicant to prepare and submit a TMP and for Council to consider and approve one in a timely manner, I consider that it would be appropriate to adjust this period slightly to make this timeframe less onerous on parties undertaking temporary activities.

- 7.24 I have discussed the potential timing needs further with Council's traffic engineer Andrew Mazey who considers that a 5 day period to enable a TMP to be received and considered for approval would still be sufficient. I also note that this time period is utilised for the requirement to provide a TMP under Council's Traffic and Parking Bylaw 2009 which applies to activities that are undertaken within Selwyn District Roads e.g. races, road closures.
- 7.25 I do not consider that these provisions would be unduly onerous and note that many activities, particularly larger activities already require or use a TMP either formally or informally, therefore the requirement to submit this to Council is not anticipated to be onerous or deter activities from occurring, particularly activities that occur on repeated occasions which can adopt or amend previous TMPs.

Recommendation on Submissions and Further Submissions

- J Vincent (D1.4) - Accept in part
- B Woods (D2.2) Accept in part (FS01, FS02, FS03)- Reject
- E Prebble (D3.2) – Accept
- H Prebble (D4.2) – Accept
- R Steel (D5.7-5.8) – Accept
- A Bowkett (D6.1) – Accept
- NZTA (D7.1) – Accept

Recommended Amendments

Amend Township Volume Rule 10.9.1.2 as follows:

10.9.1.2 Temporary Activities

- (a) The activity does not last for a period longer than 15 hours in any one time ~~and occurs no more than once every 24 hours and occurs on no more than 12 times in any 12 month period,~~ or
- (b) The activity does not last longer than a total of 7 consecutive days in any one time and occurs on no more than 3 times in any 12 month period.
- (c) Where any temporary activity exceeds the maximum number of vehicle movements permitted under 10.9.1.1(c) and a Traffic Management Plan is submitted ~~and approved by Council at least 10 days prior to the activity commencing to Council at least 5 working days prior to the activity commencing and approved by Council prior to the activity commencing.~~

Amend Rule Volume Rule 9.13.2 as follows:

- 9.13.2 Any temporary activity that exceeds the maximum number of vehicle movements permitted under 9.13.1 is permitted provided a Traffic Management Plan is submitted ~~and approved by Council at least 10 days prior to the activity commencing to Council at least 5 working days prior to the activity commencing and approved by Council prior to the activity commencing.~~

New Policy for Temporary Activities

- 7.26 It is proposed to insert a new policy into both volumes of the Plan to provide greater direction and certainty of what is anticipated for Temporary Activities, particularly in cases where resource consent is sought for temporary activities that breach the permitted standards of the Plan. The policy is proposed to be provided with associated 'Explanations and Reasons' to provide further discussion around the intent of the policy.
- 7.27 The current Plan objectives and policies of relevance are not specific with regard to Temporary Activities and focus more broadly on effects such as noise and reverse sensitivity.
- 7.28 There are no submissions specifically in support or opposition of the proposed policy. However, there are 5 submissions that broadly support the Plan Change in its entirety and one which effectively opposes the Plan Change.
- 7.29 The key issues of the submitters are considered to be covered under the definition, noise and traffic discussions above. I do note however, that the thrust of the Woods submission in opposition is to avoid restricting the type of activities in any way and to focus solely on the effects generated by an activity.
- 7.30 Earlier discussions on the listing of permitted temporary activities have provided rationale around the type of activities proposed and those intended to be excluded through the Plan definition of a temporary activity. The introduction of a specific policy is consistent with a number of other District Plans e.g. Ashburton, Kaikoura and Mackenzie Districts, and intended to provide overarching context and direction as to what type of temporary activities are anticipated e.g. primarily community based and non commercial activities, within the living and rural zones.
- 7.31 It will also provide improved direction and assistance in the event that an activity is proposed that does not comply with the permitted standards. This will aid the resource consent process, particularly for largely anticipated temporary activities that may not meet all permitted standards but generate an acceptable level of effects e.g. a one off concert where the noise may not comply but if managed appropriately the short term effects would be acceptable due to the wider community benefits. Therefore, in the event that additional resource consents may be generated by the proposed changes as suggested by submitter Woods, the introduction of this Policy is considered to aid the consent process to ensure that suitable activities are not subject to an unduly onerous process.

Recommendation on Submissions

- J Vincent (D1.4) - Accept
- B Woods (D2.2) (FS01, FS02, FS03) - Reject
- E Prebble (D3.2) – Accept
- H Prebble (D4.2) – Accept
- R Steel (D5.7-5.8) – Accept
- A Bowkett (D6.1) – Accept
- NZTA (D7.1) – Accept

Recommended Amendments

None

Seasonal Rural Activity Exemption from the Traffic Generation Rule

- 7.32 The proposed amendment is a consequence of the changes proposed to the definition of Temporary Activity within the Rural volume. Under the Rural volume definition of Temporary Activities, seasonal activities such as crop harvesting are required to comply with the permitted traffic generation standards of the Plan provided they also breach the number of individual (12) or consecutive (7) days permitted for Temporary Activities.
- 7.33 It is likely that this is an intended consequence to control the concentration of traffic that could occur for some seasonal rural activities e.g. harvesting or fruit picking over summer whereby there may be inflated numbers of staff vehicles utilising an access and/or parking on the rural roadside. Ironically, the traffic generation rule currently applies to seasonal rural activities as discussed above but does not apply to any Temporary Activities as defined by the Plan, the latter of which is considered more likely to generate significant traffic related effects.
- 7.34 It is therefore proposed to remove this clause from the Temporary Activity definition and insert a note similar to that used for the noise provisions under the respective rural traffic generation rule where it will confirm the ability to exempt rural production activities of a limited duration from the traffic generation rule in the same way as it is dealt with under the noise provisions.
- 7.35 There are no submissions that specifically support or discuss the proposed amendment, although it is again noted that the Woods submission does oppose the Plan Change in its entirety. However, this proposed change is considered a technical amendment to improve Plan administration and consistency and does not alter the effect or function of the provisions that relate to seasonal rural activities. I therefore do not consider that any further discussion or amendment to this proposed change is required.

Recommendation on Submissions

- J Vincent (D1.4) - Accept
- B Woods (D2.2) - Reject
- E Prebble (D3.2) – Accept
- H Prebble (D4.2) – Accept
- R Steel (D5.7-5.8) – Accept
- A Bowkett (D6.1) – Accept
- NZTA (D7.1) – Accept

Recommended Amendments

None

Temporary Electoral Signage

- 7.36 It is proposed to exempt any Temporary Electoral Sign that meets the requirements of the Electoral (Advertisements of a Specified Kind) Regulations 2005 from compliance with the District Plan rules. Other temporary signs will continue to be controlled by the current Plan provisions.
- 7.37 This change is proposed due to a tension between the District Plan rules relating to signage and the Electoral (Advertisements of a Specified Kind) Regulations 2005 with the latter overriding District Plan rules relating to size of signs, materials of signs, shape and colour of signs, size of lettering and line spacing. There are also inconsistencies in the treatment of signs between the Plan and the regulations. For example, the Plan presently permits a maximum signage area of up to 1m² (living zones) for temporary signage whereas under the Regulations, there is a limit of 3m² for any proposed electoral sign in any location.

- 7.38 There were no submissions in opposition to the proposed change to the Temporary Electoral Signage provisions. One submission which supported in part this change (Vincent) sought that the regulations to manage temporary signage be clearly defined and enforced as they can be in place for extended periods of time. Temporary Signage as pointed out by the further submission of Woods is not proposed to be amended by this Plan Change and therefore is not directly relevant.
- 7.39 Consideration has been given as to whether temporary electoral signage could be dealt with better through the use of a specific definition within the Plan. However, this is not considered necessary due to the possibility of a temporary electoral sign that does not meet all of the provisions of the Electoral Regulations 2005 still requiring resource consent as a 'Temporary sign' as defined within the Plan. A situation like this could occur in an instance such as a sign being proposed that exceeded 3m². In this case, it would default to the temporary signage provisions Plan. Consequently, it is not considered appropriate to provide a separate definition for Temporary Electoral Signage as this could derail the link between the current definition of Temporary Signage within the Plan and the rule provisions.
- 7.40 Should a temporary election sign that does not meet the provisions of the Electoral Regulations 2005 be proposed and the default provisions of the District Plan are not complied with, it is expected that potential enforcement action by Council would be justified to ensure that either resource consent is obtained or the sign removed or altered to a compliant state.
- 7.41 Overall, I consider that the provisions regarding temporary electoral signage need to be clearly identified and consider that the proposed provisions enable this to be achieved.

Recommendation on Submissions

- J Vincent (D1.4) - reject
- B Wood (FS03) - accept

Recommended Amendments

None

8. STATUTORY REVIEW

Statutory principles

- 8.1 S74 of the RMA sets out the matters that must be considered in preparing a change to the Plan. Amongst other things, s74 requires the local authority to:
- comply with its functions under s31;
 - consider alternatives, benefits and costs under and whether the proposed changes are the most appropriate way to achieve the objectives of the Plan (s32);
 - ensure the necessary matters are stated in the contents of the district plan under s75;
 - have regard to the overall purpose and principles set out in Part II, including the Matters of National Importance (s6), the Other Matters (s7) that require particular regard to be had in achieving the purpose, and the Treaty of Waitangi (s8).
- 8.2 It is noted that in a general sense, the purpose of the 'Act' is reflected in the current District Plan objectives (none of which are proposed to be altered) and policies as they have been through the statutory tests and are now unchallenged.

Functions of territorial authorities - s31 assessment

- 8.3 Council's functions under s31 include the following:

“(a) 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”...

(d) the control of the emission or noise and the mitigation of the effects of noise

- 8.4 The assessment and conclusions of this Plan Change and s42A report establish that the PC 42 framework incorporates appropriate objectives, policies and methods to ensure any future temporary activity land uses are appropriate and achieve integrated management i.e. the compatibility of the activity with its environmental surrounds. It will also provide increased clarity to assist with the control of noise from such activities.

Section 32 Assessment

- 8.5 The s32 analysis is a process whereby initial investigations, followed by the consideration of submissions at a hearing, all contribute to Council's analysis of the costs and benefits of the amended provisions in its final decision making.
- 8.6 The Council also has a duty under s32 of the RMA to consider the extent to whether the proposed changes are the most appropriate way to achieve the objectives of the Plan.
- 8.7 PC 42 provided a detailed s32 assessment. Following submissions and further submissions, some minor amendments are now recommended. However, the Plan Change as recommended is largely unchanged from that notified with the changes proposed as follows:
- Cross referencing the noise limit definition to the 'Measurement and Assessment of Sound' section within Part C 'Introduction to Rules'; and
 - Amending the time period for a Traffic Management Plan to be submitted and approved from 10 days (as notified) to 5 days;
- 8.8 These changes are considered to provide improved clarity in terms of the implementation of the Plan noise provisions and reduced time constraints upon temporary activity operators with regard to TMP preparation. I therefore consider that these changes are the most appropriate method to achieve the purpose of the Act when considered against the notified version.

Matters to be considered and contents of District Plans - s74 and s75 assessment

- 8.9 In considering the contents of District Plans, Council's must have regard to any proposed regional policy statement (s74 (2) (a)) and any management plan or strategy prepared under other Acts, including the Local Government Act (s74 (2)(b)(i)). Council's must also take into account any relevant planning document recognised by an lwi authority and lodged with the Council (s74 (2A) (a)) and to give effect to any operative regional policy statement (s75 (3) (c)).
- 8.10 The following specific assessments are provided to fulfil the above requirements.

Land Use Recovery Plan (LURP) and Operative Regional Policy Statement (RPS)

- 8.11 As detailed within PC42 as notified, the operative (as of 6 December 2013) Land Use Recovery Plan has directed a number of new actions to broadly assist recovery and also incorporated new provisions be inserted into the RPS. Of most relevance is Policy 6.3.1 (4) which seeks to ensure new activities only occur within existing urban areas or identified greenfield priority areas unless they are otherwise expressly provided for in the CRPS. At face value this could mean that a number of temporary activities could only be undertaken within an 'urban area'. However, when viewing the definitions of urban and rural activities, these refer to "activities of a size, function, intensity or character" typical of those in urban and rural areas. It is considered that temporary activities by their very nature are not encompassed by these definitions particularly as their function and character is quite different from typical rural and urban activities e.g. an A and P show is not a typical rural or urban activity but would be considered more appropriately located within a rural location.
- 8.12 Other than the above there is little within the RPS that relates specifically to issues regarding Temporary Activities and Electoral Signage, therefore, it is considered that there is sufficient scope for Temporary Activities to continue to occur without being inconsistent with the direction of the draft LURP and provisions of the RPS.

Other Planning Documents

- 8.13 The proposed changes will not result in inconsistencies with any National Policy Statements, National Environmental Standards, Coastal Policy Statements, Water Conservations Orders, Regional Plans or the Recovery Strategy for Greater Christchurch.

Part II RMA Matters

- 8.14 The RMA requires the Council to manage the use and development of physical resources in a way, or at a rate, that will enable the community to provide for its social, economic and cultural wellbeing while avoiding, remedying, or mitigating any adverse effects of activities on the environment (s5).
- 8.15 It is my opinion that PC 42 in its amended form (see **Attachment B**) better achieves the purpose and principles of the RMA than the current District Plan provisions. I base this conclusion on the fact that the proposed provisions will still provide for most temporary activities to readily occur as permitted activities, particularly those associated with community and non commercial activities. The changes will also provide an appropriate level of control, in the absence of any such controls at present, to enable any potential adverse effects to be avoided remedied or mitigated.
- 8.16 There are no "matters of national importance" listed in s6 that are considered to be of specific relevance to PC 42.
- 8.17 Council must "have regard to" the following "other matters" (s7) when considering the appropriateness of PC 42:
- (b) The efficient use and development of natural and physical resources
 - (c) The maintenance and enhancement of amenity values
 - (f) Maintenance and enhancement of the quality of the environment

- 8.18 In my view, the proposed provisions will achieve a number of positive environmental, social and economic benefits that will enhance the wider District. These include the ability for temporary activities and events to continue to occur with minimal regulation or hindrance allowing for positive community benefits to be realised. This will allow for various sites to be utilised efficiently for the purpose of temporary activities. It will also provide suitable levels of control around important aspects such as timing, frequency, noise and traffic to protect surrounding landowners, occupiers and communities from the adverse effects that can be generated from these activities. This will serve to maintain and in some cases enhance amenity values and the quality of the environment through increased clarity and control around these activities. It is for these reasons that I believe PC 42 is able to satisfy the relevant Other Matters detailed in s7 of the RMA.
- 8.19 There are no Treaty of Waitangi issues that are considered to be applicable to this Plan Change pursuant to section 8 of the RMA.
- 8.20 Overall, it is my opinion that PC 42 in its amended form is able to better achieve the purpose of the RMA than the current District Plan provisions.

9. RECOMMENDATION

- 9.1 It is my recommendation that proposed PC 42 be accepted, subject to the modifications set out in **Attachment B**.

ATTACHMENT A

SUMMARY OF SUBMISSIONS/FURTHER SUBMISSIONS AND REPORTING OFFICER RECOMMENDATIONS ON SUBMISSIONS

Sub No.	Submitter	Submitter Details	Wishes to be Heard	Request	Decision No	Summary of Submissions	Recommendation
1	J Vincent	321 Marshs Road, RD 6, Christchurch 7676 vjordan@industryit.com	Yes	Support	D1.1	Limiting a repetitive temporary activity to once in any one month will ensure the community is not regularly impacted by the temporary activity.	Accept
						<i>Opposed by FS03 B Woods</i> <i>Opposed to limiting temporary activities to one per month</i>	Reject
				Support in part	D1.2	The proposed new parking/ traffic generation threshold is required due to the significant increase in traffic resulting in accidents and fatalities within Selwyn District. Temporary activities may generate high volumes of traffic that will have an adverse effect on the area. Further elaboration may be required to clarify what is deemed to be "adequate traffic management"?	Accept
						<i>Opposed by FS03 B Woods</i> <i>No evidence to suggest temporary activities are responsible for increase in traffic accidents.</i>	Reject
					D1.3	The type and duration of noise generated by a temporary activity can be extremely disrupting and distressing to the residents in the immediate and surrounding area, the effects of which need to be managed through defining noise types, levels and durations. The propose noise related definitions need to be clearly defined by this proposed change.	Accept
					D1.4	The regulations to manage temporary signage should be clearly defined and enforced as it can be in place for extended periods of time.	Reject
2	B Woods	5509 West Coast Road, RD1, Springfield 7681 billwoods@slingshot.co.nz	Yes	Support in part	D2.1	The decision should be limited to adding an exemption to the election signs rule and amending the noise levels within the District Plan.	Reject
				Oppose	D2.2	The remainder of the proposed changes should be discarded in their entirety. Existing wording to address the effects arising from activities like the Horror Maze should be altered or included in the Plan to more succinctly define an activity that is not permitted, as opposed to listing the permitted activities and regulating the number of times it occurs per month. The proposed approach will not be successful as it will generate the need for resource consents to be obtained where they are not needed currently. There is no history of interruption of life styles with the present Temporary Activity rules.	Accept in Part
3	E Prebble	322 Marshs Road, RD 6, Christchurch 7676 prebbles@actrix.co.nz	No	Support	D3.1	The current permitted activity rules do not allow Council sufficient grounds to intervene when a temporary activity has a detrimental effect on the surrounding community and its environment. The Horror Maze activity was considered a commercial activity that generated adverse noise effects through excessive loud screaming, shouting and yelling from 9pm to midnight, with trespassing and vandalism occurring. The existing rules are completely ineffective.	Accept

						<p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Reject
					D3.2	<p>Fully support all the proposed changes contained within Plan Change 42.</p> <p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Accept
						<p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Reject
4	H Prebble	322 Marshs Road, RD 6, Christchurch 7676 prebbles@actrix.co.nz	No	Support	D4.1	<p>The current permitted activity rules do not allow Council sufficient grounds to intervene when a temporary activity has a detrimental effect on the surrounding community and its environment. The Horror Maze activity was considered a commercial activity that generated adverse noise effects through excessive loud screaming, shouting and yelling from 9pm to midnight, with trespassing and vandalism occurring. The existing rules are completely ineffective.</p> <p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Reject
					D4.2	<p>Fully support all the proposed changes contained within Plan Change 42.</p> <p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Accept
						<p><i>Opposed by FS01 B Woods</i> <i>Submission is not related to permitted temporary activities – only the effects of one particular activity that affected them.</i> <i>Controlling the negative effects of a permitted temporary activity by Council will be just as unsuccessful if it were a consented activity for one day. Will not guarantee a solution to the problem.</i></p>	Reject
5	R Steel	82 Blakes Road, Prebbleton 7604 robsteel@hotmail.com	Yes	Support	D5.1	Approve the definition of "Temporary Activity" as proposed in the Rural Volume.	Accept
					D5.2	Approve the definition of "Temporary Activity" as proposed in the Township Volume.	Accept
					D5.3	Approve the insertion of new Policy B3.4.21 and the accompanying explanation and reasons in the Rural Volume.	Accept
					D5.4	Approve the insertion of new Policy B3.4.40 and the accompanying explanation and reasons in the Township Volume.	Accept
					D5.5	Approve the Anticipated Environmental Results for B3.4 Quality of the Environment in the Rural Volume.	Accept
					D5.6	Approve the Anticipated Environmental Results for B3.4 Quality of the Environment in the Township Volume.	Accept
					D5.7	Approve Rule 9.13 Activities and Vehicle Movements in the Rural Volume.	Accept
					D5.8	Approve Rule 10.9 Activities and Scale of Activities in the Township Volume.	Accept
					D5.9	Approve the amended noise definitions in the Rural Volume.	Accept

					D5.10	Approve the amended noise definitions in the Township Volume.	Accept
					D5.11	Approve the minor amendments to the Temporary Activity Exemptions.	Accept
6	A Bowkett	175 Aberdeen Road, Prebbleton 7604 moiraroche@xtra.co.nz	No	Support	D6.1	Fully support all the proposed changes.	Accept
						<i>Opposed by FS02 B Woods Opposed to excluding temporary commercial activities as permitted, the number of days to one per month, and the traffic management plan provisions.</i>	Reject
7	NZTA	PO Box 1479, Christchurch 8140	Yes	Support	D7.1	The Plan has no limit or rule trigger on traffic associated with Temporary Activities. Support the rule proposed to manage traffic associated with construction, and other listed activities. The proposed Rule provides an appropriate 'net' to ensure good traffic outcomes for temporary activities are achieved.	Accept

ATTACHMENT B
RECOMMENDED PLAN AMENDMENTS

