

Proposed Plan Change 53 – Temporary Activity Standards & Pukekohe Park Precinct

to the Auckland Unitary Plan (Operative in
part)

**SECTION 32
EVALUATION REPORT
Temporary Activities**



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Executive Summary

Objectives

The objectives of this plan change evaluation are:

1. To ensure the Unitary Plan's management of temporary activities (in particular – events and filming) strikes an appropriate balance between enabling temporary activities to occur whilst avoiding or mitigating adverse environmental effects.
2. To ensure the tools used to manage temporary activities result in an efficient process and avoid any unnecessary duplication between for example the Event Permit requirements, Film Auckland Protocols and the methods in the Unitary Plan.
3. To Investigate the most appropriate method to manage temporary activities on sites of Significance to Mana Whenua (i.e. Unitary Plan v resource consent vs event permit)
4. To address a gap in the coastal temporary activity provisions.
5. To enable appropriate responses to temporary emergency events.

Unitary Plan's Approach to Temporary Activities

Temporary activities are defined in the Unitary Plan as:

An activity that:

- *is outside the normal expected use of a site (or area within the coastal marine area);*

And

- *has a start and end date and time.*

The definition includes a wide range of activities and events including filming activities at temporary locations and activities accessory to that filming, activities accessory to a building or construction project, (such as scaffolding, fencing, offices or storage sheds), concerts, parades, and sporting events.

Under the Unitary Plan, temporary activities are generally permitted activities subject to compliance with the relevant standards relating to:

- number of consecutive days the event can occur;
- the number of events;
- noise;
- traffic (in rural and future urban areas only);
- the temporary storage or stacking of goods;
- lighting of fireworks; and
- temporary military training activities.

The Event Permit

There are also processes and methods operating outside of the Unitary Plan to manage events occurring in public places. All events on public land require permission from Council under the Trading & Events in Public Places (TEPP) Bylaw 2015 through an event permit process.

Under the TEPP Bylaw an 'event' means an organised temporary activity that takes place on one or more days that is outside the normal expected use of a site and includes an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi venue sports event of a significance scale, fun run, marathon, duathlon or triathlon.

Rationale for the Plan Change Evaluation

The objectives and policies associated with temporary activities still remain valid. The benefits of temporary activities – social, cultural, economic, quality of life, are still recognised. As is the duty to avoid adverse effects – noise, traffic, sites of significance to mana whenua.

This plan change evaluation focuses on the appropriateness of some of the Unitary Plan standards and whether the Unitary Plan, resource consent processes, bylaw or other mechanisms are more appropriate.

Auckland Council's Event Facilitation, Arts Community and Events team (ATEED) have advised that the new Unitary Plan Temporary Activity provisions (operative in November 2016) are triggering the need for a number of resource consents. This is doubling up in some areas, in their opinion, on the event permit process. They have asked if the standards in particular can be reviewed. Areas of ATEED's concern are:

1. Pack-in and pack-out duration and associated noise levels
2. Duration of a temporary activity
3. Noise limits
4. Traffic associated with temporary activities (in rural and future urban areas)
5. The definition of Anzac Day
6. Temporary activities on sites and places of significance to Mana Whenua

An analysis of resource consent processing costs for temporary activity consents for 2018 indicate that cost can range from \$4500 - \$10,000 with an average cost of just under \$6000. These figures exclude the cost of putting the application together and advice from experts such as noise, traffic etc.

In addition to the issues raised by ATEED, a gap in the coastal temporary activity provisions and an anomaly in the Temporary Activities Activity Table have been identified by Council staff.

The Auckland Emergency Management Team (part of the Customer and Community Services Department) have raised an issue about the ability to undertake emergency works and the need to apply for retrospective resource consents under the RMA in response to emergency activities or events (such as the Christchurch and Kaikoura earthquakes). They have asked if the temporary activity provisions could be expanded to provide for temporary emergency works.

Plan Change Components

There are four components to this plan change evaluation:

Issue 1 – Temporary Activity Standards (pack in and pack out duration and associated noise levels, duration of temporary activities, traffic management and the definition of Anzac Day in the Pukekohe Park precinct)

Issue 2 – Temporary activities on Sites of Significance to Mana Whenua Overlay

Issue 3 – Coastal Temporary Activities

Issue 4 – Temporary Emergency Works

Options Considered and the Recommended Options

Issue 1 – Temporary Activity Standards

Option 1 – No change/status quo

Option 2 – Amendments to the standards relating to pack in and pack out duration and associated noise levels, the duration of temporary activities, traffic management and the definition of Anzac Day in the Pukekohe Park precinct to provide more flexibility
(Recommended)

Option 3 – Global resource consent

Issue 2 – Sites of Significance to Mana Whenua Overlay

Option 1 – No change/status quo

Option 2 – Enable all temporary activities as a permitted activity on sites of significance to mana whenua but subject to engagement with iwi and approval (if appropriate) through the event permit process

Option 3 – Enable certain temporary activities as permitted activities e.g. those that involve no buildings or structures, food preparation, toilet facilities etc. e.g. capping ceremony (Aotea Square), parades (Queen Street). Remainder require resource consent

Option 4 – “Global” resource consent **(Recommended)**

Option 5 – Rely on existing use rights for certain long held activities (but only if the scale of these activities remains the same or similar)

Issue 3 – Coastal Temporary Activities

Option 1 – No change/status quo

Option 2 – Plan change to adding an additional noise standard in E40 for activities that generate noise but are not noise events **(Recommended)**

Issue 4 – Temporary Emergency Activities

Option 1 – No change/status quo – rely on the provisions of the Resource Management Act 1991

Option 2 – Plan change to specifically provide for temporary emergency activities as a permitted activity, under the temporary activity provisions.

Option 3 – Amendments to the RMA. **(Recommended)**

Scope of the Plan Change Evaluation

Within scope

- Amendments to the temporary activity controls relating to pack in and pack out duration and associated noise levels, the duration of temporary activities, traffic management and the definition of Anzac Day in the Pukekohe Park precinct to provide additional flexibility;
- Temporary activities on Sites and Places of Significance to Mana Whenua;
- A new noise rule for coastal temporary activities; and
- Temporary emergency activities.

Out of scope

- Providing for freedom camping as a permitted activity in the relevant Open Space zones (this will be the subject of a separate evaluation)
- Changes to the Trading and Events in Public Places (TEPP) Bylaw;
- Changes to the Auckland Council's Freedom Camping Bylaw;
- Changes to legislation (although this evaluation could form the basis for part of a wider Auckland Council submission);
- Any "global resource consent" application; and
- Establishing whether existing use rights apply to any event.

Section 1.0 Introduction

This report is prepared as part of the evaluation required by Section 32 of the Resource Management Act 1991 (**'the Act'**) for Proposed Plan Change XX (**PPCXX**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

This Section 32 Report assesses possible changes to the Temporary Activity provisions.

1.1 Section 32 Evaluation

Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
- Whether, having regard to their efficiency and effectiveness through the consideration of other options and with reference to the existing provisions, the policies, rules or other methods are the most appropriate for achieving the objective.

The evaluation must also take into account:

- The benefits and costs of policies, rules, or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

1.2 The Evaluation Approach

This section outlines how the proposed plan change has been evaluated. The rest of this report will follow the evaluation approach described in the table below. In accordance with section 32(6) of the RMA and for the purposes of this report:

- i. the 'proposal' means this component of the Plan Change;
- ii. the 'objectives' means the objectives of the Plan Change – that is:
 1. To ensure the Unitary Plan's management of temporary activities (in particular – events and filming) strikes the right balance between enabling temporary activities to occur whilst avoiding or mitigating adverse environmental effects.
 2. To ensure the tools used to manage temporary activities result in an efficient management process and avoid any unnecessary duplication between for example the Event Permit requirements, Film Auckland protocols and the Unitary Plan.
 3. To Investigate the most appropriate method to manage temporary activities on sites of Significance to Mana Whenua (i.e. Unitary Plan v resource consent v event permit)
 4. To address a gap in the coastal temporary activity provisions.
 5. To enable appropriate responses to temporary emergency events, and
- iii. the 'provisions' means the method(s) used to give effect to the above objectives – in this case the temporary activity standards.

Sections of this report	Evaluation Approach
Section 2: The Issues	This section explains the resource management issue(s) and why there is a need to resolve them.
Section 3: Objectives	This section will outline the purpose of PC53.
Section 4: Background	This section provides background to the resource management issue(s). It includes the development of the Auckland Unitary Plan's temporary activity provisions, key pieces of evidence, the event permit process and Film Auckland Protocol.
Section 5: Statutory Evaluation Under the Resource Management Act 1991	This section evaluates the relevance of PC53 to Part 2 (sections 5-8) and other relevant parts / sections of the RMA.
Section 6: National and Regional Planning Context	This part of the report evaluates the relevance of PC53 against the national and local planning context.
Section 7: Engagement and Consultation	This section outlines the engagement and consultation undertaken in preparing PC53. It also includes a summary of all advice received from iwi authorities (as required by section 32(4)(a) of the RMA) and local boards on PC53.
Section 8: Development of Possible Options	This section identifies the criteria used to select potential options for consideration to address the resource management issue(s) and to achieve the objectives of the plan change. Initial high-level options are identified followed by more specific options for each of the issue(s).
Section 9: Assessment of Options	In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue(s).
Section 10: Recommended Option(s) and Reasons	In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this section examines the extent to which the objectives of the proposal (PC53) are the most appropriate way to achieve the purpose of the RMA. This section outlines the reasons for and scope of PC53.
Section 9: Conclusion	This section concludes that PC53 is the most efficient, effective and appropriate means of addressing the resource management issues identified.

This section 32 evaluation report will continue to be refined and/or added to in response to any consultation feedback provided to the council, any new information received and as the plan change advances through the plan change process (e.g. the hearing report and decision are also part of the section 32 analysis).

Section 2.0 The Issue(s)

2.1 The issue(s)/problem definition

Four issues have been raised by different Council Departments in relation to “temporary activities”.

The issues are:

1. Temporary activity standards in the Auckland Unitary Plan – some of the temporary activity standards are onerous and are triggering the need for costly and time-consuming resource consents (issue raised by ATEED)
2. Temporary activities, (including filming) on Sites of Significance to Mana Whenua and the appropriate management methods (issue raised by ATEED)
3. A gap in the coastal temporary activities and noise from activities that are not “noise events” (issue raised by Plans and Places)
4. Provision for temporary emergency works over and above that provided for under Emergency Works Section of the Resource Management Act (sections 330 – 330B) (issue raised by the Auckland Emergency Management team)

Temporary activities are defined in the Auckland Unitary Plan as “

An activity that:

- *is outside the normal expected use of a site (or area within the coastal marine area);*
- And*
- *has a start and end date and time.*

Includes:

- *filming activities at temporary locations and activities accessory to that filming activity;*
- *activities accessory to a building or construction project, such as scaffolding, fencing, offices or storage sheds;*
- *Council HazMobile collections;*
- *carnivals;*
- *concerts;*
- *fairs;*
- *festivals and events;*
- *public meetings;*
- *parades;*
- *special events;*
- *sporting events;*
- *overflow parking;*
- *temporary military training (land based only);*
- *emergency response training, including live burns carried out by the New Zealand Fire Service; and*
- *structures accessory to temporary activities.*

Excludes:

- *markets;*

- *temporary military training activities within the coastal marine area;*
- *temporary structures within the coastal marine area; and*
- *temporary signs.*

Temporary activities or events on public land require an event permit in addition to any planning requirements *under the Trading & Events in Public Places (TEPP) Bylaw.*

2.2 Background to the Issues

2.2.1 Temporary activity controls in the Auckland Unitary Plan

The Auckland Unitary Plan states that:

Temporary activities contribute to Auckland's vibrancy and to the social, cultural and economic well-being of communities. Temporary activities also enable filming and training activities to be undertaken.

Temporary activities may restrict public access and have adverse effects on amenity values, communities and the natural environment. To manage these effects the Plan contains rules for temporary activities on land and in the coastal marine area, and the particular effects of various activities are managed through bylaws. Events on public land or water must also obtain an event licence or permit under the relevant bylaws. (E40.1)

Temporary activities or events on public land require an event permit in addition to any planning requirements under the Trading & Events in Public Places (TEPP) Bylaw 2015.

Auckland Council's Event Facilitation, Arts Community and Events team have advised that the Unitary Plan's Temporary Activity standards are triggering the need for a number of consents. This is doubling up, in their opinion, on the event permit process. They have asked if the standards in particular can be reviewed. Areas of concern are:

1. Pack-in and pack-out duration and associated noise levels
2. Duration of a temporary activity
3. Noise limits
4. Traffic associated with temporary activities in rural and future urban zones
5. The definition of Anzac Day

The pack in and pack out and noise limits issues have been partly addressed through Plan Change 14: Improving consistency of provisions in Chapter D Overlays, Chapter E Auckland – wide, Chapter J Definitions, Appendix 2 and Appendix 17 of the Auckland Unitary Plan (Operative in part). This plan change excluded the time required to establish and remove all structures and activities associated with noise events and to reinstate the site to its original condition prior to the noise event from the noise standards. It also applied the construction noise standards to pack in and pack out. There is however a note (Note 2) prior to the Temporary Activities "Activity Table" that requires amendment to be consistent with the changes introduced by PC14.

The duration of a temporary activity "noise event" is six hours. ATEED has requested that this be increased to 7-8 hours.

The requirement in rural and future urban zones for a resource consent for events generating more than 500 vehicle movements per day is also of concern to ATEED. ATEED advises that it currently has film productions with up to 500 crew operating in rural and future urban areas.

2.2.2 Temporary activities on Sites of Significance to Mana Whenua

Under the Unitary Plan, Sites and Places of Significance to Mana Whenua are managed by an overlay as described below:

D21. Sites and Places of Significance to Mana Whenua Overlay

D21.1. Background

The Sites and Places of Significance to Mana Whenua Overlay applies to sites and places that have been scheduled and protected for their significance to Mana Whenua. A schedule of the sites and places of significance is provided in Schedule 12 Sites and Places of Significance to Mana Whenua Schedule. Sensitive information regarding the significance of the sites and places to Mana Whenua may be subject to special protocols.

Sites and places of significance to Mana Whenua have tangible and intangible cultural values in association with historic events, occupation and cultural activities. Mana Whenua values are not necessarily associated with archaeology, particularly within the highly modified urban landscape where the tangible values may have been destroyed or significantly modified.

Mana Whenua are aware of many other sites and places that may be equally or more significant, and acknowledge that there may be shared interests over scheduled locations. It is intended to identify further sites and places nominated by Mana Whenua through future plan changes including those identified through other legislation.

Some sites and places of significance to Mana Whenua may also be scheduled as historic heritage. These sites and places are identified in Schedule 14 Historic Heritage Schedule, Statements and Maps.

Temporary activities, including filming are a restricted discretionary activity on any Site of Significance to Mana Whenua.

The matters of discretion for temporary activities are limited to:

- (1) *the effects of the proposal on the values and associations of Mana Whenua with the site or place, including effects on the context of the local history and whakapapa.*
- (2) *the nature, location, design and extent of the proposal.*
- (3) *the purpose and necessity for the works and any alternatives considered.*
- (4) *the provisions of any relevant iwi planning document.*

The assessment criteria are:

- (1) *Policies D21.3(1), D21.3(2) and D21.3(3).*
- (2) *the extent to which the proposal:*

(a) provides for the relationship of the site or place with Mana Whenua in the context of local history and whakapapa, if appropriate, through:

(i) the design and location of proposed structures;

(ii) landscaping and vegetation including removal and replanting; and

(iii) landform and modification.

(c) considers the appropriate location of temporary activities to avoid, remedy or mitigate adverse effects on values and associations of Mana Whenua with the site or place.

2.2.3 Coastal temporary activities and noise

The Plan and Places Department has identified a gap in the coastal temporary activity provisions.

In the noise chapter of the Auckland – wide provisions (E25: Noise and vibration), the coastal interface rule (E25.6.14) states that it does not apply to temporary activities but in the temporary activities (E40), the noise rules relate only to noise events. There was meant to be a noise standard in E40 – Temporary Activities, for temporary activities that generate noise but are not defined as a noise event – they should have to meet the usual noise limits. This “gap” could be addressed by either adding another noise standard in E40 or by amending the exclusion clause in E25 so that it excludes “noise events” but not other temporary activities.

2.2.4 Temporary emergency works

Sections 330 & 330A of the RMA address the undertaking of emergency works in response to an adverse effect on the environment or any sudden event causing or likely to cause loss of life, injury, or serious damage to property.

Section 330 Emergency works and power to take preventive or remedial action, states:

(1) Where—

(a) any public work for which any person has financial responsibility; or

(b) any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or

(c) any project or work or network utility operation for which any network utility operator is approved as a requiring authority under section 167; or

(ca) any service or system that any lifeline utility operates or provides—

is, in the opinion of the person, authority, network utility operator, or lifeline utility, affected by or likely to be affected by—

(d) an adverse effect on the environment which requires immediate preventive measures; or

(e) an adverse effect on the environment which requires immediate remedial measures; or

(f) any sudden event causing or likely to cause loss of life, injury, or serious damage to property—

the provisions of sections 9, 12, 13, 14, and 15 shall not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or

lifeline utility to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(1A) Subsection (1) applies whether or not the adverse effect or sudden event was foreseeable.

(2) Where a local authority or consent authority—

(a) has financial responsibility for any public work; or

(b) has jurisdiction under this Act in respect of any natural and physical resource or area—

which is, in the reasonable opinion of that local authority or consent authority, likely to be affected by any of the conditions described in paragraphs (d) to (f) of subsection (1), the local authority or consent authority by its employees or agents may, without prior notice, enter any place (including a dwellinghouse when accompanied by a constable) and may take such action, or direct the occupier to take such action, as is immediately necessary and sufficient to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(2A) Sections 9, 12, 13, 14, and 15 do not apply to any action taken under subsection (2).

(3) As soon as practicable after entering any place under this section, every person must identify himself or herself and inform the occupier of the place of the entry and the reasons for it.

(4) Nothing in this section shall authorise any person to do anything in relation to an emergency involving a marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.

*(5) In this section and section 330A, **lifeline utility** means a lifeline utility within the meaning of section 4 of the Civil Defence Emergency Management Act 2002 other than a lifeline utility that is a network utility operator to which subsection (1)(c) applies.*

Where emergency works have been taken under S330 of the RMA, section 330A requires retrospective resource consent(s) (where required) to be applied for as follows:

330A Resource consents for emergency works

(1) Where an activity is undertaken under section 330, the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

(2) Where such an activity, but for section 330, contravenes any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, then the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity within 20 working days of the notification under subsection (1).

(3) If the application is made within the time stated in subsection (2), the activity may continue until the application for a resource consent and any appeals have been finally determined.

The Auckland Emergency Management Response and recovery team has asked whether the temporary activity provisions of the Unitary Plan can be amended so that retrospective consent(s) are not required.

The above issues involve striking an appropriate balance between enabling temporary activities to occur whilst appropriately managing adverse environment effects.

In addition, the issues involve determining what is the appropriate method of management & control – Unitary Plan provisions, resource consent process, existing use rights (for long held events) or event permit or a combination of some or all of these methods.

2.3 The scale and significance of these issues

2.3.1 Temporary activities in the Auckland Unitary Plan

The Auckland Unitary Plan provisions became operative in part on 15 November 2016.

ATEED advise there are approximately 1600 – 1800 events annually. Not all these require an event permit.

In 2017 there were 1379 event permits issued while in 2018 there were 1438 event permits. (Note: these figures exclude events permitted by ATEED and RFA and in some cases, one permit may include multiple events.

According to resource consent data, 18 events required a resource consent in 2018 and 14 events in 2019. These figures do not show those events that did not take place due to applicants being dissuaded from applying having reviewed the resource consent requirements.

An analysis of resource consent processing cost for temporary activity consents for 2018 indicate that cost can range from \$4500 - \$10,000 with an average cost of just under \$6000. These figures exclude the cost of putting the application together and advice from experts such as noise, traffic etc.



2.3.2 Temporary activities on Sites and Places of Significance to Mana Whenua

There are currently 75 sites and places of significance to Mana Whenua. Proposed Plan Change 22 (currently going through the plan change process) seeks to add an additional 30 sites and places (initially this was 31 sites but one site has been withdrawn from the Plan

Change). All temporary activities are a restricted discretionary activity on sites and places of significance to Mana Whenua.

Sites and places of significance to Mana Whenua include Victoria Park, Albert Park and portions of Tamaki Drive and Queen Street – these are all popular locations for events and temporary activities.

These sites and places are extremely important to Mana Whenua. Often a site or place is of significance to more than one iwi as a result of overlapping rohe. The sites and places may have different values to different iwi. In addition, there are potentially different effects associated with different temporary activities e.g. a graduation parade down Queen Street v filming on a maunga.

Only a small number of sites have been identified. There is ongoing work to assess and add to the sites and places of significance to Mana Whenua.



The Trading and Events in Public Places Bylaw (2015) does not contain any requirement to consult with iwi, nor does the “criteria” for deciding on applications (section 10) specifically refer to effects on sites and places of significance to Mana Whenua. It does refer more generally to the “impacts on the surrounding environment”.

ATEED advise that film permits typically take 3-5 working days to obtain from Screen Auckland. Obtaining a resource consent for filming purposes is not possible within this timeframe and would have an adverse effect on the industry.

2.3.3 Coastal temporary activities and noise

Many temporary activities occur in the coastal marine area. For example large scale swimming events, triathlons, waka ama. Many of these are not defined as “noise events”.

A noise event is defined in the Auckland Unitary Plan as: “An event that exceeds the general noise controls for a site or area within the coastal marine area (CMA) either in level or duration”.

It is appropriate that temporary activities in the CMA do have a noise control at the coastal interface. This will assist in managing the effects of activities of temporary activities on amenity values.

2.3.4 Temporary emergency works

Emergency works typically are required in response to events that have a potential effect of low probability (e.g. a natural disaster) which has a high potential impact.

Natural hazards

- frequently, such as flooding, coastal erosion (including the effects of sea-level rise), freshwater erosion and land instability; and.
- less frequently, such as wildfires, volcanic activity, tsunamis, earthquakes and meteorological hazards such as cyclones, tornadoes and drought

Recent examples in the Auckland region include tornadoes (1991, 2011, 2012) and flooding.



(Flooding in the Auckland suburb of Kohimarama – Jan 2018)

On the National scale – Christchurch earthquakes (2011), Kaikoura earthquake (2016), Waimea valley wildfire (2019) southern South Island flooding (2020) are examples of natural events where an emergency response has been required.

Auckland Council manages natural hazards by:

- identifying hazard zones on planning maps
- asking for site evaluations and engineering work to assess and reduce risk in areas of identified land instability or areas prone to flooding by stormwater or sea
- controlling activities in areas likely to experience these hazards
- limiting or prohibiting structures in areas of known risk
- requiring more intensive engineering design where necessary.

The management response for specific natural hazards is highly dependent on the nature, location and effects of the particular hazard, and the community in which the hazard is located.

Some risks from events with low probability but high potential impact (e.g. volcanic activity, tsunamis and earthquakes) cannot be addressed through land use planning and may be

better addressed through measures put in place by emergency management groups such as Civil Defence and Emergency Management.

These measures include education, warning systems and emergency preparedness.

As a result of climate change there is likely to be a greater frequency and intensity of climatic events.

Section 3.0 Objective(s)

The Auckland Unitary Plan objectives for temporary activities are:

E40. Temporary activities

E40.2. Objectives [rcp/dp]

- (1) Temporary activities and events contribute to a vibrant city and enhance the social, environmental, economic and cultural well-being of communities.*
- (2) Temporary activities are located and managed to mitigate adverse effects on amenity values, communities and the natural environment.*
- (3) Temporary activities are managed to minimise any adverse effects on the use and enjoyment of open space.*
- (4) Temporary activities involving large numbers of people predominantly occur in the Business – City Centre Zone, the Business – Metropolitan Centre Zone and the Auckland Domain.*
- (5) Temporary activities for training purposes are undertaken in appropriate locations so that amenity values are maintained and any adverse effects are avoided, remedied or mitigated.*

The Auckland Unitary plan objectives for Sites of Significance to Mana Whenua are:

D21. Sites and Places of Significance to Mana Whenua Overlay

D21.2. Objective [rcp/dp]

- (1) The tangible and intangible values of scheduled sites and places of significance to Mana Whenua are protected and enhanced.*
- (2) Scheduled sites and places of significance to Mana Whenua are protected from inappropriate subdivision, use and development, including inappropriate modification, demolition or destruction.*

This section 32 report involves analysing the most appropriate method(s) to give effect to the above Unitary Plan objectives, having regard to the requirements of the RMA and the National and Regional Planning context (i.e. National Policy Statements, other Acts, Maori Plan 2017, Auckland Plan 2018, Auckland Unitary Plan 2016).

The objectives of this evaluation are therefore to:

1. To ensure the Unitary Plan's management of temporary activities (in particular – events and filming) strikes an appropriate balance between enabling temporary activities to occur whilst avoiding or mitigating adverse environmental effects.

2. To ensure the tools used to manage temporary activities result in an efficient process and avoid any unnecessary duplication between for example the Event Permit requirements, Film Auckland Protocols and the methods in the Unitary Plan.
3. To Investigate the most appropriate method to manage temporary activities on sites of Significance to Mana Whenua (i.e. Unitary Plan v resource consent vs event permit)
4. To address a gap in the coastal temporary activity provisions.
5. To enable appropriate responses to temporary emergency events.

Section 4.0 Background

4.1 The Auckland Unitary Plan

The Unitary Plan became operative in part ¹on 15 November 2016.

The temporary activities provisions sit under the 'Auckland Wide: General' section of the Unitary Plan in Section E40, and apply region wide across all zones. Overlays and precincts take precedence over the Auckland – wide provisions, in accordance with Rule G.2.1 (unless otherwise stated), while other Auckland-wide and zone provisions are intended to apply alongside these provisions.

The objectives and policies for temporary activities relate to providing for a wide range of temporary activities, avoiding adverse effects, disturbance to public open space qualities, appropriate locations and military training activities.

4.1.1 The Proposed Auckland Unitary Plan (PAUP)

A total of 59 submitters made 110 submission points on the temporary activity's provisions and the associated definition.

The submissions raised matters under the following broad themes:

- a) Interaction with other provisions
- b) Duration and frequency of temporary activities
- c) Temporary activities on private land
- d) Military training activities
- e) Temporary activities definition
- f) Other amendments.

The key recommendations/changes made by the Independent Hearings Panel for changes to the proposed Temporary activities provisions were:

- i. The objectives and policies as amended are appropriate for the purpose of enabling temporary activities Auckland-wide.
- ii. Clarification of the relationship between the proposed Auckland Unitary Plan provisions and bylaws dealing with trading and events in public places.
- iii. Endorsement of the Council's policy shift providing for temporary activities on private land on the same basis as similar activities in public places.

¹ There were 108 appeals to either the High Court or Environment Court at this point in time.

iv. Amendments to the activity table and standards to better enable events, filming and other temporary activities in public places and on private land. This includes deletion of the rule setting trip-generation thresholds for filming in residential zones inserted at mediation.

v. Amendments to better enable temporary military training activities in recognition of the importance of defence to public safety.

vi. Amendments to improve the relationship between these provisions and the management of the effects of temporary activities in the coastal marine area.

The Council accepted the recommendations of the Independent Hearings Panel and issued its decision. There were no appeals by submitters in respect of the Council's decisions on the temporary activity provisions.

4.2 Auckland Unitary Plan – Evidence on Sites of Significance to Mana Whenua

4.2.1 Chole Trenouth's Evidence (on behalf of Auckland Council)

The key points in the relevant evidence on the topic of temporary activities and Sites and Places of Significance to Mana Whenua is:

- *Only 61 SSMW are identified in the PAUP reflecting 46 legacy sites and 15 additional sites nominated through feedback to the March 2013 Draft Auckland Unitary Plan.*
- *These sites are identified as significant and the policy approach seeks to avoid significant adverse effects on the values and associations of Mana Whenua with these sites.*
- *Protection for SSMW is achieved through the notified rules by requiring resource consent for most activities as a discretionary activity on or within 50m of a SSMW, with exceptions provided for minor activities as permitted.*
- *The notified provisions identified temporary activities that include toilets, changing rooms or land disturbance on SSMW as a restricted discretionary activity. The intention of the provisions is to provide for a lesser activity status for those temporary activities on SSMW where the effects relate to intangible effects because the landscape is either highly modified or no archaeology exists.*
- *Temporary activities are primarily managed by Auckland-wide provisions across all zones in Chapter H6.5. Generally activities are permitted or restricted discretionary subject to specified time periods, traffic and noise controls. The SSMW overlay overrides the Auckland-wide provisions.*
- *IMSB raised concern at the mediation that effects on values by temporary activities other than toilets also needed to be considered, including for example food preparation and eating. IMSB was of the view that the temporary activity rule relates to all aspects of a temporary activity and not just those that include toilets and changing rooms.*
- *In my opinion the intention of the notified temporary activity rule was clearly to manage only those temporary activities that include toilets and changing rooms. Temporary activities on all other SSMW were not specifically identified because the*

intention was that these would be picked up under the activities relating to buildings and earthworks, effectively being a discretionary activity.

- I have considered the issues raised and I propose changes to apply the temporary activity rule to all sites, not just site exceptions, to provide greater clarity. I consider a restricted discretionary status for temporary activities that include toilets and changing rooms to be appropriate because it is consistent with the overall approach to temporary activities in the Auckland-wide provisions. As a restricted discretionary activity, the CIA process will be required, providing the opportunity for Mana Whenua to recommend conditions to manage the cultural impacts of locating toilets and changing rooms on SSMW.*
- Given that temporary activities generally occur on public land, I consider it appropriate for the broader concerns of IMSB to be addressed through management plans and agreements with the relevant Council Department or Council Controlled Organisation to enable site specific responses.*
- In my opinion a resource consent process is not the most efficient and effective way of addressing the effects on Mana Whenua values for temporary activities that are often permitted by the Auckland-wide provisions and by their nature have temporary effects. This in my view is consistent with RPS B5.4 Policy 4, which requires the temporary nature of the adverse effect to be taken into account.*

4.2.2 Phillip Mitchell's Evidence (On behalf of the IMSB)

The relevant evidence on the topic of temporary activities and Sites and Places of Significance to Mana Whenua is:

- I support most of the SSMW provisions contained in Council's strikethrough version. However, there are some provisions on which I disagree, and which I consider require amendment. They include:
(b) The deletion of the rule which requires resource consent for a change of activities within a SSMW, and the breadth of activities captured by the Temporary Activities rule.*
- With respect to the notified Temporary Activity rule, Ms Trenouth has deleted it, and replaced it with two rules, one addressing land disturbance (in the earthworks chapter) and the following rule addressing the Temporary Activity itself, in the SSMW chapter:*

<i>Temporary activities where the activity involves toilets (including portaloos) or changing facilities</i>	<i>RD</i>
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- It is apparent that there are numerous Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW. Only managing toilets and changing facilities (as Ms Trenouth's rule does) is going to be of limited effectiveness in protecting the values and associations of Mana Whenua with SSMW from significant adverse effects.*

- *In my view what is needed is for the owner / occupier of land within a SSMW to put together a set of protocols / conditions in consultation with Mana Whenua, for how temporary activities should be undertaken in those areas (identifying areas where cooked food will not be taken, toilets will not be placed, acceptable signage etc.). The question is to what extent rules in the PAUP need to require a resource consent to ensure that process happens.*
- *I consider that the simplest way is to have restricted discretionary activity status for all Temporary Activities on SSMW, with discretion restricted to effects on the values and associations of Mana Whenua with the SSMW.*

4.3 The Event Permit Process

There are processes operating outside of the Unitary Plan to control events occurring in public places. All events on public land require permission from Council through an event permit process under the Trading & Events in Public Places (TEPP) Bylaw (2015). Under the TEPP Bylaw an 'event' means an organised temporary activity that takes place on one or more days that is outside the normal expected use of a site and includes an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi venue sports event of a significance scale, fun run, marathon, duathlon or triathlon.

Depending on the nature of the event proposal, relevant stakeholders will need to provide their approval. Commonly, approval is required from:

- Council's Parks, Sport & Recreation Department – for events on a park, reserve
- Council's Environmental Health Department- for events that include amplified sound; food stalls
- Auckland Council District Licensing Authority – for events that are selling/supplying alcohol and/or are in a liquor ban area, a special liquor licence is required.
- Auckland Transport – for events on roads or streets or events that will impact the normal traffic/pedestrian flow. Where there are road closures and/or parking restrictions organisers are required to provide a traffic management plan that will send to Auckland Transport for approval.
- Council's Bylaws and compliance – event signage
- Council's Solid Waste Department – for events that require a waste management plan
- Building consent from Council's Resource Consent Department – for events that require consent for a temporary structure
- Health and Safety – Health and safety plans for large events require approval from an internal H&S advisor.

Each stakeholder will comment on the section of the event that relates to their area and/or provide approval. Specific conditions, such as noise levels, times and duration can be included as part of the approval. Once all approvals are received, the facilitator will create a document entitled event advice. This document includes agreed details for the event and an

event permit. Any conditions from stakeholders are included in the event advice and/or permit.

Note: the Trading and Events in Public Places Bylaw does not specifically reference engagement or consultation with iwi, but ATEED states that this does occur.

4.4 Film Auckland Protocol

This was adopted by Auckland Council's Environment and Community Committee on 10 September 2019.

The Auckland Film Protocol sets out:

- Council's commitment to enabling filming in Auckland and expectations of how filmmakers will operate/ behave when filming in the region;
- information for filmmakers about the policies, plans and rules that apply when filming in public open spaces across Auckland;
- an overview of the process of applying for a permit to film in public open spaces – a process that is administered by Council's regional film office, Screen Auckland.

Relevant sections of the protocol include:

3.2 Compliance with relevant plans, policies, bylaws, and rules Production companies must comply with Auckland Council plans, policies, bylaws, and rules in relation to conduct in public open space. These include, but are not limited to, alcohol bans, animal control, vehicles on beaches, signage rules and smokefree areas. Maintaining responsible and positive behaviour when filming in public open space is important to ensure ongoing access to these locations. Production companies planning to use signage, including directional signage such as location arrows, should also make themselves aware of the Signage Bylaw in place throughout the region, and any relevant Unitary Plan rules relating to signage. Up-to-date information concerning council plans, policies and bylaws can be found on Auckland Council's website¹¹ and on the Auckland Transport website¹², or Screen Auckland can advise.

4.3.1 Filming on Auckland's tūpuna maunga (volcanic cones)

In July 2014, Government passed legislation to provide Treaty of Waitangi redress for the shared interests of 13 Auckland iwi and hapū in relation to 14 tūpuna maunga (ancestral mountains, also referred to as Auckland's volcanic cones), motu (islands) and land within Tāmaki Makaurau (Auckland). Auckland's volcanic cones (tūpuna maunga) come under the administration of the Tūpuna Maunga Authority o Tāmaki Makaurau Authority (Tūpuna Maunga Authority). The Authority is independent of Auckland Council.

Under the terms of the settlement, the tūpuna maunga are vested in mana whenua, public access is maintained, each maunga will remain a reserve, and the council will continue to be responsible for the routine management of the maunga, under the direction of the Tūpuna Maunga Authority. The tūpuna maunga sites, and in particular the tihi (summit), are considered tapu (sacred) and regard is given to this when considering applications to film on the tūpuna maunga. All commercial filming

on the maunga requires the approval of the Tūpuna Maunga Authority. Screen Auckland facilitates all requests for approval to film on the tūpuna maunga. Each application is assessed on a case-by-case basis in relation to the objectives and policies that apply to the tūpuna maunga¹⁹ and proposed content. Approval to film will be subject to conditions and restrictions set by the Tūpuna Maunga Authority.

4.7 Heritage considerations

Historic heritage reinforces our sense of history, belonging, identity and place. Historic heritage places are likely to have specific restrictions on their use that may impact on timeframes and costs. This will be pointed out by Screen Auckland's film facilitation team at the point of initial inquiry, and assistance will be given to mitigate effects or locate an alternative site if necessary. Historic heritage places can include historic buildings, archaeological sites, places of significance to Māori and notable trees. Some historic heritage places are protected by legislation. Some historic heritage places are protected in the Auckland Unitary Plan . Depending on the nature of the proposal, resource consent may be required for filming on sites protected in the Auckland Unitary Plan. An Authority from Heritage New Zealand may be required for proposals that take place on archaeological sites. Information on places protected in the Auckland Unitary Plan can be found on the Auckland Council website. The types of issues for filmmakers to consider in relation to sites that are significant to Māori include, but are not necessarily limited to:

- the use of indigenous knowledge and any reference to iwi;*
- misuse or misappropriation of iwi history, stories or legends;*
- inappropriate representation or use of culturally significant images or sites; this can include, but is not limited to, the subject of filming or the depiction of the site (e.g. digitally adapting the appearance of a site in a way that is considered inappropriate).*
- use of culturally significant sites including maunga, marae and places included in the Sites and Places of Significance to Mana Whenua schedule in the Auckland Unitary Plan.*

4.8 Resource consent considerations

Due to the often temporary nature of filming, a resource consent is not usually required to carry out filming within Auckland. However, filming projects involving the long-term use of the same site are much more likely to require a resource consent. Resource consent criteria are currently determined by the Auckland Unitary Plan and the Hauraki Gulf Islands District Plan. Go to the Auckland Council website to view the Auckland Unitary Plan and the Hauraki Gulf Islands District Plan maps and other information . Screen Auckland's film facilitation team can assist with providing contact details for planning staff who have experience working with the screen production industry.

4.8.3 Possible triggers for resource consents

The following site-related issues are likely to trigger the need for a resource consent:

- excessive lighting;*

- *excessive noise;*
- *excessive earthworks;*
- *removal of protected vegetation;*
- *close proximity to the coast or other waterbodies;*
- *close proximity to residential zones;*
- *inadequate carparking capacity;*
- *absence of a loading bay;*
- *the amount of traffic generated;*
- *heritage related issues;*
- *hours of operation;*
- *exceeding the days for a temporary activity or other standards that apply to permitted activities.*

Section 5.0 Statutory Evaluation Under the Resource Management Act 1991 (RMA)

5.1 Overall broad judgement against Part 2 of RMA

The potential options to address the issues raised are assessed against the relevant provisions of the Resource Management Act 1991.

Section 5 of the RMA describes the purpose of the Act. This is:

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Temporary activities assist people and communities to meet their social, economic and cultural well-being. Temporary activities may also be undertaken to enhance the environment e.g. beach clean-ups, stream restoration. At the same time, it is recognised there are adverse effects associated with some temporary activities e.g. noise associated with concerts.

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(ba) the efficiency of the end use of energy:

(c) the maintenance and enhancement of amenity values:

(d) intrinsic values of ecosystems:

(e) [Repealed]

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

(h) the protection of the habitat of trout and salmon:

(i) the effects of climate change:

(j) the benefits to be derived from the use and development of renewable energy.

Temporary activities require management in order to achieve Kaitiakitanga (guardianship or management of the environment), the ethic of stewardship (responsible planning and management of resources – air, land and water), the efficient use and development of natural and physical resources (in this case land and water in particular), the maintenance and enhancement of amenity values (temporary activities both enhance amenity values and have the potential to give rise to adverse environmental effects), and the maintenance and enhancement of the quality of the environment (adverse effects associated with temporary activities).

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The Treaty principles² include the following:

Partnership - the Treaty signified a partnership between the races' and each partner had to act towards the other 'with the utmost good faith which is the characteristic obligation of partnership'. The obligations of partnership included the duty to consult Māori and to obtain the full, free, and informed consent of the correct right holders in any transaction for their land.

Reciprocity - the partnership is a reciprocal one, involving fundamental exchanges for mutual advantage and benefits. Māori ceded to the Crown the Kāwanatanga (governance) of the country in return for a guarantee that their tino rangatiratanga (full authority) over their land, people, and taonga would be protected. Māori also ceded the right of pre-emption over their lands on the basis that this would be exercised in a

² Waitangi Tribunal website, justice.govt.nz

protective manner and in their own interests, so that the settlement of the country could proceed in a fair and mutually advantageous manner.

Active protection - the Crown's duty to protect Māori rights and interests arises from the plain meaning of the Treaty, the promises that were made at the time (and since) to secure the Treaty's acceptance, and the principles of partnership and reciprocity. The duty is, in the view of the Court of Appeal, 'not merely passive but extends to active protection of Māori people in the use of their lands and waters to the fullest extent practicable', and the Crown's responsibilities are 'analagous to fiduciary duties'. Active protection requires honourable conduct by, and fair processes from, the Crown, and full consultation with – and, where appropriate, decision-making by – those whose interests are to be protected.

Equity - The obligations arising from kawanatanga, partnership, reciprocity, and active protection required the Crown to act fairly to both settlers and Māori – the interests of settlers could not be prioritised to the disadvantage of Māori. Where Māori have been disadvantaged, the principle of equity – in conjunction with the principles of active protection and redress – requires that active measures be taken to restore the balance.

Equal treatment - The principles of partnership, reciprocity, autonomy, and active protection required the Crown to act fairly as between Māori groups – it could not unfairly advantage one group over another if their circumstances, rights, and interests were broadly the same.

The implications of section 8 of the RMA for temporary activities can be summarised as:

- active protection of Māori people in the use of their lands and waters to the fullest extent practicable
- early engagement with iwi to test possible options, especially the issue of temporary activities and their effects on sites and places of significance to Mana Whenua.

5.2 The relevance of the plan change to other sections of the RMA

There are relevant sections of the RMA that must be considered in context of the proposed plan change. These are:

- *Section 30 – Functions of regional councils under this Act*
- *Section 31 – Functions of territorial authorities under this Act*
- *Section 60 – Preparation and change of regional policy statements*
- *Section 61 – Matters to be considered by regional council (policy statements)*
- *Section 62 – Contents of regional policy statements*
- *Section 63 – Purpose of regional plans*
- *Section 65 – Preparation and change of other regional plans*
- *Section 66 – Matters to be considered by regional councils (plans)*
- *Section 67 – Contents of regional plans*
- *Section 68 – Regional rules*
- *Section 72 – Purpose of district plans*
- *Section 73 – Preparation and change of district plans*

- *Section 74 - Matters to be considered by territorial authority*
- *Section 75 – Contents of district plans*
- *Section 76 – District rules*
- *Section 79 – Review of policy statements and plans*
- *Section 80 – Combined regional and district documents*

Relevance to the above sections

Sections 30 and 31 of the RMA specify the functions of regional and territorial authorities, and the PAUP, as a combined plan, performs both of these functions. The temporary activity provisions relate only to district plan functions, although the proposed changes in landuse will affect the functioning of regional plan provisions which give effect to section 30(1) functions.

Specifically, these functions include:

- (a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region;
- (b) In respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of land and associated natural and physical resources;
- (c) 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
- (d) The control of any actual or potential effects of the use, development, or protection of land.

Section 80 of the RMA sets out the approach to which local authorities may prepare, implement, and administer the combined regional and district documents. Auckland Council has a combined regional and district plan called the Auckland Unitary Plan (AUP).

Section 6.0 National and Regional Planning Context

6.1 Relevance to National Policy Statements

6.1.1 New Zealand Coastal Policy Statement 2010

The relevant sections of the New Zealand Coastal Policy Statement 2010 for temporary activities are:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
- some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
- functionally some uses and developments can only be located on the coast or in the coastal marine area;
- the coastal environment contains renewable energy resources of significant value;
- the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;
- the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
- the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and
- historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.

Temporary activities therefore need to safeguard or protect the values of the coastal environment.

6.2 Relevance to any particular Acts

6.2.1 Hauraki Gulf Marine Park Act 2000

The relevant sections of the Hauraki Gulf Marine Park Act 2000 for temporary activities are:

3 Purpose

The purpose of this Act is to—

- (a) *integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:*
- (b) *establish the Hauraki Gulf Marine Park:*
- (c) *establish objectives for the management of the Hauraki Gulf, its islands, and catchments:*
- (d) *recognise the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands:*
- (e) *establish the Hauraki Gulf Forum.*

32 Purposes of Hauraki Gulf Marine Park

The purposes of the Hauraki Gulf Marine Park are—

- (a) *to recognise and protect in perpetuity the international and national significance of the land and the natural and historic resources within the Park:*
- (b) *to protect in perpetuity and for the benefit, use, and enjoyment of the people and communities of the Gulf and New Zealand, the natural and historic resources of the Park*

including scenery, ecological systems, or natural features that are so beautiful, unique, or scientifically important to be of national significance, for their intrinsic worth:

(c) to recognise and have particular regard to the historic, traditional, cultural, and spiritual relationship of tangata whenua with the Hauraki Gulf, its islands and coastal areas, and the natural and historic resources of the Park:

(d) to sustain the life-supporting capacity of the soil, air, water, and ecosystems of the Gulf in the Park.

Temporary activities therefore need to recognise and protect the land and natural and historic resources associated with the Hauraki Gulf Marine Park. This includes the relationship of tangata whenua with the Hauraki Gulf, its islands and coastal areas, and the natural and historic resources of the Park.

6.2.2 Waitakere Ranges Heritage Area Act 2008

The relevant sections of the Waitakere Ranges Heritage Area Act 2008 for temporary activities are:

3 Purpose

(1) The purpose of this Act is to—

(a) recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and

(b) promote the protection and enhancement of its heritage features for present and future generations.

8 Heritage area objectives

The objectives of establishing and maintaining the heritage area are—

(a) to protect, restore, and enhance the area and its heritage features:

(b) to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it:

(c) to adopt the following approach when considering decisions that threaten serious or irreversible damage to a heritage feature:

(i) carefully consider the risks and uncertainties associated with any particular course of action; and

(ii) take into account the best information available; and

(iii) endeavour to protect the heritage feature:

(d) to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features:

(e) to recognise that, in protecting the heritage features, the area has little capacity to absorb further subdivision:

(f) to ensure that any subdivision or development in the area, of itself or in respect of its cumulative effect,—

(i) is of an appropriate character, scale, and intensity; and

(ii) does not adversely affect the heritage features; and

(iii) does not contribute to urban sprawl:

(g) to maintain the quality and diversity of landscapes in the area by—

(i) protecting landscapes of local, regional, or national significance; and

(ii) restoring and enhancing degraded landscapes; and

- (iii) managing change within a landscape in an integrated way, including managing change in a rural landscape to retain a rural character:*
- (h) to manage aquatic and terrestrial ecosystems in the area to protect and enhance indigenous habitat values, landscape values, and amenity values:*
- (i) to recognise that people live and work in the area in distinct communities, and to enable those people to provide for their social, economic, environmental, and cultural well-being:*
- (j) to provide for future uses of rural land in order to retain a rural character in the area:*
- (k) to protect those features of the area that relate to its water catchment and supply functions:*
- (l) to protect in perpetuity the natural and historic resources of the Waitakere Ranges Regional Park for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of the Auckland region and New Zealand.*

11 District plans

- (1) When preparing or reviewing a district plan that affects the heritage area, the Council must give effect to the purpose of this Act and the objectives.*
- (2) The requirements in subsection (1) are in addition to the requirements in sections 74, 75, and 79 of the Resource Management Act 1991.*
- (3) When evaluating a proposed district plan, change, or variation that affects the heritage area, the Council must examine whether the plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act).*
- (4) The requirements in subsection (3) are in addition to the requirements in section 32(3) of the Resource Management Act 1991.*

Temporary activities therefore need to be undertaken in a manner that protects the Waitakere Ranges Heritage Area’s environment and its heritage features and avoids adverse potential or cumulative effects of activities.

6.3 Relevance to any Particular Plans

6.3.1 Maori Plan 2017

The Maori Plan for Tamaki Makaurau was prepared by the Independent Maori Statutory Board (IMSB). It records what Maori in the region have said is important to them and provides a framework for understanding Maori development aspirations and monitoring progress towards desired cultural, economic, environmental and social outcomes.

Issues of Significance that are relevant to the consideration of temporary activities are:

Wellbeing Area	Issues of Significance	Commentary on the Relevance to the Issues
Environment	Sites of Significance – Mana Whenua are enabled to maintain and protect sites of significance to reaffirm connections to the whenua and preserve for future generations.	There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.

	Customary Rights – hapu and whanau are empowered to exercise a range of customary rights by a Council that understands, respects and genuinely considers the customary rights of hapu and whanau.	Some temporary activities could impact on the ability for hapu and whanau to exercise their customary rights
	Environmental Resilience, Protection and Management – Māori are empowered and treasured in their customary role as kaitiaki over lands, cultural landscapes, sites of significance and wahi tapu.	There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.
	Resource Consents – Māori actively and meaningfully contribute to the resource consent decision making process that is simple, efficient and value for money.	Requiring a resource consent for temporary activities on SSMW provide iwi with an opportunity to be involved in the decision making process. Note: the Trading and Events in Public Places Bylaw does not specifically refer to engagement with iwi and conditions to address adverse effects on SSMW but it is understood this occurs.
	Built Environment - Māori cultural values, history and heritage are reflected within the built environment through design, architecture and the inclusion of uniquely Māori design principles in public spaces.	There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.
Social	Engagement/Consultation/Inclusion in Decision making – Māori are empowered to actively and meaningfully contribute to the development of Auckland, through consultation and inclusion in decision-making processes and future plans.	Requiring a resource consent for temporary activities on SSMW provide iwi with an opportunity to be involved in the decision making process. Note: the Trading and Events in Public Places Bylaw does not specifically refer to engagement with iwi and conditions to address adverse effects on SSMW
Economic	Treaty Settlements – Council recognises the importance and value of Treaty Settlements and is proactive in engaging with iwi to understand Council's role in fulfilling the objectives of Treaty Settlements.	Requiring a resource consent for temporary activities on SSMW provide iwi with an opportunity to be involved in the decision making process. Note: the Trading and Events in Public Places Bylaw does not specifically refer to engagement with iwi and conditions to address adverse effects on SSMW
	Tourism – Māori are actively supported to participate in tourism opportunities and recognised for the unique value-add to the Auckland tourism sector	The temporary activity provisions of the Unitary Plan may also apply to Maori related events and tourism opportunities e.g. waka ama, cultural events
Cultural	Arts & Culture – Māori are enabled to continue to practice our unique cultural heritage, to ensure the	The temporary activity provisions of the Unitary Plan may also apply to Maori related events and tourist

	retention and protection of matauranga Māori across Tamaki Makaurau.	opportunities e.g. waka ama, cultural events
	Distinctive Identity – Māori retain a sense of place and identity, and the wider community understands the value of diversity and embraces out unique culture	There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.

6.3.2 Auckland Plan 2018

The table below list the priorities and directives of the Auckland Plan (Auckland’s non-statutory spatial planning document). The Auckland Plan refresh was approved by Auckland Council on 5 June 2018.

Outcome	Directives and Focus Areas	Commentary on the Relevance to the Issues
Outcome: Belonging and Participation	<p><i>Direction 1: Foster an inclusive Auckland where everyone belongs.</i></p> <p><i>Focus area 1: Create safe opportunities for people to meet, connect, participate in, and enjoy community and civic life.</i></p> <p><i>Focus area 5: Recognise, value and celebrate Aucklanders' differences as a strength.</i></p> <p><i>Focus area 7: Recognise the value of arts, culture, sport and recreation to the quality of life.</i></p>	Temporary activities – in particular events and festivals can create a sense of belonging and enable people and communities to come together. They add to the quality of life.
Outcome: Māori identity and well-being	<p><i>Direction 1: Advance Māori wellbeing.</i></p> <p><i>Direction 2: Promote Māori success, innovation and enterprise.</i></p> <p><i>Direction 4: Showcase Auckland's Māori identity and vibrant Māori culture.</i></p> <p><i>Focus area 6: Celebrate Māori culture and support te reo Māori to flourish</i></p>	<p>There are two considerations:</p> <p>i). Temporary activities enable events that celebrate Maori culture</p> <p>The Auckland Plan states: “Auckland will continue to provide, invest in and support opportunities that celebrate Māori identity and heritage.</p> <p><i>Continued expansion and resourcing is needed for events, and activities associated with</i></p>

		<p><i>Māori events, such as Matariki. Celebrations steeped in Māori culture can ignite all cultures in Auckland to celebrate their relationship with the land”.</i></p> <p>ii) There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.</p>
Outcome: Environment and Cultural Heritage	<p><i>Direction 1: Ensure Auckland’s natural environment and cultural heritage is valued and cared for.</i></p> <p><i>Focus area 4: Protect Auckland’s significant natural environments and cultural heritage from further loss</i></p>	There are some Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW if not properly managed.
Outcome: Opportunity and Prosperity	<p><i>Direction 1: Create the conditions for a resilient economy through innovation, employment growth and raised productivity.</i></p> <p><i>Focus area 2: Ensure regulatory planning and other mechanisms support business, innovation and productivity growth</i></p>	<p>Temporary activities – in particular events, make a significant contribution to the Auckland economy.</p> <p>Temporary activities are subject to management through the AUP and the Trading and Events in Public Places bylaw. Other bylaws are also relevant. A key issue is ensuring the right mix and level of regulation to enable temporary activities whilst managing potential adverse effects.</p>

Table 6: Auckland Plan Directives and Focus Areas

6.3.3 Auckland Unitary Plan 2016 - Regional Policy Statement

Table 7 below identifies the relevant Auckland Unitary Plan Regional Policy Statement objectives and policies relating to urban growth, the built environment and open space and recreation and assesses the relevance of these to temporary activities.

RPS Chapter	Relevant objective or policy	Commentary on the Relevance to the Issues
B2.2. Urban growth and form	B2.2.1. Objectives <i>(1) A quality compact urban form that enables all of the following: (a) a higher-quality urban environment; (c) better use of existing infrastructure and efficient provision of new infrastructure; (e) greater social and cultural vitality; (g) reduced adverse environmental effects.</i>	Temporary activities enable “greater social and cultural vitality”.
B2.7 Open space and recreation facilities	B2.7.1(1) <i>Recreational needs of people and communities are met through the provision of a range of quality open spaces and recreation facilities.</i>	Temporary activities cater for some of the recreational needs of people and communities.
	B2.7.2(1) <i>Enable the development and use of a wide range of open spaces and recreation facilities to provide a variety of activities, experiences and functions.</i>	An “enabling” approach to temporary activities provides for a variety of activities and experiences on open space in particular.
E40. Temporary activities	E40.2. Objectives [rcp/dp] <i>(1) Temporary activities and events contribute to a vibrant city and enhance the social, environmental, economic and cultural well-being of communities.</i>	An “enabling” approach to temporary activities contributes to a vibrant city and enhance the social, environmental, economic and cultural well-being of communities.
	<i>(2) Temporary activities are located and managed to mitigate adverse effects on amenity values, communities and the natural environment.</i>	The existing temporary activity standards distinguish between the city centre & metro centres and “other areas”. They are more enabling in the city centre and metro centres.
	<i>(3) Temporary activities are managed to minimise any adverse effects on the use and enjoyment of open space.</i>	The existing temporary activity standards manage the following effects of activities – noise, duration, frequency, timing, traffic in rural and future urban zones only, and the lighting of fire works. The Trading and Events in public Places Bylaw enables management of a number of other effects associated with the use of a park or reserve, food, alcohol, traffic, signage, waste, temporary structures and health and safety.

		Temporary activities on Sites of Significance to Mana Whenua have a separate management approach i.e. a resource consent is required.
	<i>(4) Temporary activities involving large numbers of people predominantly occur in the Business – City Centre Zone, the Business – Metropolitan Centre Zone and the Auckland Domain.</i>	The existing temporary activity standards distinguish between the city centre & metro centres and “other areas”. Specific provisions also apply to the Auckland Domain.
E40.3. Policies	<p><i>(1) Enable temporary activities and associated structures, provided any adverse effects on amenity values are avoided, remedied or mitigated, including by ensuring:</i></p> <p><i>(a) noise associated with the activity meets the specified standards;</i></p> <p><i>(b) activities on adjacent sites that are sensitive to noise are protected from unreasonable or unnecessary noise;</i></p> <p><i>(c) noise from outdoor events using electronically amplified equipment is controlled through limiting the times, duration and the frequency of events;</i></p> <p><i>(d) waste and litter are effectively managed and minimised; and</i></p> <p><i>(e) any restrictions on public access or other users of open space areas are minimised, and any adverse effects are mitigated.</i></p>	<p>Temporary activities are provided for as permitted activities subject to compliance with the relevant standards.</p> <p>These standards include – noise, duration, frequency, timing, traffic in rural and future urban zones and the lighting of fire works.</p> <p>The Trading and Events in public Places Bylaw enables management of a number of other effects associated with the use of a park or reserve, food, alcohol, traffic, signage, waste, temporary structures and health and safety.</p> <p>Temporary activities on Sites of Significance to Mana Whenua have a separate management approach i.e. a resource consent is required.</p>
	<i>(2) Enable temporary activities for filming purposes, including associated film sets, while managing any adverse effects.</i>	<p>Filming activities are a permitted activity for up to and including 30 consecutive days.</p> <p>Filming activities exceeding this standard are a restricted discretionary activity.</p> <p>Filming activities are also subject to the Film Auckland Protocol.</p> <p>Filming activities on Sites of Significance to Mana Whenua are currently a restricted discretionary activity and require a resource consent (they fall within the wider definition of temporary activity)</p>
	<i>(3) Control traffic generated by a temporary activity, including heavy traffic, so that it does not detract from:</i>	Traffic associated with a temporary activity is only managed in the Unitary Plan for events in rural areas or future urban areas where there is more than 500 vehicle movements per day.

	<p>(a) the capacity of the road to safely and efficiently cater for motor vehicles, pedestrians and cyclists; and</p> <p>(b) the well-being of residents and reasonable functioning of businesses on surrounding sites.</p>	<p>Otherwise the Trading and Events in Public Places Bylaw can require approval for events on roads or streets or events that will impact the normal traffic/pedestrian flow.</p>
	<p>(4) Require any disturbance of the foreshore or seabed from a temporary activity to be remedied, unless this can be achieved by natural processes.</p>	<p>The Trading and Events in Public Places Bylaw enables consideration of impacts on the “environment” and appropriate mitigation measures associated with a temporary activity. Approval conditions include c) the location of the activity.</p>
	<p>(5) Require temporary activities involving large numbers of people to locate in areas where there is:</p> <p>(a) capacity to safely host large numbers of people;</p> <p>(b) sufficient parking where necessary;</p> <p>(c) sufficient road network capacity for the event;</p> <p>(d) capacity in the public transport network to service the event, or the ability for the event to be temporarily serviced by mass passenger transport; and</p> <p>(e) the ability to avoid, remedy or mitigate adverse effects on the environment.</p>	<p>The temporary activity provisions distinguish between locations within the City Centre and Metropolitan Centres and outside these areas.</p> <p>There is generally greater flexibility within the City Centre and Metropolitan Centres than outside these areas with a greater number of noise events and higher (more enabling of greater noise) noise standards.</p> <p>In addition, the Trading and Events in Public Places Bylaw can require approval for events on roads or streets or events that will impact the normal traffic/pedestrian flow.</p>
	<p>(6) Manage the effects of temporary activities so that the values of any scheduled ecological, natural character, natural features, landscape, historic heritage or Mana Whenua areas are maintained, and any adverse effects on the natural environment are avoided, remedied or mitigated.</p>	<p>Temporary activities are currently a restricted discretionary activity on Sites of Significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and if consent is granted, appropriate conditions.</p> <p>There are no additional controls for scheduled ecological, natural character, natural features, landscape, historic heritage features/areas, except:</p> <ul style="list-style-type: none"> • Filming activities in the Waitakere Ranges Heritage Area Overlay must comply with additional standards • Temporary buildings and structures and signs including those accessory to a temporary activity in the Historic Heritage Overlay must comply with additional standards

		<p>Section 10 (deciding an application) of The Trading and Events in Public Places Bylaw 2015 states:</p> <p>(3) In deciding to grant or decline an application for approval the council must consider the following matters:</p> <p><i>(c) the impacts on the surrounding environment and users as a result of noise, smell, glare, light spill, appearance or any other effects and; whether these impacts have been appropriately mitigated;</i></p>
D21. Sites and Places of Significance to Mana Whenua Overlay	D21.2. Objective (1) The tangible and intangible values of scheduled sites and places of significance to Mana Whenua are protected and enhanced.	Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and the opportunity to apply appropriate conditions if consent was to be granted.
	(2) Scheduled sites and places of significance to Mana Whenua are protected from inappropriate subdivision, use and development, including inappropriate modification, demolition or destruction.	Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and the opportunity to apply appropriate conditions if consent was to be granted.
	D21.3. Policies (2) Avoid significant adverse effects on the values and associations of Mana Whenua with sites and places of significance to them.	<p>Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and the opportunity to apply appropriate conditions if consent was to be granted.</p> <p>Sites may be valued for different reasons by different iwi. As the term “temporary activities” encompasses a wide range of activities, the effects may vary from activity to activity depending on the nature of the activity and its size/scale.</p>
	(3) Require subdivision, use and development, where adverse effects on sites and places of significance cannot practicably be avoided, to remedy or mitigate those adverse effects by: (a) enhancing the values of the scheduled site or place of significance and the relationship of Mana Whenua with their tāonga, commensurate with the scale and nature of the proposal;	Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places, an assessment of alternatives (where appropriate) and the opportunity to either decline consent, or if approved, to impose appropriate conditions.

	<p>(c) recognising and providing for the outcomes articulated by Mana Whenua through an assessment of environmental effects with Mana Whenua and within iwi planning documents;</p> <p>(d) demonstrating consideration of practicable alternative methods, locations or designs that would avoid or reduce the impact on the values of scheduled sites and places of significance to Mana Whenua; and</p> <p>(e) demonstrating consideration of practical mechanisms to maintain or enhance the ability to access and use the scheduled site or feature for karakia, monitoring, customary purposes and ahikā roa by Mana Whenua.</p>	
	<p>(5) Recognise that some activities may have such significant adverse effects on Mana Whenua values that they are culturally inappropriate when considering the nature of the scheduled site or place of significance and associated values.</p>	<p>Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and the opportunity to either decline consent, or if approved, to apply appropriate conditions.</p>
	<p>(11) Require an assessment of environmental effects where proposed works may have adverse effects on the values associated with sites or places of significance to Mana Whenua.</p>	<p>Temporary activities are currently a restricted discretionary activity on sites of significance to Mana Whenua. The resource consent process enables an assessment of the effects of such activities on the values of these sites and places and the opportunity to either decline consent, or if approved, to apply appropriate conditions.</p>

Table 7: Auckland Unitary Plan RPS Objectives and Policies

6.4 Relevance to any Particular Bylaws

6.4.1 Trading and Events in Public Places Bylaw 2015

The Trading and Events in Public Places Bylaw controls events in public places. It sets up the process for the event permit requirements. Relevant sections of the Trading and Events in Public Places bylaw are:

4 Purpose

(1) The purpose of this bylaw is to provide for the control of events and trading in public places by:

- (a) regulating trading activities and the conduct of persons selling or offering goods or services in public places by requiring approval from the council, Auckland Transport or other council-controlled organisation;*
- (b) regulating events and filming in roads and other public places by requiring operators to obtain an approval;*
- (c) setting general and specific conditions for trading and events in public places to ensure that appropriate standards of health and safety, pedestrian and vehicle access and visual amenity are maintained;*
- (d) prescribing for fees in respect of any approval in relation to matters specified in subclauses (1)(a) and (b).*

5 Interpretation

(1) In this bylaw, unless the context otherwise requires,—

event means an organised temporary activity that takes place on one or more days including an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon. For the purposes of this bylaw an indoor performance, indoor private function, tasting and sampling activity, giveaway, market, sports practice or training is not an event.

6 Requirement to hold an approval

(1) A person must hold an approval issued by the council to undertake the following activities in public places:

- (a) trading in a public place;*
- (b) events;*
- (c) filming.*

10 Deciding an application

(1) Subject to compliance with this clause, the council may grant (with or without conditions) or refuse any application for approval at its discretion.

(2) The decision to grant or refuse an application for an approval together with any conditions on the approval, must be made in accordance with any relevant guidelines approved by resolution of the council, specified under this bylaw from time to time.

(3) In deciding to grant or decline an application for approval the council must consider the following matters:

- (a) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic;*
- (b) the specifications of any furniture, structures, equipment, vehicles and other items to be used for the activity;*
- (c) the impacts on the surrounding environment and users as a result of noise, smell, glare, light spill, appearance or any other effects and; whether these impacts have been appropriately mitigated;*
- (d) the suitability of a person to hold an approval taking into account any known past operational issues and the applicant's experience and track record;*

- (e) where applicable, whether an applicant is a registered charity or a member of a registered organisation;*
 - (f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.*
- (4) Any person who has an application declined or revoked by the council must apply in writing for a review of the decision and the council may review it accordingly.*

11 Approval conditions

(1) The conditions upon which an approval is granted may include, but are not limited to, the following:

- (a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;*
- (b) the duration of the approval;*
- (c) the location of the activity, taking into account the surrounding land uses and street layout and the minimum clear widths of footpaths required for pedestrian access;*
- (d) a requirement that the activity is not located in a public place (including near intersections, bus stops, vehicle crossings, accessways or service lanes) in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;*
- (e) that a continuous accessible path of travel is provided for;*
- (f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;*
- (g) requiring compliance with any guidelines or policies for shared space areas;*
- (h) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;*
- (i) safety, health and hygiene requirements;*
- (j) the requirement for public liability insurance;*
- (k) restrictions on the use of amplified music/sound;*
- (l) requiring compliance with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.*

(2) Notwithstanding subsection(1) any trading activity involving use of the footpath must maintain a minimum unobstructed footpath width of no less than 1.8 metres.

23 Events and Filming

(1) In addition to decisions regarding an application for approval as specified in Clause 10 the council will consider the following matters when assessing an application for an event or filming approval:

- (a) whether there is a prior booking of the public place and the two events or, filming activities, cannot reasonably take place at the same time, or*
- (b) whether there will be significant disruption to traffic flows or public passage, or*
- (c) any impacts on public safety.*

Explanatory note: Film approval applications are handled by Screen Auckland, which is the film office for the Auckland region and operates as part of Auckland Tourism Events and Economic Development.

Section 7.0 Engagement and Consultation

7. 1 Relevant Sections of Resource Management Act and Local Government Act

Schedule 1 of the Resource Management Act 1991 contains the process for the preparation, change and review of policy statements and plans.

Section 1A – Mana Whakahono a Rohe, requires that a proposed policy statement or plan must be prepared in accordance with any applicable Mana Whakahono a Rohe.

At the time of preparing this plan change, Auckland Council had not entered into any Mana Whakahono a Rohe with iwi. One request had been received however from Nga Tai Ki Tāmaki and work is well advanced on a Mana Whakahono a Rohe.

During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—

- (a) the Minister for the Environment; and*
 - (b) those other Ministers of the Crown who may be affected by the policy statement or plan; and*
 - (c) local authorities who may be so affected; and*
 - (d) the tangata whenua of the area who may be so affected, through iwi authorities; and*
 - (e) any customary marine title group in the area.*
- (2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.*
- (4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.*

Section 82 of the Local Government Act outlines the principles of consultation. These are:

82(1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:

- (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons;*
- (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority;*
- (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented;*
- (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons;*

(e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:

(f) that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.

(2) A local authority must ensure that it has in place processes for consulting with Māori in accordance with subsection (1).

Under section 3B - Consultation with iwi authorities, of the first schedule (of the RMA)

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

(a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and

(b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and

(c) consults with those iwi authorities; and

(d) enables those iwi authorities to identify resource management issues of concern to them; and

(e) indicates how those issues have been or are to be addressed.

4A Further pre-notification requirements concerning iwi authorities

(1) Before notifying a proposed policy statement or plan, a local authority must—

(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1) (d); and

(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.

7.2 Engagement with Mana Whenua / iwi authorities

A draft copy of the plan change was forwarded to all Auckland's 19 iwi as required under Section 4A of the first schedule above.

Responses were received from Ngāti Whātua Ōrākei and Ngai Tai ki Tamaki.

Ngāti Whātua Ōrākei had no concerns with the proposed changes and did not need to engage further. Ngai Tai ki Tamaki advised that a potential concern is the MACCA (The Marine and Coastal Area Act – Takutai Moana) claims and legal processes. The proposed changes do not impact on the activities able to be undertaken in the coastal marine area. They address a gap in the noise standards.

Consultation has also been undertaken with the Independent Māori Statutory Board.

7. 3 Councillor & Local Board Engagement

A Councillor workshop on temporary activities was held on 6 March 2019. The primary purpose of that workshop was to discuss the future Plans and Places work programme and topics/issues that councillors would like to see investigated. Louella Pitt and Mikaela Otene from ATEED presented a summary of the issues ATEED was having with the temporary activity rules in the Unitary Plan and how many events were required to seek a resource consent. The key areas of concern were:

Noise Limits

- Under the AUP there are currently noise limits of 50db LAeq from Monday – Saturday 7am – 10pm and Sunday 9am – 6pm in residential zones (Standard E25.6.2);
- In the City Centre, Metro Centres, Town Centre and Mixed Use zones the noise limits are 65dB LAeq 7am – 11pm and 65dB LAeq (Standard E25.6.8);
- A specified number of Noise Events (15 – 18) are provided for under the temporary activity provisions for both inside and outside the City Centre and Metro Centres (Standards E40.6.4 & E40.6.5)
- Anyone that packs in/out outside these times and generates noise during the process greater than the applied lower noise level of 45db LAeq (construction noise standards) requires a resource consent;
- There is also a six hour noise duration limit on a live event;
- Event Facilitation recommends increasing the noise duration limits from six hours to seven or eight hours and increasing the lower noise level of 45db LAeq to 50db LAeq.

Duration

- The AUP currently applies restrictions of six days (including pack in/pack out) upon the duration in which an event can be onsite without the requirement for a resource consent;
- The requirement to obtain a resource consent for any activity longer than six days places considerable pressure (i.e time pressure to undertake the event and completed the pack in/pack out) upon events;
- To enable the community to activate public open spaces it would be the preference of Event Facilitation to enable the six-day duration period to be applicable to the event live period, excluding pack in and pack out durations (Plan Change 14 did exclude the time required to establish and remove all structures and activities associated with noise events and reinstate the site to its original condition prior to the noise event, from the noise event duration. The construction noise standards were also applied to pack in and pack out activities. It didn't address temporary activities not defined as noise events however;
- To enable appropriate consideration of pack in and pack out periods, Event facilitation suggested a matrix enabling pack in and pack out to reflect the scale of the event (e.g. up to 499 people attending – 12 hrs, 500-4,999 – 24 hrs & 5,000 and above – 48 hrs)

D21 Overlay – Sites of Significance to Mana Whenua

- ATEED cannot start the iwi engagement process without a resource consent application.

- Events such as weddings, school events or any other small-scale activity do not typically trigger resource consent requirements. However, where there is a Mana Whenua overlay resource consent would be required.
- Event Facilitation would suggest iwi consultation take place during the permitting process without a resource consent requirement

All twenty-one local boards were sent a memorandum on 17 July 2020 outlining the issues and a copy of the proposed plan change for their consideration and feedback.

Local boards are able to provide their formal feedback once submissions have closed. Those local boards that provide formal feedback will also have the opportunity to speak to their views at the hearing.

Formal feedback received from local boards will be included in the hearing report, along with the points raised by submitters.

7. 4 Council Group Views

Discussions have been held with Event Facilitation, Arts Community and Events, Auckland Council over the issues being experienced with the Unitary Plan in relation to temporary activities.

The role of Event Facilitation is to guide event organisers through the permitting process to ensure regulatory requirements are met. Event Facilitation are advocates for events to occur on public open space, enabling thriving communities. The Event Facilitator acts as the conduit for event organisers to key event stakeholders. Stakeholders are both internal (within Auckland Council) and external organisations.

The Trading and Events in Public Places Bylaw was introduced on 1 July 2015. The bylaw manages activities, including events, in public places fairly and consistently across the Auckland Region. Event permits are issued by Auckland Council Event Facilitation under the bylaw.

Event facilitation has provided feedback on the issues the community is experiencing with the Unitary Plan when undertaking events.

A further memo was received from ATEED on 10 March 2020 which raised the following issues including those relating to filming activities (which are a subset of temporary activities):

Sites and Places of Significance to Mana Whenua

- Film permits take 3-5 working days to obtain from Screen Auckland. Obtaining a resource consent for filming purposes is not possible in this timeframe so would have an adverse affect on the industry;
- Budget restrictions would also make it a challenge for industry to apply for resource consent;
- While applications for major evets have the lead in time due to the size and nature of the event, for smaller community events, the costs of processing the resource consent is becoming too prohibitive;
- The process of permitting an event is a robust one. The mitigations measures required through the resource consent process are often the same mitigations measures applied by the facilitators in order to permit the event.

Vehicle Movements

- Currently have film productions with up to 500 crew, potentially operating in a rural zone or future urban zone;
- This number is very low and doesn't allow for the community to attend events;
- It also doesn't allow for the number of required contractors and staff to work on the event;
- Through the event permitting process, it would be beneficial to mitigate the impact of traffic on the environment by engaging with local knowledge and Auckland Transport.

Noise Levels (noise level and construction activities particularly around pack in and pack out)

- While an event may not trigger a resource consent for the duration, noise or mana whenua overlay, it does because of the nature of the pack in/pack out of the event i.e. trucks used to deliver or remove infrastructure associated with the event;
- These effects are mitigated through the event permitting process by engaging with locally affected parties and stakeholders;
- The costs of applying for a resource consent for community events is costly and is resulting in events leaving the Auckland region, losing money for the Auckland economy

Anzac Day

- The Supercars Championship (V8 Supercars) was to be held at Pukekohe Park in 2020 (and again in 2021). However, under the Pukekohe Park precinct, this couldn't go ahead without a resource consent as racing was not permitted on Anzac Day;
- Under the Anzac Day Act 1966, where Anzac Day falls on a Saturday it is only observed until 1pm;
- ATEED would like to see the Unitary Plan changed to be the same as the Anzac Day Act 1966.

Maori Heritage team

Auckland Council's Maori Heritage team were asked if a plan change was not appropriate, could a "global resource consent" be used to address the issue of temporary activities on Sites and Places of Significance to Mana Whenua. The response is outlined below:

- The Māori Heritage team strongly oppose a global consent over any Māori heritage sites of significance;
- Cultural values differ between a mara kai (food garden) and an urupa (cemetery), and that tikanga differs between iwi/hapū;
- A 'one size fits all' (i.e. a global resource consent) approach actually doesn't work;
- The Māori Heritage team's understanding is that the vast majority of RD applications are processed quickly, iwi are consulted and the consent is granted under delegation by planners without hearing. Under permitted activity status, iwi may not be consulted – this goes against objectives of the Auckland Plan and Long Term Plan and obligations under the Treaty and RMA;

- The Māori Heritage team’s preference is that the status quo is retained – where individual resource consents are required for temporary activities on Sites and Places of Significance to Mana Whenua.

Section 8.0 Development of Possible Options

8.1 Description of options

The criteria used to select potential options for consideration to address the resource management issues and achieve the objectives are:

- I. Achievable/able to be implemented;
- II. Acceptable RMA practice;
- III. Timeliness – able to be implemented in a timely manner; and
- IV. Addresses the RMA issue.

The high-level options for addressing the four identified issues are:

- Option 1 – No change/status quo
- Option 2 – Plan Change
- Option 3 – Resource Consent
- Option 4 – Existing Use Rights
- Option 5 – Non Statutory Methods

A high level assessment of the options available against the criteria is set out in the table below:

Criteria	Option 1 – No change/status quo	Option 2 – Plan Change	Option 3 – resource consent	Option 4 – Existing Use Rights	Option 5 – Non statutory methods
<i>Achievable/able to be implemented</i>	<i>Yes - does not involve any change</i>	<i>Plan change required. Involves slight - substantial modification to the temporary activity standards</i>	<i>Resource Consent process is quicker than the Plan Change process. A consent is able to be sought for Temporary activities that do not comply with standards and temporary activities on Sites of Significance to Mana Whenua.</i>	<i>Applies only to lawfully established activities where the effects of the use are the same or similar in character, intensity and scale to those which existed before the rule became operative or the proposed plan was notified</i>	<i>Yes - does not require a plan change.</i>

			<p>Either a “global” consent could be sought for multiple temporary activities or individual consents.</p> <p>A global consent might not be able to capture all temporary activities</p>		
<p>Acceptable RMA practice</p>	<p>No change means that the triggers for resource consent in relation to temporary activities remain the same.</p> <p>Resource consent would continue to be required for any temporary activity on a Site of Significance to Mana Whenua.</p> <p>A gap would continue to exist for noise controls for temporary coastal activities.</p>	<p>Yes – just raises the threshold for when a consent is required but effects are still managed.</p> <p>It is acceptable RMA practice that a resource consent is required for temporary activities on Sites of Significance to Mana Whenua.</p> <p>Not appropriate that there is a gap for noise controls for temporary coastal activities.</p>	<p>Yes – the resource consent process is an acceptable method of managing the effects of temporary activities.</p>	<p>Yes – existing use rights are provided for under the RMA – section 10</p>	<p>Non-statutory methods are an acceptable resource management tool or method.</p>
<p>Timeliness – able to be implemented in a timely manner</p>	<p>No plan change so timeliness is not an issue.</p>	<p>A plan change can take significant time – depending on the number of submissions received and if there are any appeals.</p> <p>More substantial changes are likely to generate a greater number of submissions and potentially appeals.</p>	<p>A resource consent also takes a significant amount of time but less than a plan change.</p> <p>Onus lies with the applicant to prepare the resource consent application (this could be Ak Council’s events team or individual applicants)</p>	<p>Effective immediately, provided the activity has been lawfully established and the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified</p>	<p>Non statutory methods are able to be implemented reasonably quickly, deepening on the method and the process of preparation and the availability of resources (including budgets). A bylaw for example has a similar preparation time to a plan change</p>

					<i>but there are no rights of appeal.</i>
<i>Addresses the RMA issue(s)</i>	<i>Does address the issue by managing temporary activities but the threshold is set at a level where many temporary activities require resource consent</i>	<i>A plan change option could provide some additional flexibility for temporary activities. It could also reduce the requirement for resource consent on Sites of Significance to Mana Whenua.</i>	<i>Resource consents are an acceptable means of departing from the temporary activity standards and for activities on Sites of Significance to Mana Whenua.</i>	<i>Only partly addresses the issues Enables existing, established events to continue (provided the effects of the use are the same or similar), may not afford appropriate protection to Sites of Significance to Mana Whenua. Doesn't address the issues relating to coastal temporary activities and temporary emergency activities.</i>	<i>Doesn't address the issue that the current temporary activity standards in the UP are not flexible enough.</i>

Table 8: Assessment of high level possible options against the selection criteria

All five broad options are valid RMA approaches and have strengths and weaknesses as outlined above. The issue is the efficiency and effectiveness of the options for each particular issue. This will be assessed in greater detail section 9 of this report.

8.2 The Options

The development of the options has been shaped by:

- Consideration of the context surrounding the issues (section 6)
- Results of engagement and consultation with iwi, Local Boards and the wider “Council Group”(section 7)
- Initial scoping of “high – level” possible options (the tools available to address the issues) (section 8)

8.2.1 Issue 1 – Temporary Activity Standards (excluding sites of significance to Mana Whenua)

Option 1 – No change/status quo

This option retains the status quo. This means that a resource consent would be required for any activity not meeting the temporary activity standards which include pack in and pack out duration and associated noise levels, the duration of activities, traffic management and the definition of Anzac Day for the Pukekohe Park precinct.

Option 2 – Minor amendments to the standards relating to noise limits & duration of activities to provide some additional flexibility.

This option involves some minor changes via a plan change to the temporary activity standards which include pack in and pack out duration and associated noise levels, the duration of activities and traffic. Events of a significant duration and/or those that generate substantial noise would still trigger the need for resource consent.

Option 3 – Global resource consent

This option involves ATEED applying for resource consent for a number of recurring events at known locations. A global consent would negate the need for specific one-off resource consent applications, but these would still be required for any events/activities not captured by the global consent.

Existing use Rights

Note: Existing use rights may apply to recurring temporary activities that were established prior to the Unitary Plan e.g. Auckland marathon. Activities must however have been lawfully established and the effects of the use the same or similar in character, intensity and scale to those which existing before the Unitary Plan became operative in part. Events that have increased in size annually may therefore not be able rely on existing use rights.

8.2.2 Issue 2 – Sites of Significance to Mana Whenua Overlay

Option 1 – No change/status quo

This option retains the status quo whereby any temporary activity, including filming, regardless of its character, scale, intensity and effects on a Site of Significance to Mana Whenua requires a limited discretionary resource consent.

Option 2 – Plan Change to enable all temporary activities as a permitted activity on sites of significance to mana whenua but subject to engagement with iwi under the Trading and Events in Public Places Bylaw 2015 and the ability to decline unsuitable applications through the event permit process (note: the ability to decline applications under the EPP Bylaw 2015 already exists).

This option involves amending the Unitary Plan's Sites of Significance to Mana Whenua overlay to make temporary activities permitted (currently restricted discretionary). Engagement with Man Whenua and management of the temporary activity would then occur through the Events Permit process. This would require an amendment to the Trading and Events in Public Places Bylaw 2015 to specifically refer to engagement & matters of consideration when deciding on an application when activities or events are proposed on sites of significance to Mana Whenua

Option 3 – Plan change to enable certain temporary activities as permitted activities e.g. those that involve no buildings or structures, food preparation, toilet facilities etc. e.g. capping ceremony (Aotea Square), parades (Queen Street). The remainder would require resource consent.

This option involves distinguishing between those temporary activities which have minimal effect due to the absence of buildings & structures, food preparation, alcohol, waste etc and those they do involve one or more of these elements. Those that have no or minimal adverse effects on the values of the sites can be a permitted activity, whilst those that do or potentially do can remain a limited discretionary activity.

Option 4 – “Global” resource consent

This option involves ATEED applying for a “global resource consent” for temporary activities on specific sites of significance to mana whenua. The consent could be for temporary activities generally (which could be difficult as the nature of the effects will be hard to specify) or could be for a range of specified activities that cover most instances. Conditions of the resource consent would provide opportunity to avoid adverse effects.

Note: Regional Facilities Auckland has lodged a resource consent for temporary activities/events on sites of significance to mana whenua on three of their sites/facilities. These involve:

Auckland Zoo: Nga Kauaewhatai (Schedule 12 site 004)

Aotea Square: Horotiu (Schedule 12 site 016*)

Western Springs: Wai Orea (Schedule 12 site 008)

Option 5 – Existing Use Rights

This option relies on existing use rights for well-established recurring activities which occur on Sites and Places of Significance to Mana Whenua e.g. Auckland marathon (part of Tamaki Drive is a site and place of significance). Activities must however have been lawfully established and the effects of the use the same or similar in character, intensity and scale to those which existing before the Unitary Plan became operative in part. Events that have increased in size over time may therefore not be able rely on existing use rights.

8.2.3 Issue 3 – Gap in noise rules for coastal temporary activities

Option 1 – No change/status quo

This option retains the status quo. This means that activities in the coastal marine area that are not defined as “noise events” have no applicable noise standards.

Option 2 – Plan Change to introduce a new noise rule for coastal temporary activities

This option addresses the gap in the provisions by introducing a noise standard or cross reference to a noise standard for activities in the coastal marine area that are not defined as noise events. (Note: noise events are defined in the Unitary Plan as “an event that exceeds the general noise controls for a site (or area within the coastal marine area) either in level or duration”).

8.2.4 Issue 4 – Temporary Emergency Activities

Option 1 – No change/status quo – rely on Section 330 – Emergency works and power to take preventative or remedial action, of the RMA.

This option continues with the status quo and reliance on Section 330 of the RMA to take the necessary action during an emergency.

Option 2 – Plan change to provide for “temporary emergency activities” as a permitted activity across the region (with a definition added).

This option involves a change to the Unitary Plan to specifically provide for “temporary emergency activities” as a permitted activity under the Temporary Activity provisions (which apply region wide).

Option 3 – Amendments to the RMA

This option involves lobbying Central Government (Ministry for the Environment) through the review of the RMA to provide greater powers when emergency activities are required in response to natural events/disasters.

The assessment of possible options against the selection criteria is outlined in the table below:

Section 9. Assessment of Options

9.1 Evaluation Criteria

The Tables below assesses the options for addressing the resource management issues against the evaluation criteria.

Sections of the RMA		Criteria
Appropriateness	s32(1)(a) and s32(1)(b) of the RMA	Is this option the most appropriate way in which to address the issue at hand? In doing so, is this option the most appropriate way to meet the objective(s) of the AUP and the purpose of the RMA?
Effectiveness	s32(1)(b)(ii) of the RMA	How successfully can this option address the issue? Does this option successfully meet the objectives of the AUP and the purpose of the RMA?
Efficiency	s32(1)(b)(ii) of the RMA	Does this option address the issue at lowest cost and highest net benefit?
Costs	s32(2) of the RMA	What are the social, economic, environmental or cultural costs and/or negative impacts that this option presents?
Benefits	s32(2) of the RMA	What are the social, economic, environmental or cultural benefits and/ or positive impacts that this option presents?

Risks	s32(2)(c) of the RMA	What are the risks of addressing this issue? What are the risks of not addressing this issue?
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Table 9: Criteria for the evaluation of options

9.2 Evaluation Scoring

Table 3 below contains a description of how the criteria are to be “scored”. This has been overlaid over the assessment.

Sections of the RMA	Ranking		
	Poor	Moderate	Strong
Appropriateness	Not appropriate in addressing issue	Somewhat addresses the issue	Appropriate in addressing the resource management issue
Effectiveness	Not effective in addressing issue	Somewhat effective in addressing issue	Addresses the issue effectively
Efficiency	Not efficient	Somewhat efficient	Efficient in addressing issue
Costs	Poses a high cost and/or had negative impact	Moderate costs and/or negative impacts	Little cost and/or negative impacts
Benefits	Little benefit and/or positive impacts	Moderate benefits and/or positive impacts	High benefit and/or positive impacts
Risks	High risks	Moderate risks	Low risk

Table 10: Evaluation rankings

9.3 The Evaluation

The evaluation of the possible options against the evaluation criteria is as follows:

9.3.1 Issue 1 – Temporary Activity Standards

Criteria	Option 1 – No change/status quo	Option 2 – Amendments to the controls relating to pack in and pack out duration and associated noise levels, duration of activities, traffic management and the definition of Anzac Day to provide greater flexibility	Option 3 – Global resource consent
Appropriateness	<p>Retaining the current approach is a valid option.</p> <p>It could be deemed appropriate given that the rules have only been in force since Nov 2016 and were the subject of the Unitary Plan process, including the hearing of submissions by the IHP.</p> <p>Is it the most appropriate option however?</p>	<p>Providing additional flexibility is also a valid approach.</p> <p>This option would result in adjusting the threshold (in terms of standards) slightly between what is a permitted activity and when resource consent would be required.</p>	<p>There is the potential to bundle together a number of temporary activities into a global resource consent to seek greater flexibility in terms of noise limits and duration.</p> <p>This is a valid resource management approach.</p>
Effectiveness	<p>Evidence from the Event Facilitation team and resource consent data indicates that a number of events now require a resource consent.</p>	<p>Adjusting the bar slightly between what is a permitted activity and when resource consent is required will be effective in enabling a greater number of temporary activities to occur (without the need for resource consent).</p>	<p>Able to clearly identify effects associated with known temporary activities on specific sites.</p> <p>Conditions can be applied to avoid, or mitigate those effects.</p> <p>Those events the subject of the global resource consent can then take place.</p>
Efficiency	<p>Requiring a large number of temporary activities to go through a resource consent process is not a very efficient process for both the event organiser(s) and Council (in terms of both ATEED and Resource Consents who would need to process multiple resource consent applications).</p>	<p>Adjusting the bar slightly between what is a permitted activity and when resource consent is required would result in a more efficient resource management process.</p> <p>A higher level of effects would however be permitted, so protection of amenity values would be lessened.</p>	<p>One global resource consent dealing with multiple temporary activities on many sites would represent a much more efficient process than the status quo.</p>

Costs	The time and costs associated with event organisers applying for multiple resource consents and the Council processing of those consents.	A reduced level of protection is afforded to the amenity values of sites in proximity to temporary activity locations..	The time and costs required to prepare a global resource consent. This is off set by the time and costs savings associated with the status quo – where multiple resource consents are required.
Benefits	A higher level of protection is afforded to the amenity values of sites in proximity to temporary activity locations.	Threshold for a resource consent can be set at level that enables certain temporary activities with no more than minor adverse effects to occur as a permitted activity. Reduces costs for some temporary activity organisers.	Affords a higher level of protection to the amenity values of sites in proximity to temporary activity locations as all temporary activities that exceed the current standards are subject to a resource consent.
Risks	Requiring a large number of temporary activities to go through a resource consent process. Not as many temporary activities take place and this lessens the “quality of life” for Aucklanders.	A higher level of effects would be permitted, so the protection of amenity values associated with nearby sites would be lessened.	Lengthy and costly process of putting the global resource consent together. It can only address those known temporary activities – so is not future proofed.

Table 11: Evaluation of possible options against the selection criteria – Temporary Activity Controls

9.3.2 Issue 2 – Sites of Significance to Mana Whenua Overlay

Criteria	Option 1 – No change/status quo	Option 2 – Enable all temporary activities as a permitted activity & use the Event Permit process to address Iwi Issues	Option 3 – Enable certain temporary activities as permitted activities/Remainder require consent	Option 4 – Global resource consent
Appropriateness	Any temporary activity on a site of Significance to Mana Whenua is a restricted discretionary activity and requires a	Removes the requirement for a resource consent. Event permit is a requirement under the	Difficult to distinguish which effects of activities should be “permitted” given the different values of different sites and overlapping rohe of	Able to clearly identify effects associated with known temporary activities on specific sites.

	<p>resource consent. The resource consent process enables an assessment of the effects of the activity on the values of the site and involvement of iwi in the process.</p>	<p>Trading & Events in Public Places Bylaw.</p> <p>Event permit process does not currently require engagement with iwi although this can occur.</p>	<p>iwi (where values may differ).</p> <p>Consent may still be required for certain aspects of a temporary activity, so no benefit to event organiser.</p>	<p>Conditions can be applied to avoid, or mitigate those effects.</p> <p>Iwi involvement in the resource consent process.</p> <p>RFA has applied for a global consent for three sites.</p>
Effectiveness	<p>Enables a through assessment of effects associated with a temporary activity on a site of significance to Mana Whenua.</p>	<p>Removes the requirement for a resource consent.</p> <p>Instead, relies on the event permit process to identify and manage adverse effects.</p> <p>No requirement currently in the event permit process to address effects on sites of significance to Mana Whenua – so a change to the event permit would be required.</p> <p>Removing the statutory requirement means there are no appeal rights by either party.</p>	<p>Less effective in protecting sites of significance to Mana Whenua.</p> <p>Difficulties in distinguishing which effects should be “permitted” and where given the many values associated with such sites and places and the differing views of iwi.</p>	<p>Ability to assess the effects of known temporary activities in known locations.</p> <p>Ability to manage adverse effects through conditions of consent.</p> <p>There will be some temporary activities in certain locations that won’t be able to be addressed upfront through a global resource consent.</p>
Efficiency	<p>Requiring every temporary activity on a site of significance to Mana Whenua to go through a resource consent process is not a very efficient process for both the event organiser(s) and iwi.</p> <p>Is efficient however in terms of protecting sites of significance to Mana Whenua</p>	<p>Avoids duplication of management – i.e. through the Unitary Plan and Event Permit process – so a more streamlined process.</p>	<p>Enables some temporary activities to be permitted.</p> <p>Certain aspects of a temporary activity may still trigger the need for resource consent.</p>	<p>One global resource consent dealing with multiple temporary activities on many sites of significance to Mana Whenua would represent a much more efficient process than the status quo.</p>

Costs	<p>The time and costs associated with applying for multiple resource consents.</p> <p>The costs applied on iwi in responding to multiple resource consent applications.</p>	<p>Removes the time and costs associated with the resource consent process.</p> <p>Relies on the Event Permit process only.</p> <p>Changes to the event permit would be required.</p> <p>There could be costs associates with the reduced protection of sites of significance to Mana Whenua</p>	<p>Removes the time and costs associated with the resource consent process for certain temporary activities (or certain effects).</p> <p>There will still be the costs of the resource consent process for those effects not enabled.</p>	<p>The time and costs required to prepare a global resource consent.</p> <p>This is off set by the time and costs savings associated with the status quo – where multiple resource consents are required.</p>
Benefits	<p>Affords a high level of protection for sites of significance to Mana Whenua as all temporary activities are subject to a resource consent.</p>	<p>Removes the duplication of processes.</p> <p>Iwi are still able to be involved but outside the statutory processes.</p> <p>To ensure iwi involvement is guaranteed, changes to the bylaw would be required.</p>	<p>Threshold for a resource consent can be set at level that enables certain temporary activities with less than minor adverse effects to occur as a permitted activity.</p> <p>Reduces costs for some temporary activity organisers.</p> <p>The costs applied to iwi in responding to multiple consents is lessened.</p>	<p>Affords a high level of protection for sites of significance to Mana Whenua as all temporary activities are subject to a resource consent.</p> <p>Efficiencies are gained by bundling together multiple temporary activities and/or multiple sites of significance to Mana Whenua together.</p>
Risks	<p>Temporary activities are costly to run, so not as many are undertaken.</p> <p>The costs applied to iwi in responding to multiple resource consent applications.</p>	<p>Relies on the bylaw to manage the effects associates with temporary activities.</p> <p>Removing the statutory requirement means there are no appeal rights by all parties.</p>	<p>That this option neither benefits iwi or the event organiser.</p> <p>Difficult to distinguish which effects of activities should be “permitted” given the different values of different sites and overlapping rohe of iwi.</p>	<p>Lengthy and costly process of putting the global resource consent together.</p> <p>It can only address those known temporary activities – so is not future proofed.</p>

Table 12: Evaluation of possible options against the selection criteria – Sites of Significance to Mana Whenua Overlay

9.3.3 Issue 3 – Gap in noise rules for coastal temporary activities

Criteria	Option 1 – No change/status quo	Option 2 – Introduce a new noise rule for coastal temporary activities
Appropriateness	A gap will still exist for activities in the coastal marine area in terms of noise standards.	Appropriate that temporary activities in the CMA do have a noise control at the coastal interface. If this is exceeded, then the activity is defined as a noise event and a different set of standards apply including the number, duration and noise limits for noise events
Effectiveness	Does not address the issue. The noise events standards will also not be triggered as a noise event is defined as an event that exceeds the general noise controls of a site either in level or duration.	Would address the issue by introducing a noise standard for temporary activities in the coastal marine area.
Efficiency	As no action is taken to address the issue, this is a zero cost option. This is off set by the fact that the issues are not addressed.	Option involves a plan change and the costs associated with that. These are reduced by bundling together the four temporary activity issues. Does address the issue in a cost effective manner.
Costs	Potential environmental (amenity values) costs of temporary activities in the coastal marine area with no relevant noise standards.	Costs associated with a plan change. The additional of a noise standard imposes an additional constraint on temporary activities in the CMA.
Benefits	There are benefits for temporary activities in the CMA as they do not need to comply with any noise standards at the coastal interface.	Appropriate that temporary activities in the CMA do have a noise control at the coastal interface. This will assist in managing the effects of temporary activities on amenity values.
Risks	Significant adverse effects which impact on the amenity values of adjacent residential or open space areas could occur from temporary activities. Council would be powerless to take action, other than that provided for under section 16 of the RMA (Duty to avoid unreasonable noise)	Restrictive standards are applied to temporary activities in the CMA (coastal interface) though the plan change process.

Table 13: Evaluation of possible options against the selection criteria – Gap in the noise rules for coastal temporary activities

9.3.4 – Issue 4 – Temporary Emergency Activities

Option 1 – No change/status quo – rely on Section 330 – Emergency works and power to take preventative or remedial action, of the RMA

Option 2 – Plan change to provide for “temporary emergency activities” as a permitted activity across the region (with definition added)

Option 3 – Amendments to the RMA

Criteria	Option 1 – No change/status quo – rely on section 330 of the RMA	Option 2 – Plan change to provide for “temporary emergency activities” as a permitted activity across the region (with a definition added)	Option 3 – Amendments to the RMA
Appropriateness	Does address the issue of works required after an “emergency/natural disaster”. Requires a retrospective resource consent to be applied for.	Temporary activities could be expanded to provide for “temporary emergency activities”. Would need to define exactly what these are (a definition would also be required).	Lessons learnt after Christchurch and Kaikoura could be factored into the RMA rewrite to provide greater powers and more appropriate timeframes to respond to an emergency/natural disaster.
Effectiveness	Section 330 has been reasonably effective in providing for responses to “emergency/natural disaster”. However the Kaikoura earthquake demonstrated that the requirement to lodge a resource consent within 20 working days was too short a time frame for an event of that scale.	There is already legislation in place but major events such as the Kaikoura earthquake have demonstrated that the timeframes are too tight. A plan change could be effective in addressing this issue and enabling certain works as permitted activities. There would be some duplication with the provisions of the RMA however and potentially any new provisions under the review of the RMA.	A review of the RMA is currently underway. This provides an opportunity to learn from events such as the Kaikoura earthquake and to amend the emergency provisions. These then would apply nationwide.
Efficiency	The statutory timeframes apply to all scale of emergencies. With a significant emergency where numerous emergency works may be required, the standard timeframes in the RMA are insufficient (based on the experiences at Kaikoura).	Individual TLA’s addressing this issue is not the lowest cost/greatest net benefit approach. Addressing the issue at the national level is more efficient. This is particularly so with the review of the RMA currently underway.	A rewrite of the legislation at the “national level” will be able to address the short comings of the current RMA timeframes. This addresses the issue nationally at the lowest cost and highest net benefit (as opposed to individual council undertaking plan changes)
Costs	With a significant emergency where numerous emergency works may be required, the standard timeframes in the RMA are insufficient. This potentially diverts resources away from the recovery.	Costs associated with a plan change and any appeals. Issue of consistency across the country if Auckland Council pursues a plan change approach to emergency works when the rest of the country relies on legislation (and recovery bills)	May get overlooked with the review of the RMA as this is only one of many issues to be addressed. There is always the option of a “recovery bill” where a “emergency occurs e.g. Hurunui/Kaikoura Earthquakes Recovery Bill

Benefits	<p>There is existing legislation in place. This applies to the country as a whole.</p> <p>It enables emergency works to be undertaken (although as mentioned above, the timeframes for applying for retrospective resource consents are too tight)</p>	<p>A plan change can run ahead of the reform of the RMA.</p> <p>Auckland Council can tailor the provisions to the Auckland situation and the likely emergencies/natural disasters it could encounter.</p>	<p>A rewrite of the legislation at the “national level” will be able to address the short comings of the current RMA timeframes. This addresses the issue nationally at the lowest cost and highest net benefit (as opposed to individual council undertaking their own plan changes)</p>
Risks	<p>There is existing legislation in place. This applies to the country as a whole.</p> <p>It enables emergency works to be undertaken (although as mentioned above, the timeframes for applying for retrospective resource consents are too tight)</p>	<p>The plan change runs counter to the what may come out of the reform of the RMA.</p> <p>Possible duplication of approaches – Unitary Plan and RMA.</p> <p>Plan change becomes stalled as a result of appeals.</p>	<p>The review of the RMA takes considerably longer than anticipated.</p> <p>The review of the RMA doesn’t address the current short comings in the provisions.</p> <p>A “nation – wide” approach is not as tailored to the potential threats/emergency works that Auckland could encounter/require.</p>

Table 14: Evaluation of possible options against the selection criteria – Temporary emergency activities

Section 10.0 Recommended Options and Reasons

10.1 Recommended Options

The following options are recommended. Only Issues 1 & 3 involve a plan change. Issue 2 involves a “global resource consent”, while issue 4 involves changes to legislation, specifically the RMA, which is currently under review. Auckland Council may wish to include temporary emergency activities in their submissions on the new RMA Bill when it is available for public submissions.

10.1.1 Issue 1 – Temporary Activity Standards

Option 2 – Plan Change for minor amendments to the temporary activity controls relating to pack in and pack out duration and associated noise levels, the duration of activities, traffic management and the definition of Anzac Day in the Pukekohe Park precinct to provide some additional flexibility.

(Note: Existing Use Rights - this option continues to be available for any event that can establish existing use rights)

10.1.2 Issue 2 – Sites of Significance to Mana Whenua Overlay

Option 4 – “Global” resource consent

(Note: in this context a “global resource consent” is a resource consent application that may involve more than one site and/or more than one temporary activity.)

10.1.3 Issue 3 – Gap in noise rules for coastal temporary activities

Option 2 – Plan Change to introduce a new noise rule for coastal temporary activities

10.1.4 Issue 4 – Temporary Emergency Activities

Option 3 – Amendments to the RMA

(Note: Auckland Council may need to submit on the replacement Resource Management Act to ensure this issue is adequately addressed)

10.2 Rationale for the recommended options

The rationale for the recommended options is:

10.2.1 Issue 1 – Temporary Activity Standards

- Adjusting the bar slightly between what is a permitted activity and when resource consent is required will be effective in enabling a greater number of temporary activities to occur (without the need for resource consent);
- Removes the time and costs associated with the resource consent process for those temporary activities that would be able to meet the new standards;
- Threshold for a resource consent can be set at level that enables certain temporary activities with no more than minor adverse effects to occur as a permitted activity;
- Reduces costs for some temporary activity organisers. This is particularly important for community fundraising events.

10.2.2 Issue 2 – Sites of Significance to Mana Whenua Overlay

- Able to clearly identify effects associated with known temporary activities on specific sites;
- Conditions can be imposed to avoid, or mitigate those effects;
- Iwi involvement in the resource consent process;
- A global resource consent dealing with multiple temporary activities on many sites of significance to Mana Whenua would represent a much more efficient process than the status quo, which involves a series of “one off” resource consent applications;
- Affords a high level of protection for sites of significance to Mana Whenua as all temporary activities continue to be subject to a resource consent.

10.2.3 Issue 3 – Gap in noise rules for coastal temporary activities

- Appropriate that temporary activities in the CMA do have a noise control at the coastal interface;
- If the noise standard is exceeded, then the activity is defined as a noise event and a different set of standards apply including the number, duration and noise limits for noise events;
- Addresses the issue in a cost-effective manner, particularly as the plan change is bundled with other changes.

10.2.4 Issue 4 – Temporary Emergency Activities

- Lessons learnt after Christchurch and Kaikoura could be factored into the RMA rewrite to provide greater powers and more appropriate timeframes to respond to an emergency/natural disaster;
- A rewrite of the legislation at the “national level” will be able to address the short comings of the current RMA timeframes;
- This addresses the issue nationally at the lowest cost and highest net benefit (as opposed to individual councils undertaking plan changes).

10.3 What is in scope/ out of scope

10.3.1 Within scope

- Minor amendments to the temporary activity controls relating to pack in and pack out duration and associated noise levels, duration of activities and traffic to provide some additional flexibility; and
- A new noise rule for coastal temporary activities.

10.3.2 Out of scope

- Providing for freedom camping as a permitted activity in the relevant Open Space zones (to be the subject of a separate plan change evaluation);
- Changes to the Trading and Events in Public Places (TEPP) Bylaw;
- Changes to the Auckland Council’s Freedom Camping Bylaw;
- Changes to legislation (although this paper could form the basis for part of a wider Auckland Council submissions);
- Any “global resource consent” application; and
- Establishing whether existing use rights exist for any event.

Section 11.0 Conclusion

The proposed plan change evaluation addresses issues raised in relation to temporary activities.

Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

The evaluation must also take into account:

- The benefits and costs of policies, rules, or other methods; and

- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

A section 32 analysis of options has been undertaken in accordance with section 32(1)(b) and (2) of the RMA.

The options considered and the recommended options are:

Issue 1 – Temporary Activity Standards

Option 1 – No change/status quo

Option 2 – Amendments to the standards relating to pack in and pack out duration and associated noise levels, the duration of activities, traffic management and the definition of Anzac Day in the Pukekohe Park precinct to provide greater flexibility (**Recommended**)

Option 3 – Global resource consent

Issue 2 – Sites of Significance to Mana Whenua Overlay

Option 1 – No change/status quo

Option 2 – Enable all temporary activities as a permitted activity on sites of significance to mana whenua but subject to engagement with iwi and approval (if appropriate) through the event permit process

Option 3 – Enable certain temporary activities as permitted activities e.g. those that involve no buildings or structures, food preparation, toilet facilities etc. e.g. capping ceremony (Aotea Square), parades (Queen Street). Remainder require resource consent

Option 4 – “Global” resource consent (**Recommended**)

Option 5 – Rely on existing use rights for certain long held activities (but only if the scale of these activities remains the same or similar)

Issue 3 – Coastal Temporary Activities

Option 1 – No change/status quo

Option 2 – Plan change to adding an additional noise standard in E40 for activities that generate noise but are not noise events (**Recommended**)

Issue 4 – Temporary Emergency Activities

Option 1 – No change/status quo – rely on the provisions of the Resource Management Act 1991 (**Recommended**)

Option 2 – Plan change to specifically provide for temporary emergency activities as a permitted activity, under the temporary activity provisions.

These options are considered to best achieve Part 2 of the Resource Management Act 1991 and the purpose or objectives of relevant national and regional acts and/or planning documents. These include:

- New Zealand Coastal Policy Statement 2010;
- Hauraki Gulf Marine Park Act 2000
- Waitakere Ranges Heritage Area Act 2008
- Maori Plan 2017
- Auckland Plan 2018; and
- Auckland Unitary Plan 2016

List of Attachments

Attachment	Name of Attachment
A1	Information Used
A2	Examples of temporary activities requiring resource consent
A3	Auckland Unitary Plan Evidence

Attachment 1 - Information Used

The list of reports, documents and evidence that have been used in the development of this section 32 report are listed below:

Table 11: Information Used

Name of document, report, plan	How did it inform the development of the plan change
Unitary Plan evidence	
The Maori Plan 2017	Identifies issues of significance to Maori in Tamaki Makaurau
Auckland Plan 2050 (refresh) 2018	A refresh of Auckland’s high level strategic plan – contains directives and focus areas that are relevant to open space and recreation. Used to assess the appropriateness of the recommended option.
Auckland Unitary Plan 2016	Relevant sections of the Unitary Plan are used to assess the appropriateness of the recommended option. Evidence presented to the Independent Hearing Panel was used to provide background to some of the issues.
The following Legislation & National Policy Statements: Resource Management Act 1991 Local Government Act 2002 Reserves Act 1977, Hauraki Gulf Marine Park Act 2000, Waitakere Ranges Heritage Area Act 2008	Relevant sections of the legislation and national policy statements are used to assess the appropriateness of the recommended option.
The Trading and Events in Public Places Bylaw 2015, Film Auckland Protocol 2019	Relevant sections of the bylaw & protocol are used to assess the appropriateness of the recommended option.

Attachment 2 - Examples of Temporary Activities Requiring Resource Consent

(to be inserted)

Attachment 3 – Unitary Plan Evidence

4.2.1 Chole Trenouth’s Evidence (on behalf of Auckland Council)

The relevant evidence on the topic of temporary activities and Sites and Places of Significance to Mana Whenua is:

Only 61 SSMW are identified in the PAUP reflecting 46 legacy sites and 15 additional sites nominated through feedback to the March 2013 Draft Auckland Unitary Plan. These sites are identified as significant and the policy approach seeks to avoid significant adverse effects on the values and associations of Mana Whenua with these sites.

Protection for SSMW is achieved through the notified rules by requiring resource consent for most activities as a discretionary activity on or within 50m of a SSMW, with exceptions provided for minor activities as permitted.

Temporary activities

13.13 The notified provisions identified temporary activities that include toilets, changing rooms or land disturbance on SSMW identified as a site exception in Appendix 4.1 as a restricted discretionary activity. The intention of the provisions is to provide for a lesser activity status for those temporary activities on SSMW where the effects relate to intangible effects because the landscape is either highly modified or no archaeology exists.

13.14 Temporary activities are primarily managed by Auckland-wide provisions across all zones in Chapter H6.5. Generally activities are permitted or restricted discretionary subject to specified time periods, traffic and noise controls. The SSMW overlay overrides the Auckland-wide provisions.

13.15 Relocation of the earthworks provisions into Chapter H4.2 has resulted in a consequential change that requires the deletion of the earthworks part of the rule, leaving only the toilets and changing rooms in the Activity table in Chapter J5.1.

13.16 The proposed amendment to address the consequential change for temporary activities was discussed in mediation and was generally supported by most parties. However, IMSB raised concern at the mediation that effects on values by temporary activities other than toilets also needed to be considered, including for example food preparation and eating. IMSB was of the view that the temporary activity rule relates to all aspects of a temporary activity and not just those that include toilets and changing rooms. IMSB therefore preferred the notified wording of the activity, which I have reflected in the track changes in Appendix B.

13.17 In my opinion the intention of the notified temporary activity rule was clearly to manage only those temporary activities that include toilets and changing rooms. Temporary activities on all other SSMW were not specifically identified because the intention was that these would be picked up under the activities relating to buildings and earthworks, effectively being a discretionary activity.

13.18 I have considered the issues raised and I propose changes to apply the temporary activity rule to all sites, not just site exceptions, to provide greater clarity. I consider a restricted discretionary status for temporary activities that include toilets and changing rooms to be appropriate because it is consistent with the overall approach to temporary activities in

the Auckland-wide provisions. As a restricted discretionary activity, the CIA process will be required, providing the opportunity for Mana Whenua to recommend conditions to manage the cultural impacts of locating toilets and changing rooms on SSMW. The earthworks associated with temporary activities are discussed in my primary evidence to Topic 041.

13.19 Given that temporary activities generally occur on public land, I consider it appropriate for the broader concerns of IMSB to be addressed through management plans and agreements with the relevant Council Department or Council Controlled Organisation to enable site specific responses. In my opinion a resource consent process is not the most efficient and effective way of addressing the effects on Mana Whenua values for temporary activities that are often permitted by the Auckland-wide provisions and by their nature have temporary effects. This in my view is consistent with RPS B5.4 Policy 4, which requires the temporary nature of the adverse effect to be taken into account.

4.2.2 Phillip Mitchell's Evidence (On behalf of the IMSB)

The relevant evidence on the topic of temporary activities and Sites and Places of Significance to Mana Whenua is:

5.14 I support most of the SSMW provisions contained in Council's strikethrough version. However, there are some provisions on which I disagree, and which I consider require amendment. They include:

- (a) Minor changes to Policy 2 to clarify that it does not fetter the clear policy direction in Policy 1 and 1A that certain adverse effects be avoided.
- (b) The deletion of the rule which requires resource consent for a change of activities within a SSMW, and the breadth of activities captured by the Temporary Activities rule.
- (c) The deletion of non-complying activity rules relating to land disturbance on a SSMW.
- (d) The inclusion of new policies and rules for infrastructure.

5.24 With respect to the notified Temporary Activity rule, Ms Trenouth has deleted it, and replaced it with two rules, one addressing land disturbance (in the earthworks chapter) and the following rule addressing the Temporary Activity itself, in the SSMW chapter:

<u>Temporary activities where the activity involves toilets (including portaloos) or changing facilities</u>	RD
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5.25 As outlined in paragraph 5.19 it is apparent that there are numerous Temporary Activities that could have significant adverse effects on the values and associations of Mana Whenua with SSMW. Only managing toilets and changing facilities (as Ms Trenouth's rule does) is going to be of limited effectiveness in protecting the values and associations of Mana Whenua with SSMW from significant adverse effects.

5.26 In my view what is needed is for the owner / occupier of land within a SSMW to put together a set of protocols / conditions in consultation with Mana Whenua, for how temporary activities should be undertaken in those areas (identifying areas where cooked food will not be taken, toilets will not be placed, acceptable signage etc.). The question is to what extent rules in the PAUP need to require a resource consent to ensure that process happens.

5.27 I consider that the simplest way is to have restricted discretionary activity status for all Temporary Activities on SSMW, with discretion restricted to effects on the values and associations of Mana Whenua with the SSMW. I have made amendments to do this in my strikethrough version of the rule.