

TEMPORARY ACTIVITIES

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1 Scope of Report

- [1] This Recommendation Report relates to the Temporary Activities chapter of the PDP and contains the Hearing Panel's recommendations to Council on the submissions and further submissions received on that chapter.
- [2] The Hearing Panel members for Temporary Activities chapter were:
- Lindsay Daysh
 - Malcolm Lyall
 - Raewyn Solomon
 - Rob van Voorthuysen (Chair)
- [3] The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for this topic were:
- Temporary Activities, March 2022, Carlo Botha
 - Temporary Activities, 15 September 2022, Carlo Botha
- [4] The Hearing Panel's recommended amendments to the notified provisions of the Temporary Activities chapter are set out in Appendix 1. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.
- [5] There are no recommended amendments to the notified planning maps.
- [6] Further submitters are not listed in the tables in this Recommendation Report because further submissions are either accepted or rejected in conformance with our recommendations on the original submissions to which they relate.

2 Hearing and Submitters Heard

- [7] The hearing for the Temporary Activities chapter was held on Thursday 7 April 2022. There were 38 submitters on the chapter, however only one submitter eventually wished to be heard:

Sub #	Submitter	Original	Further
DPR-0464	NZ Motor Caravan Association (NZMCA)	✓	

- [8] The NZMCA witness we heard from is listed in Appendix 2, along with tabled material from other submitters. A copy of the NZMCA evidence is held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report.
- [9] We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether or not they were represented by counsel or expert witnesses.

3 Sub-topic Recommendations

- [10] In this part of the Recommendation Report we assess the submissions by sub-topic, using the same headings as the initial Section 42A Report.

3.1 Definitions

- [11] The Definitions Chapter was subject to its own Hearing (Hearing 2), however there are a number of submissions relating to definitions that were more appropriately considered as part of the Hearing on the Temporary Activities chapter. For the following submitters and their submission points on the definitions of 'Commercial Filming', 'Temporary Accommodation' and 'Temporary Activity' we adopt Mr Botha's recommendations and reasons. We note that this results in no change to the notified provisions.

Sub #	Submitter	Submission Points
DPR-0358	RWRL	056
DPR-0359	FENZ	012
DPR-0363	IRHL	055
DPR-0371	CIAL	005
DPR-0374	RIHL	061
DPR-0384	RIDL	063
DPR-0422	NCFF	088

3.2 Overview

- [12] For the following submitter and their submission point we adopt the recommendation and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0375	Waka Kotahi	157

- [13] In terms of s32AA of the RMA, for this submission we are satisfied that Mr Botha's recommended amendment to:

- include a note that informs plan users, particularly organisers of temporary activities (such as markets, concerts, community, recreation, or ceremonial events, etc.), that it is their obligation to contact Waka Kotahi where temporary activities are accessed from a State Highway and to contact the Council where temporary activities are accessed from any other roads within the district

is the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.3 TEMP-O1, TEMP-P1, TEMP-P2 and TEMP-P3

- [14] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0359	FENZ	061
DPR-0375	Waka Kotahi	158
DPR-0448	NZDF	045, 046, 047

- [15] In terms of s32AA of the RMA, for these submissions we are satisfied that Mr Botha's recommended amendment to TEMP-P1 to ensure that the potential adverse effects of temporary activities on all roads are managed, in response to the submission of Waka Kotahi, is the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.4 TEMP-R2, TEMP-R4 and new rule proposed by Waka Kotahi

- [16] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author. We note that this results in no change to the notified provisions.

Sub #	Submitter	Submission Points
DPR-0359	FENZ	062
DPR-0371	CIAL	054
DPR-0375	Waka Kotahi	159
DPR-0448	NZDF	079

3.5 TEMP-R7

- [17] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0353	Hort NZ	221
DPR-0359	FENZ	063
DPR-0448	NZDF	080

- [18] In terms of s32AA of the RMA, for these submissions we are satisfied that Mr Botha's recommended amendment to add a note advising that aircraft and helicopter movements are also provided for in the GRUZ and SKIZ (PRZ) Chapters¹, in response to the submission of Horticulture NZ is the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.6 TEMP-REQ2, TEMP-REQ3 and TEMP-REQ5

- [19] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author. We note that this results in no change to the notified provisions.

Sub #	Submitter	Submission Points
DPR-0359	FENZ	064
DPR-0371	CIAL	055
DPR-0448	NZDF	081, 082, 083, 084, 085, 086, 087, 088

- [20] We note that the tabled evidence of the NZDF² stated "While NZDF considers that a controlled activity status is appropriate, NZDF accepts this recommendation [to reject the relief sought] and also considers that the matters identified in TEMP-REQ2.3 are appropriate." NZDF also advised that Mr Botha had clarified the 'application' of TEMP-REQ3.1 and REQ3.2 to their satisfaction.

3.7 TEMP-REQ4

- [21] For the following submitter and their submission point we adopt the recommendations and reasons of the Section 42A Report author.

¹ The SKIZ is now recommended to be called the 'Porters Recreation Zone' with the acronym with PRZ.

² Letter from NZDF dated 5 April 2022

Sub #	Submitter	Submission Points
DPR-0371	CIAL	056

- [22] In terms of the submission of Lincoln University we are satisfied that the Mr Botha's recommended amendment to TEMP-REQ4 to increase the maximum permitted Ground Floor Area (GFA) for temporary buildings and structures ancillary to a construction project erected within the KNOZ as a permitted activity is most appropriate. Having said that we agree with the tabled evidence of Darryl Millar³ that the GFA limit within the KNOZ should refer to "any construction project". We note that in his evidence Mr Millar advised that the University no longer sought an exemption from the height, height in relation to boundary and internal boundary setback requirements.
- [23] However, Mr Millar considered that that clause 1.c. of TEMP-REQ4 should be amended such that temporary construction buildings and structures would be exempt from the 10m road boundary setback, because in his opinion the road corridor abutting the University Campus boundaries on Springs Road and Ellesmere Junction Road provided a separation from adjoining properties sufficient to ensure that any temporary adverse effects on those properties would be acceptable.
- [24] In his Reply Report Mr Botha recommended against that amendment because he suggested temporary buildings and structures potentially remaining on a site for up to 12 months could adversely affect the amenity of the surrounding area and the streetscape. Mr Botha also noted that multiple temporary buildings and structures ancillary to a construction project could foreseeably be erected directly on the road boundary of KNOZ sites that were undergoing multiple concurrent construction projects.
- [25] While that may be so, those impacts will only be temporary and requiring a 10m buffer between the road boundary and any 'temporary buildings and structures ancillary to a construction project' could unnecessarily constrain those construction activities. Accordingly, we prefer Mr Millar's evidence on that matter. We are satisfied that is the most appropriate option for achieving the purpose of the RMA and the relevant objectives of the PDP.
- [26] Consequently, we recommend:

Sub #	Submitter	Submission Point	Accept
DPR-0205	Lincoln University	061	✓

3.8 TEMP-MAT1

- [27] For the following submitter and their submission point we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0375	Waka Kotahi	160

- [28] In terms of s32AA of the RMA, for this submission we are satisfied that Mr Botha's recommendation to amend TEMP-MAT1 to ensure that the potential adverse effects of temporary activities on all roads are taken into consideration is the most appropriate option for

³ Statement of Evidence of Darryl Kenneth Millar (Planning), 23 March 2022, paragraph 13.

achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.9 Non-notification clauses

- [29] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author. We note that this results in no change to the notified provisions.
- [30] In particular, we agree that it is not appropriate to preclude limited or public notification for controlled and restricted discretionary activities on a chapter wide basis. The RMA contains a specific process for determining notification on a case-by-case basis and in our view that statutory process should only be circumvented where there is absolute certainty that potential adverse effects will not affect any other party. Having made this finding, we assess requests for non-notification for individual rules on their merits.

Sub #	Submitter	Submission Points
DPR-0358	RWRL	420
DPR-0363	IRHL	440
DPR-0374	RIHL	486
DPR-0384	RIDL	519

3.10 Freedom Camping

- [31] NZMCA sought to amend the PDP to explicitly permit freedom camping without the need to comply with district plan standards. At the Hearing, NZMCA representative Rayya Ali spoke to that submission and she stated:⁴

“The Freedom Camping Act 2011, Reserves Act 1977, reserve management plans, and council bylaws [which] regulate where freedom camping can occur in the district We submit it would be more appropriate to explicitly exclude freedom camping from the plan and avoid the need for a land use consent in areas where council bylaw or reserve management plan permits freedom camping.”

- [32] Mr Botha initially recommended an amendment to the definition of ‘camping ground facility’ for reasons that we found difficult to understand, given his advice that freedom camping was not managed by the PDP, but was instead managed by bylaws and Reserve Management Plans. In his Reply Report Mr Botha advised the SDC regulated camping (including freedom camping) by way of a number of mechanisms, including:
- The Parks and Reserves Bylaw 2009 (under the Local Government Act 2002);
 - The Camping on Reserves Policy (which was recently approved and adopted by Council);
 - Reserve Management Plans (under the Reserves Act 1977); and
 - Camping-Ground Regulations 1985 (under the Health Act 1956).
- [33] Mr Botha noted that the SDC had decided not to create a Freedom Camping Bylaw under the Freedom Camping Act 2011. Additionally, SDC was in the process of preparing an Omnibus

⁴ Tabled speaking notes.

Reserve Management Plan (RMP), which would include all reserves on which freedom camping is permitted, and that Council aimed to complete that Omnibus RMP by the end of 2022.

[34] In his Reply Report Mr Botha further addressed the issue of freedom camping. We summarise our understanding of his advice to us as follows:

- As any camping activity has the potential to result in adverse effects in terms of noise, odour, traffic and visual amenity effects, it is necessary for the PDP to manage freedom camping activities;
- As the PDP is an activities-based plan, if a rule is not included in the Zone Chapters that explicitly permits freedom camping in those areas where it is permitted under an approved RMP, then resource consent for a Discretionary Activity would be required under the 'catch all' rules in the Zone Chapters, unless it constituted a 'Temporary Activity';
- Freedom camping activities undertaken on SDC controlled or managed reserves which have designated areas for freedom camping (i.e., Coes Ford or Chamberlains Ford, etc.) cannot be considered 'Temporary Activities';
- The PDP's definition of 'camping ground facility' should be amended to ensure that it includes camping where a fee is required to be paid and camping where no fee is required to be paid (i.e., freedom camping). That would ensure that where freedom camping is permitted under an approved RMP it would not require resource consent under the 'catch all' rules in the Zone chapters;
- In order to control one-off short duration freedom camping outside SDC camping grounds a new rule (TEMP-R8) should be inserted into the Temporary Activities chapter, permitting freedom camping within all zones where it is undertaken on any site located outside of a camping ground facility, subject to meeting the requirements of TEMP-REQ1 (Maximum Duration and Frequency) and TEMP-REQ2 (Site Restoration); and
- As a consequence of inserting new rule TEMP-R8 a new definition of 'freedom camping' should be inserted into the Definitions Chapter in the PDP.

[35] Mr Botha's second point listed above is correct, an example being GRUZ-R39 which makes '*Any activity not otherwise specified in GRUZ-Rule List*' a discretionary activity.

[36] However, having considered the issues raised by the NZMCA, we are not persuaded that Mr Botha's recommendations in their entirety are the most efficient and effective means of addressing the concerns of the NZMCA and for giving effect to the objectives of the PDP. Instead, we find that:

- The PDP should use the same definition of 'camping ground' that is used in the Camping Ground Regulations 1985. Consequently, there is no need to amend the notified definition of 'camping ground facility'⁵;

⁵ Which reads:

Is visitor accommodation that involves the use of any land, building or structure for the establishment or operation of a camping ground. Camping ground has the meaning set out in the Camping Ground Regulations 1985.

- The PDP should have a definition of ‘freedom camping’. We find Mr Botha’s recommended wording to be helpful, but consider it can be simplified by referring to ‘overnight camping’. That negates the need to specify exclusions⁶ in the definition’s wording;
- For the sake of clarity and certainty, there should be a new permitted activity rule inserted into the Temporary Activities chapter of the PDP to manage freedom camping outside of a ‘camping ground facility’. We see no need for a rule enabling freedom camping within a ‘camping ground facility’ because the definition of ‘camping ground’ used in the Camping Ground Regulations 1985 assumes that a fee must be paid to use the facility⁷.

[37] In terms of s32AA of the RMA, we are satisfied that our proposed amendments are the most efficient and effective option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

[38] Consequently, because we have recommended the insertion of a new permitted activity rule for freedom camping, for the following submitter and their submission point we recommend:

Sub #	Submitter	Submission Point	Reject
DPR-0464	NZMCA	002	✓

4 Other Matters

[39] The recommended amendments to the PDP provisions contained in Appendix 1 are those that result from this Hearing Panel’s assessment of submissions and further submissions. However, readers should note that further or different amendments to these provisions may have been recommended by:

- Hearing Panels considering submissions and further submissions on other chapters of the PDP;
- the Hearing Panels considering rezoning requests, and
- the Independent Hearing Panel (IHP) considering submissions and further submissions on Variation 1 to the PDP.

[40] Any such further or different amendments are not shown in Appendix 1 of this Recommendation Report. However, the Chair⁸ and Deputy Chair⁹ of the PDP Hearing Panels have considered the various recommended amendments and have ensured that the overall final wording of the consolidated version of the amended PDP is internally consistent.

[41] In undertaking that ‘consistency’ exercise, care was taken to ensure that the final wording of the consolidated version of the amended PDP did not alter the intent of the recommended amendments contained in Appendix 1 of this Recommendation Report.

[42] No other matters were brought to our attention.

⁶ Mr Botha recommended exclusions relating to temporary and short-term parking of a motor vehicle, recreational activities commonly known as day-trip excursions, and resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

⁷ The definition in the Regulations reads “*camping ground means any area of land used, or designed or intended to be used, for rent, hire, donation, or otherwise for reward, for the purposes of placing or erecting on the land temporary living places for occupation ...*”

⁸ Who is also the Chair of the IHP.

⁹ Who chaired one stream of hearings.

Appendix 1: Recommended Amendments

Note to readers: Only provisions that have recommended amendments are included below. All other provisions remain as notified. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.

Amendments to the PDP Maps

There are no amendments recommended to PDP Planning Maps arising from our recommendations on the submissions and further submissions covered by this Recommendation Report.

Amendments to the PDP Text

Part 1 – Introduction and General Provisions

Interpretation

Definitions	
<u>FREEDOM CAMPING</u>	<p><u>Camping overnight</u> on any site where no fee is payable using <u>a:</u></p> <p>a. <u>tent or other temporary structure; or</u></p> <p>b. <u>car, caravan, campervan, housetruck or other motor vehicle.</u>¹⁰</p>

Part 2 – District Wide Matters

General District Wide Matters

TEMP – Temporary Activities

TEMP-Overview
<p>...</p> <p>Note: It is the organiser's obligation to contact the road controlling authority if the activity is accessed from a State Highway and to contact the Council if accessed from any other roads, as an appropriate traffic management plan may need to be arranged and submitted to the road controlling authority or the Council for approval prior to the activity occurring, to avoid traffic safety hazards being generated from the activity.¹¹</p>

¹⁰ DPR-0464.002 NZMCA

¹¹ DPR-0375.157 Waka Kotahi

TEMP-Objectives and Policies

TEMP-Policies	
TEMP-P1	Enable temporary activities, while managing the potential adverse effects of temporary activities on the surrounding environment, including: <ol style="list-style-type: none"> the location, duration, frequency, and scale of any adverse effects on amenity and health and safety; and the protection of any natural, historic, and cultural values from permanent modification, damage, or destruction; <u>and</u> <u>the safe, effective and efficient functioning of any road.</u>¹²

TEMP-Rules

TEMP-Rule List	
...	
TEMP-R8	<u>Freedom camping</u> ¹³

TEMP-R7		
Aircraft and Helicopter Movements		
All Zones	Activity Status: PER 1. Aircraft and helicopter movements for: a. emergency work; b. military or law enforcement work; or c. conservation activities. <u>Note: Aircraft and helicopter movements are also provided for in the GRUZ and PRZ Zone Chapters.</u> ¹⁴	Activity status when compliance not achieved: N/A
TEMP-R8		
Freedom Camping ¹⁵		
All Zones	Activity Status: PER 1. <u>Freedom camping.</u> Where this activity complies with the following rule requirements: <u>TEMP-REQ1 Maximum duration and frequency</u> <u>TEMP-REQ2 Site restoration</u>	Activity status when compliance not achieved: 2. <u>When compliance with TEMP.R8.1. is not achieved: DIS</u> 3. <u>When compliance with any rule requirement listed in this rule is not achieved: Refer to TEMP-Rule Requirements</u>

¹² DPR-0375.158 Waka Kotahi¹³ DPR-0464.002 NZMCA¹⁴ DPR-0353.221 Hort NZ¹⁵ DPR-0464.002 NZMCA

	<i><u>Note: There are other restrictions on freedom camping; including Council bylaws that preclude camping in road reserves and certain public spaces; and Reserve Management Plans that manage activities in Council reserves. TEMP-R8 does not override such restrictions which must continue to be complied with.</u></i>	
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TEMP-Rule Requirements

TEMP-REQ4	Temporary Buildings and Structures ancillary to a Construction Project	
	<p>1. Temporary buildings and structures ancillary to a construction project, including temporary accommodation within these, shall not exceed:</p> <ol style="list-style-type: none"> a maximum duration of 12 consecutive months, or the duration of the construction project, whichever is the lesser, on any site; a total of 50m² in Gross Floor Area on any site, <u>except within the KNOZ where a total of 100m² in Gross Floor Area shall not be exceeded for any construction project.</u>¹⁶ the permitted thresholds for height, height in relation to boundaries, setbacks, of the zone of the site in which they are located, <u>except within the KNOZ where KNOZ-REQ4.1 shall not apply to temporary buildings and structures ancillary to a construction project.</u>¹⁷ 	...

TEMP-Matters for Control or Discretion

TEMP-MAT1	Temporary Activity Matters	
	<p>The extent to which the activity will:</p> <ol style="list-style-type: none"> adversely affect amenity and health and safety; positively contribute to the social, economic, and cultural wellbeing of communities; <u>adversely affect the safe, effective and efficient functioning of any road.</u>¹⁸ 	

¹⁶ DPR-0205.061 Lincoln University¹⁷ DPR-0205.061 Lincoln University¹⁸ DPR-0375.160 Waka Kotahi

Appendix 2: List of Appearances and Tabled Evidence**Hearing Appearances**

Sub #	Submitter	Author	Role
DPR-0464	NZ Motor Caravan Association (NZMCA)	Rayya Ali	Representative

Tabled Evidence

Sub #	Submitter	Author	Role
DPR-0205 DPR-0434	Lincoln University	Darryl Millar	Planning
DPR-0448	New Zealand Defence Force	Rebecca Davies	Planning