

# Proposed Selwyn District Plan



## Right of Reply Report

Temporary Activities

Carlo Botha

15 September 2022

## Contents

1. Purpose of report.....	3
2. Hearings Panel’s Questions to the s42A Reporting Officer and Response .....	3
3. Other amendments recommended based on submitter evidence .....	7
4. Reporting Officer’s Proposed Provision Amendments .....	10
5. Conclusion.....	10
Appendix 1: Updated Table of Submission Points .....	11
Appendix 2: Recommended amendments .....	20

## 1. Purpose of report

- 1.1 The purpose of this report is to respond to the questions raised by the Hearings Panel during Hearing 21: Temporary Activities, and for the Officer to address other matters raised in evidence and to propose any further amendments to the notified version of the Proposed District Plan (PDP) above those recommended in the Officer's s42a evidence report.

## 2. Hearings Panel's Questions to the s42A Reporting Officer and Response

- 2.1 The following questions were received from the Hearings Panel for the Temporary Activities Chapter, which was held on the morning of Thursday 7 April 2022.

**[1] Is it necessary for the PDP to actively regulate freedom camping in the District, which is different to excluding it from the PDP as requested by the New Zealand Motor Caravan Association Inc. (NZMCA) in their submission? If so, then please provide some permitted activity bespoke rules which are sufficiently clear for plan users to understand.**

- 2.2 The Council regulates camping (including freedom camping) via a number of mechanisms, which include the following:

- 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).

- 2.3 As freedom camping is administered via the mechanisms noted above, the Council decided not to create a Freedom Camping Bylaw under the Freedom Camping Act 2011. The Council's Parks and Reserves Property Team confirmed that the Council's current approach to managing freedom camping via the above mechanisms has been very successful as the Council has had few issues with people camping on roadsides, as they use the mobile application "CamperMate" which directs them to the available freedom camping sites (which have the amenities they need). The Council's Parks and Reserves Property Team also confirmed that the Council's Traffic and Parking Bylaw 2009 is also used to manage vehicles (i.e., campervans, etc.) parking on roadsides and that the Council's Parks and Reserves Bylaw 2009 provides the Council discretion to allow one-off short duration freedom camping on Council controlled or managed sites (often for events such as the annual Selwyn Sounds Festival in Lincoln) which are not subject to the Reserves Act 1977 and/or which do not allow freedom camping to be undertaken on a permanent basis (as it is not identified on an Reserve Management Plan (RMP) approved under the Reserves Act 1977). The Council is in the process of preparing an Omnibus RMP to include all reserves on which freedom camping would be permitted, which is anticipated to be completed by the end of this year (2022).

- 2.4 Although there are mechanisms outside of the PDP that regulate freedom camping, as any camping activity has the potential to result in adverse effects in terms of noise, odour, traffic and visual amenity effects, I consider it is necessary for the PDP to manage freedom camping activities. The PDP as notified only contains specific rules within the Zone Chapters for managing visitor

accommodation and camping ground facilities where a fee is required to be paid. 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 constitutes a “Temporary Activity”.

- 2.5 If freedom camping is determined to be a “Temporary Activity”, it is permitted under Rule TEMP-R1 subject to compliance with the requirements of TEMP-REQ1 (Maximum Duration and Frequency) and TEMP-REQ2 (Site Restoration).

- 2.6 The PDP as notified, defines “Temporary Activities” as follows:

*“Activities and their ancillary buildings or structures that are intended to have a limited duration and are not part of a permanent activity that occurs on the site.*

*This includes but are not limited to:*

- *carnivals and fairs;*
- *markets;*
- *exhibitions;*
- *concerts;*
- *community, recreation, or ceremonial events; and*
- *A&P shows and Agricultural Field Day”*

- 2.7 Given the above definition, freedom camping activities undertaken on permanent freedom camping ground sites, such as Council controlled or managed reserves/camping grounds which have designated areas for freedom camping (i.e., Coes Ford or Chamberlains Ford, etc.) cannot be considered “Temporary Activities”, as freedom camping on these sites are allowed to be undertaken on a permanent basis. As the definition of “Temporary Activities” does not include an exclusive list of all the temporary activities that could be undertaken, any other temporary activities (not listed in the definition) which do not occur on a permanent basis on a site can also be considered “Temporary Activities”. As such, it is considered that one-off short duration freedom camping activities (which occur randomly on sites where freedom camping is not undertaken on a permanent basis) can be considered “Temporary Activities” under the PDP.

- 2.8 In order to address freedom camping activities undertaken within permanent camping grounds where freedom camping is permitted under an approved RMP, I recommended in my s42A report to amend the PDP’s definition of “camping ground facility” 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). I recommended that the definition of “camping ground facility” be amended as follows (as set out in Appendix 2 of the s42A report):

*“Is ~~visitor~~ accommodation for visitors 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~~ means any area of land used, or designed or*

intended to be used, for rent, hire, donation, or otherwise for reward or no reward, for the purposes of placing or erecting on the land temporary living places for occupation, by 2 or more families or parties (whether consisting of 1 or more persons) living independently of each other, whether or not such families or parties enjoy the use in common of entrances, water supplies, cookhouses, sanitary fixtures, or other premises and equipment.”

- 2.9 As noted on Page 2 of the “Officer’s Response to Hearing Panel’s Questions” report, my recommendation to amend the definition of “camping ground facility” to include freedom camping relies solely on the words “or no reward” in the revised definition.
- 2.10 Amending the definition would result in Rules LRZ-R15, SETZ-R15 and GRUZ-R31 in the PDP to permit freedom camping undertaken within camping ground facilities located in the Low Density Residential Zone (LRZ), the Settlement Zone (SETZ) and the General Rural Zone (GRUZ) where it is permitted under an approved RMP. Resource consent is required to establish or expand camping ground facilities outside of these zones (regardless of whether this includes freedom camping or not) due to the need to consider potential amenity and reverse sensitivity on these receiving environments. Resource consent is also required if the rule requirements under Rule GRUZ-R31 are not met which relate to setbacks from intensive primary production and mineral extraction.
- 2.11 During the hearing, concerns were raised regarding my proposed recommendation to amend the definition of “camping ground facility” to include freedom camping within these facilities. Given the NZMCA’s submission requesting that the PDP be amended so that freedom camping is explicitly excluded from the PDP on the basis that it is regulated by Council Bylaws and RMPs, the Hearings Panel raised the question as to whether it is necessary for the PDP to actively regulate freedom camping, and if so, that I provide some permitted activity bespoke rules for freedom camping.
- 2.12 As mentioned above, I do consider it necessary for the PDP to manage freedom camping as it has the potential to result in adverse effects in terms of noise, odour, traffic and visual amenity effects. If the definition of “camping ground facility” is amended, then freedom camping undertaken within the Council’s permanent freedom camping ground sites/facilities (such as Coes Ford, etc.) where it is permitted under an approved RMP will not require resource consent under the “catch all” rules in the PDP. However, as the Hearings Panel considered my previous recommended amendment to the definition of “camping ground facility” not sufficiently clear, I recommend adding the words “(i.e., freedom camping)” after the words “or no reward” to make it clearer that the definition also includes freedom camping. The revised recommended amendment to the definition is shown below (with new changes shown in bold):

*“Is ~~visitor~~ accommodation for visitors 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~~ means any area of land used, or designed or intended to be used, for rent, hire, donation, or otherwise for reward or no reward **(i.e., freedom camping)**, for the purposes of placing or erecting on the land temporary living places for occupation, by **1** or more families or parties (whether consisting of 1 or more persons) living independently of each other, whether or not such families or parties enjoy the use in common of entrances, water supplies, cookhouses, sanitary fixtures, or other premises and equipment.”*

- 2.13 I also recommend amending the definition of “camping ground” in the definition of “camping ground facility” so that it is defined as any land used for camping by 1 or more families or parties, as shown above. My recommended amendments are shown in Appendix 2 of this report.
- 2.14 In order to provide further clarity that one-off short duration freedom camping activities outside camping grounds are managed by the provisions contained within the Temporary Activities Chapter, I recommend inserting the following new rule, TEMP-R8, into the Temporary Activities Chapter in the PDP. This new rule will permit 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).

TEMP-R8	Freedom camping that is not undertaken in a camping ground facility	
All Zones	<p><u>Activity status: PER</u></p> <p>1. <u>Freedom camping that is not undertaken in a camping ground facility.</u></p> <p><u>And this activity complies with the following rule requirements:</u></p> <p><u>TEMP-REQ1 Maximum duration and frequency</u></p> <p><u>TEMP-REQ2 Site restoration</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p>2. <u>When compliance with any rule requirement listed in this rule is not achieved: Refer to TEMP-Rule Requirements.</u></p>

- 2.15 The two rule requirements of the new permitted activity rule will help manage the potential adverse effects of one-off short duration freedom camping activities as the rule requirements will ensure that any one-off short duration freedom camping activity undertaken on any site located outside of a camping ground facility within any zone cannot exceed a duration of five consecutive days. The two rule requirements will also ensure that no more than twelve one-off short duration freedom camping activities can be undertaken on any site within any calendar year and that the site must be returned to its original condition within five consecutive days of the freedom camping activity ceasing. As I am recommending that a new permitted activity rule be inserted to the Temporary Activities Chapter, I also recommend inserting the following new definition of “freedom camping” into the Definitions Chapter in the PDP:

*“Freedom camping means to camp on any site at which no fee is payable for camping at the site, using 1 or more of the following:*

*(a) a tent or other temporary structure:*

*(b) a caravan:*

*(c) a car, campervan, housetruck, or other motor vehicle.*

*but does not include the following activities:*

*(a) temporary and short-term parking of a motor vehicle:*

*(b) recreational activities commonly known as day-trip excursions:*

*(c) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.”*

2.16 Overall, I recommend that the definition of “camping ground facility” be amended and that a new rule (TEMP-R8) be inserted into the Temporary Activities Chapter as shown in **Appendix 2** of this report. As a new rule is proposed to be inserted into the PDP, I also recommend inserting a new definition of “freedom camping” into the Definitions Chapter in the PDP as shown in **Appendix 2** of this report.

2.17 The scope for the changes to the PDP is made under the NZCMA’s submission point DPR-0464.002.

### 3. Other amendments recommended based on submitter evidence

#### **[1] TEMP-REQ4**

3.1 Mr Darryl Millar submitted evidence for Lincoln University<sup>1</sup> regarding the University’s submission<sup>2</sup> in which they seek that TEMP-REQ4 is amended to increase the maximum permitted Gross Floor Area (GFA) for temporary buildings and structures ancillary to a construction project erected within the Knowledge Zone (KNOZ) from 50m<sup>2</sup> to 100m<sup>2</sup> per construction project within the KNOZ, and for these temporary buildings and structures to be exempt from the requirement to comply with the height, height in relation to boundaries and setback requirements of the KNOZ. In my s42A report, I recommended to amend TEMP-REQ4 to increase the maximum permitted GFA for temporary buildings and structures ancillary to a construction project for the KNOZ to 100m<sup>2</sup> (TEMP-REQ4(1)(b)) but I did not recommend that such buildings and structures be exempt from complying with the KNOZ’s height, height in relation to boundaries and setbacks as set out in TEMP-REQ4(1)(c).

#### **TEMP-REQ4.1(b):**

3.2 In his evidence, Mr Millar states that while I have recommended in the s42A report that the maximum permitted GFA should be increased from 50m<sup>2</sup> to 100m<sup>2</sup> for the KNOZ, my recommended amendment for TEMP-REQ4.1(b) does not clarify that the rule applies on an individual construction project basis within the KNOZ. Mr Millar states that he suspects that this was an error which he considers can be resolved by undertaking the following additional amendments to TEMP-REQ4.1(b). The amendments are shown as bold and underlined:

“...

*b. a total of 50m<sup>2</sup> in Gross Floor Area on any site, except within the KNOZ where a total of 100m<sup>2</sup> in Gross Floor Area shall not be exceeded **for any construction project;***

...”

<sup>1</sup> DPR-0205 & DPR-0434 Lincoln University, evidence of Darryl Millar

<sup>2</sup> DPR-0205.061 Lincoln University

- 3.3 I agree with Mr Millar's request to undertake further amendments to TEMP-REQ4.1(b), as this was in fact an error that was made. As such, I recommend that TEMP-REQ4.1(b) be amended as shown in **Appendix 2** for the same reasons outlined in Paragraph 12.14 in the s42A report.
- 3.4 I note that the University's campus is not the only site within the District that is located within the KNOZ. According to the PDP's Planning Maps, there other sites owned by Agresearch Limited, Ngāi Tahu Property Limited, the New Zealand Institute Plant & Food Research Limited and Landcare Research New Zealand Limited which are also located within the KNOZ. These sites are situated north-east of the University's campus within the Lincoln Township. Therefore, if TEMP-REQ4.1(b) is amended (as shown in Appendix 2 of this report), then temporary buildings and structures ancillary to a construction project erected on these sites within the KNOZ will also be permitted to have a maximum permitted GFA limit of 100m<sup>2</sup> per construction project undertaken on these sites. These sites are not as large as the University's campus. However, I consider that any potential effects can be contained with these sites subject to any temporary buildings and structures ancillary to a construction project erected on these sites complying with the height, height in relation to boundaries and setback requirements of the KNOZ. I also note that the KNOZ is not subject to any maximum building coverage rule requirements in the PDP. Therefore, even though these other sites are also located within the KNOZ, I still recommend that TEMP-REQ4.1(b) be amended as shown in **Appendix 2** of this report.
- 3.5 The scope for the changes to the PDP is made under Lincoln University's submission point DPR-0205.061.

**TEMP-REQ4.1(c):**

- 3.6 In response to my recommendation in the s42A report not to accept Lincoln University's request to exempt temporary buildings and structures ancillary to a construction project within the KNOZ from complying with the height, height in relation to boundaries and setback requirements of the KNOZ, Mr Millar states in his evidence that following a further assessment of the bulk and location standards in the KNOZ in relation to the University's campus, he has formed a view that the University does not need to seek an exemption from the height, height in relation to boundary and internal boundary setback requirements within the KNOZ. However, Mr Millar states that the University still requests that TEMP-REQ4.1(c) should be amended to allow temporary buildings and structures ancillary to a construction project within the KNOZ to be exempt from complying with the KNOZ's 10m road boundary setback. Mr Millar requests that TEMP-REQ4.1(c) be amended as follows (with amendments shown as bold and underlined):

"...

*c. the permitted thresholds for height, height in relation to boundaries, setbacks, of the zone of the site in which they are located. **Rule KNOZ-REQ4.1 (Road boundary setback) does not apply to temporary buildings and structures ancillary to a construction project within the KNOZ***

..."

- 3.7 In the s42A report I recommended not to specifically exempt temporary buildings and structures ancillary to a construction project on any site within the KNOZ from complying with the permitted

thresholds for height, height in relation to boundaries and setback requirements of the KNOZ, due to the fact that temporary buildings and structures have the potential to remain on a site for a maximum period of 12 months which could result in potential adverse effects on the surrounding environment.

- 3.8 Mr Millar considers the potential adverse effects I referred to in the s42A report relate mainly to amenity effects associated with the location of temporary buildings within the 10m road boundary setback, being largely outlook and visual amenity impacts on the occupiers of sites located on the opposite side of Ellesmere Junction Road to the north of the University's campus and Springs Road to the east of the University's campus. He states that land to the north of Ellesmere Junction Road directly opposite the university campus is owned by the University and in rural productive/research use, whilst land to the east of Springs Road directly opposite the University's campus is characterised by a mix of uses, being the current AgResearch campus, the University Crescent housing, a University car park and the western most extent of the Te Whāriki residential subdivision.
- 3.9 He also states that with the potential exception of the Te Whāriki residential subdivision, he considers that the balance of the adjoining land uses could not be described as "sensitive", and are therefore unlikely to be impacted in an adverse manner by the temporary location of construction offices and buildings sited directly on the road boundary, and due to the road corridor within Ellesmere Junction Road providing a separation distance of at least 20m. He also states that while the adjacent residential uses may be more susceptible to such effects, he considers that the road corridor provides a sufficient separation distance to ensure that any adverse effects would be acceptable, particularly when considered within the context that any such buildings would be temporary and time limited by TEMP-REQ4. In addition, he does not consider it appropriate for temporary buildings ancillary to a construction project to be subject to complying with the 10m road boundary setback, as he considers that the road boundary setback rule in the KNOZ Chapter was developed as part of a suite of provisions that would enable significant building development within the KNOZ, which includes the ability to develop a 30m high building that is setback 10m from the road boundary of the site.
- 3.10 Having considered Mr Millar's evidence for Lincoln University, I recommend that the University's request to amend TEMP-REQ4.1(c) as outlined in Mr Millar's evidence be rejected for the following reasons:
- 3.10.1 It is my opinion that if temporary buildings and structures ancillary to a construction project within the KNOZ are exempt from complying with the 10m road boundary building setback and are located directly on the road boundary of any site within the KNOZ, then the amenity of the surrounding area and the streetscape would potentially be adversely affected, as these temporary buildings and structures have the potential to remain on a site for up to 12 months. The road boundary building setback requirements have been included in TEMP-REQ4.1(c) so that the character and amenity of the surrounding area is maintained and that any potential adverse effects on the streetscape of roads (regardless of their width) are managed through a resource consent process.

- 3.10.2 If my recommendation to amend TEMP-REQ4.1(b) to increase the maximum permitted GFA for temporary buildings and structures ancillary to a construction project erected within the KNOZ from 50m<sup>2</sup> to 100m<sup>2</sup> per construction project is accepted by the Hearings Panel, and if the University's request to amend TEMP-REQ4.1(c) as per Mr Millar's evidence is also accepted, then the PDP would essentially provide landowners of the KNOZ sites (such as the University) the ability to erect multiple 100m<sup>2</sup> temporary buildings and structures ancillary to a construction project directly on the road boundary of the KNOZ sites when they are subject to multiple construction projects occurring at the same time. This could potentially result in adverse cumulative effects on the amenity of the streetscape and the surrounding area.
- 3.11 As such, for the above reasons, I still consider it appropriate to require temporary buildings and structures ancillary to a construction project to comply with the height, height in relation to boundaries and setback requirements in all zones in the PDP, as it would help to ensure that any potential adverse effects of these temporary buildings and structures on the surrounding environment and on neighbouring properties are adequately managed.

#### 4. Reporting Officer's Proposed Provision Amendments

- 4.1 On review of the submitter's evidence and the matters raised within the Hearing, the amendments to the proposed provisions based on this right of reply report are shown in blue in **Appendix 2** of this report.

#### 5. Conclusion

- 5.1 For the reasons include throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA.