



## SECTION 42A REPORT

### Temporary Activities

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<b>1</b>	<b>Executive summary .....</b>	<b>3</b>
<b>2</b>	<b>Introduction.....</b>	<b>3</b>
	2.1 Author and qualifications .....	3
	2.2 Code of Conduct .....	4
<b>3</b>	<b>Scope/Purpose of Report.....</b>	<b>4</b>
<b>4</b>	<b>Statutory Requirements.....</b>	<b>5</b>
	4.1 Statutory documents .....	5
	4.1.1 Resource Management Act.....	5
	4.1.2 National Policy Statements.....	5
	4.2 Council’s Response to Current Statutory Context.....	6
	4.2.1 National Planning Standards.....	7
	4.2.2 Treaty Settlements .....	7
	4.2.3 Iwi Management Plans – Update.....	7
	4.3 Section 32AA evaluation .....	8
	4.4 Procedural matters.....	8
<b>5</b>	<b>Consideration of submissions received .....</b>	<b>9</b>
	5.1 Overview of submissions received.....	9
	5.2 Officer Recommendations .....	10
	5.2.1 Key Issue 1: Definition and General Matters .....	10
	5.2.2 Key Issue 2: Rule Framework.....	12
	5.2.3 Key Issue 3: Temporary buildings and structures .....	17
	5.2.4 Key Issue 4: Temporary Agricultural Aviation Noise .....	17
<b>6</b>	<b>Conclusion.....</b>	<b>21</b>

**Appendix 1: Recommended amendments to Strategic Direction chapter**

**Appendix 2: Recommended decisions on submissions to Strategic Direction chapter**



## List of Abbreviations

**Table 1: List of Submitters and Abbreviations of Submitters' Names**

<b>Submitter Number</b>	<b>Abbreviation</b>	<b>Full Name of Submitter</b>
S454	Transpower	Transpower New Zealand Ltd
S217	NZDF	New Zealand Defence Force
S416	KiwiRail	KiwiRail Holdings Limited
S463	WBFL	Waiaua Bay Farms Limited
S182	NZAAA	New Zealand Agricultural Aviation Association
S143	BAL	Balance Agri-Nutrients Limited

**Note:** This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.

**Table 2: Other abbreviations**

<b>Abbreviation</b>	<b>Full Term</b>
FNDC	Far North District Council
NPS	National Policy Statement
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement



## **1 Executive summary**

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Temporary Activities Chapter is located in the general district wide section of the PDP.
2. 11 original submitters (18 individual submission points) and 9 further submitters (with 9 individual submission points) were received on the Temporary Activities topic. 5 original submission points indicated general support for the provisions to be retained as notified, 5 submission points indicated support in part, with changes requested, whilst no submission points opposed the provisions.
3. The submissions can largely be categorised into several key themes:
  - a) definition and general matters for Temporary Activities;
  - b) rule framework formatting/ refinement of provisions;
  - c) temporary buildings and structure; and
  - d) temporary agriculture aviation noise.
4. This report has been prepared in accordance with Section 42A of the Resource Management Act ("RMA") and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
  - a) Amending the Rules and permitted activities on sites including the number of people and activities which can take place, TA-RI PER1- – PER 5

## **2 Introduction**

### **2.1 Author and qualifications**

6. My name is Lynette Morgan, and I am employed as a Policy Planner in the District Planning Team at the Far North District Council.
7. I hold the qualifications of Post Graduate Diploma of Public Policy from the University of Victoria and a LLB from the University of Otago.
8. I have 8 years in central government policy development including the development, report writing, drafting and carriage of Local Government and related Legislation through the New Zealand House of Representatives. I have one year of Local Government policy



development formation, drafting and writing of bylaws and delegations and over 25 years of practise in the Law.

## **2.2 Code of Conduct**

9. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
10. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

## **3 Scope/Purpose of Report**

11. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
  - a) assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
  - b) provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
12. This report responds to submissions on Temporary Activities chapter.
13. When submissions pertain to matters covered in other PDP chapters this report only addresses submissions in respect to temporary activities but for assistance I will advise when the submission will be addressed and which chapter.
14. Wherever possible, I have provided a recommendation to assist the Hearings Panel.
15. Separate to the Section 42A report recommendations in response to submissions, Council has made a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by "and" after the second to last standard (where all of the standards must be met to comply) or "or" after the second to last standard (when only one of the standards must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the intent. The Clause 16 corrections are reflected in Appendix 1 to this Report (Officer's Recommended Provisions in response to Submissions).



## 4 Statutory Requirements

### 4.1 Statutory documents

16. I note that the Temporary Activities chapter Section 32 report provides detail of the relevant statutory considerations applicable to the Temporary Activities chapter.
17. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.

#### 4.1.1 Resource Management Act

18. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22<sup>nd</sup> of December 2023 and has reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

#### 4.1.2 National Policy Statements

##### 4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

19. The section 32 report sets out the only direct relevant National Planning Standard that being the New Zealand Coastal Policy Statement 2010 and a summary of the key provision and how it is to be given effect. There are no new NPS or changes to operative NPSs which are of relevance to the Temporary activities chapter.

##### 4.1.2.2 National Policy Statements – Announced Future Changes

20. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend or replace various National Policy Statements (summarised in **Table 1** below). The below NPS are of general relevance to the submissions received on the Temporary Activities topic.



**Table 1 Summary of announced future changes to National Policy Direction (as indicated by current Government, as at March 2024)**

<b>National Statement</b>	<b>Policy</b>	<b>Summary of announced future changes</b>	<b>Indicative Timing</b>
National Policy Statement for Freshwater Management (NPS-FM)		<ul style="list-style-type: none"> <li>• Changes to hierarchy of obligations in Te Mana o Te Wai provisions</li> <li>• Amendments to NPS-FM, which will include a robust and full consultation process with all stakeholders including iwi and the public</li> </ul>	<p>End of 2024</p> <p>2024 - 2026</p>
National Policy Statement on Indigenous Biodiversity (NPS-IB)		<ul style="list-style-type: none"> <li>• Amendments to the NPS-IB</li> <li>• Work to stop/cease implementation of new Significant Natural Areas</li> </ul>	2025 - 2026
National Policy Statement for Urban Development (NPS-UD)		<ul style="list-style-type: none"> <li>• Amendments to NPS-UD, including requirements for Tier 1 and 2 Council to 'live zone' enough land for 30 years of housing growth, and making it easier for mixed use zoning around transport nodes.</li> </ul>	By end of 2024
National Policy Statement for Renewable Electricity Generation (NPS-REG)		<ul style="list-style-type: none"> <li>• Amendments to NPS-REG, to allow renewable energy production to be doubled</li> </ul>	By end of 2024
National Policy Statement for Electricity Transmission (NPS-ET)		<ul style="list-style-type: none"> <li>• Amendments to NPS-ET, but at this stage direction and amendments are unclear.</li> </ul>	By end of 2024
National Policy Statement for Highly Productive Land (NPS-HPL)		<ul style="list-style-type: none"> <li>• Amendments to the NPS-HPL in light of needing to enable housing growth and remove consenting barriers. Possible amendments to the definition of 'Highly Productive Land' to enable more flexibility</li> </ul>	2024 - 2025
Proposed National Policy Statement for Natural Hazards (NPS-NH)		<ul style="list-style-type: none"> <li>• No update on progress has been provided by current government.</li> </ul>	Unknown

#### **4.2 Council's Response to Current Statutory Context**

21. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current National Policy Statements). I note that the proposed amendments and replacement National Policy Statements do not have legal effect until they are adopted by Government and formally gazetted.
22. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to National Policy Statements. A council must amend its District Plan to include specific objectives and policies or to give effect to specific objectives and policies in a National Policy



Statement if it so directs. Where a direction is made under Section 55(2), Councils must directly insert any objectives and policies without using the Schedule 1 process<sup>1</sup> and must publicly notify the changes within five working days of making them. Any further changes required must be done through the RMA schedule 1 process (such as changing rules to give effect to a National Policy Statement).

23. Where there is no direction in the National Policy Statement under Section 55(2), the Council must amend its District Plan to give effect to the National Policy Statement using the RMA schedule 1 process. The amendments must be made as soon as practicable, unless the National Policy Statement specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the National Policy Statements.
24. I have been mindful of this when making my recommendations and believe the changes I have recommended are either within scope of the powers prescribed under Section 55 of the RMA or within the scope of relief sought in submissions.

#### **4.2.1 National Planning Standards**

25. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The Temporary Activities topic provisions proposed and recommended in this report follow this guidance.

#### **4.2.2 Treaty Settlements**

26. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

#### **4.2.3 Iwi Management Plans – Update**

27. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. In respect of the Temporary Activities topic the Ngāti Hine Environmental Management Plan provides the following direction:
28. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022.



29. Both of the above management plans cover a range of issues relating to the cultural and environment activities which promote the natural environment, cultural, heritage, and amenity values of the district. The provision of the Temporary Activates chapter aim to promote important cultural, social economic and recreational activities in line with these plans.
30. At the time of writing this report, FNDC anticipates that the Patukeha Hapu Management Plan will be finalised in October 2024.

#### **4.3 Section 32AA evaluation**

31. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
32. The s32AA further evaluation for each key issue considers:
  - a) whether the amended objectives are the best way to achieve the purpose of the RMA;
  - b) the reasonably practicable options for achieving those objectives;
  - c) the environmental, social, economic and cultural benefits and costs of the amended provisions;
  - d) the efficiency and effectiveness of the provisions for achieving the objectives; and
  - e) the risk of acting or not acting where there is uncertain or insufficient information about the provisions.
33. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

#### **4.4 Procedural matters**

34. Transpower and I attended an informal meeting to discuss their submission. A MS Teams meeting was held on 2 August 2024. This was attended by Ms Sharon Dines and Ms Rebecca Eng. The main purpose of this meeting was to gain a better understanding of their request to include the word 'generator' in the definition of temporary activities.
35. Transpower have advised that the request in their submission to include the term "network utilities" after parking areas in the definition of Temporary Activities will not be pursued and therefore is not considered in my report.





36. Waitangi Limited via Ms Rochelle Jacobs, Northland Planning and Development Ltd and I held a phone conversation on 15 August 2024, to discuss their submission. The specific purpose of this was to seek clarity regarding the need for and the purpose of the additional exemptions being sought for the Waitangi Estate for the Waitangi Day celebrations held on the Waitangi Estate grounds (grounds) this includes the number of persons attending and the permitted timeframe for temporary events.
37. Ms Jacobs explained that Waitangi Day is a sufficiently noteworthy occasion in Aotearoa's calendar it attracts thousands of visitors, dignitaries and politicians to the Estate. This does not occur solely on 6 February, but in the days leading up to and after Waitangi Day. As such, preparations and cleanup take a significant period of time which take up to a week to cater for.

## **5 Consideration of submissions received**

### **5.1 Overview of submissions received.**

38. A total of 18 original submissions and 9 further submissions were received on the Temporary Activities Chapter.
39. The main submissions on the Temporary Activities Chapter came from:
  - a) Transpower (S454) who are seeking an amendment to the definition to more explicitly include the use of temporary generators.
  - b) Waitangi Ltd (S503) who support the definition of Temporary Activities but seek the Rule be amended to allow Waitangi Estate to have a maximum of five temporary events on the Treaty Grounds per calendar year. In addition, they request that the Waitangi Day celebration can occur outside the 6.30am and 10.00pm requirement and for a week either side of Waitangi Day.
  - c) New Zealand Defence Force (NZDF) (S217) who support the definition of Temporary Activities as well as supporting the policies and objectives but are seeking an amendment to the Rules for Temporary Military activities which would add time for set up and pack down time to the 31 days provided for to occur on any one site.
  - d) Waiaua Bay Farms Limited (WBFL) (S463) seek to clarify the wording of the definition of temporary activities.
  - e) New Zealand Agricultural Aviation Association (NZAAA) (S182) and Balance Agri-nutrients Limited (BAL) (S143) seeking a new Agricultural Aviation temporary activities rule.
40. The key issues identified in this report are set out below:



- a) Key Issue 1: definition and general matters;
  - b) Key Issue 2: rule framework;
  - c) Key Issue 3: temporary buildings or structures; and
  - d) Key issues 4: TA-R5 and temporary agricultural aviation noise.
41. Section 5 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the relatively low number of submissions received I have responded to each individual submission point raised in the submissions. However, I have also grouped similar submission points together under key issues. This approach provides a concise response to, and recommended decision on, submission points.

## 5.2 Officer Recommendations

- 42. A copy of the recommended plan provisions for the Temporary Activities chapter is provided in **Appendix 1 – Recommended provisions to this report.**
- 43. A full list of submissions and further submissions on the Temporary Activities chapter is contained in **Appendix 2 – Recommended Decisions on Submissions to this report.**
- 44. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) Submissions database Far North District Council ([fndc.govt.nz](http://fndc.govt.nz)) the associated Section 32 report on this chapter [section-32-overview.pdf](#) ([fndc.govt.nz](http://fndc.govt.nz)) the overlays and maps on the ePlan Map - Far North Proposed District Plan ([isoplan.co.nz](http://isoplan.co.nz)).

### 5.2.1 Key Issue 1: Definition and General Matters

#### Overview

Provision(s)	Officer Recommendation(s)
Definition of Temporary Activities	<ul style="list-style-type: none"> <li>• Retain as notified</li> </ul>
Objectives and Policies	<ul style="list-style-type: none"> <li>• Retain as notified</li> </ul>

#### Analysis of Submissions on Key Issue 1 – Definition and General Matters

##### Matters raised in submissions

- 45. The definition of Temporary Activities is generally supported by both Northland Planning and Development 2020 Limited (S502.013) and Waitangi Limited (S503.006) who both seek that it be retained.



46. Transpower New Zealand Ltd (S454.019) seek an amendment to the definition and raise concerns in the event of an unexpected outage in the electricity system, that temporary generators are used to provide electricity for critical services is not provided for in the definition or rule framework. As noted above, Transpower are no longer seeking to pursue the inclusion of 'network utilities' in the definition.
47. Transpower considers the definition requires amendment to include "... temporary use of a generator to provide lifeline utilities and..." as well as "... temporary car parking areas, network utilities and...".
48. NZDF (s217:003 to S217:006) generally support the objectives and policies and request the objectives and policies be retained as notified. NZDF specifically mentioned their support for the retention of TA -01 and 02 and TA-P1 and TA-P2 but were silent on TA-P3 and TA-P4.
49. NZDF (S217.007) also support the notes at the beginning of the chapter, stating the explanatory note is helpful in ensuring consistent application of the Temporary Activities Rules in relation to other chapters. The submitter requests to retain the note.

### **Analysis**

50. In response to the submission by Transpower, I note the definition in the PDP of Temporary activities includes; "an activity that is temporary and limited in duration...".
51. The definition is not exhaustive nor exclusive.
52. In my opinion, the definition is intentionally drafted in an open manner and intended to be broad in term of the activities it captures. However, while the definition is open and inclusive, I accept the definition read on its own this may lead to uncertainty.
53. TA-R6 provides for Temporary Activities for network utilities. In my opinion consideration should be given to Transpower's functions. Section 2 of the Electricity Act 1992 defines a electricity distributor as: "a person who supplies line function services to any other person or persons". While the Act does not define a network activity or a network it is implicit in the Legislation a network or network activity is an activity associated with electricity transmission and distribution.
54. I accept there are limitations for Transpower to TA- R6 due to a 12-month time limit and a requirement to be set back 2m from a General Residential Zone or Settlement Zone 'site' boundary (PER -1 and PER - 2). However, Rule I-R4 permits a permanent backup generator or self-contained power unit for the supply of a network utility is permitted in all zones when the unit is set back at least 2m from a General residential or settlement zone site boundary.



55. While I understand that Transpower are concerned about the interruption of power supply and emergency support, in my opinion there are no 'gaps' in the PDP framework that necessitates an additional rule.
56. The NZDF submissions support the objectives and policies set out above and part of the explanatory note. There are no submissions in opposition and therefore the provisions should be retained.

**Recommendation**

57. For the reasons above I recommend that Transpower's submission is rejected and that no amendment to the definition as suggested by be Transpower.

**Section 32AA evaluation**

58. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

**5.2.2 Key Issue 2: Rule Framework**

**Overview**

Provision(s)	Officer Recommendation(s)
TA-R1 PER-1	<ul style="list-style-type: none"> <li>• Amend to include the word each event.</li> <li>• Amend to allow Waitangi Estate to hold a maximum of five events on the Treaty grounds per calendar year.</li> </ul>
TR-R1 PER-2	<ul style="list-style-type: none"> <li>• Amend to include the words on excluding a week either side of Waitangi Day."</li> </ul>
TA-R1 PER -3	<ul style="list-style-type: none"> <li>• Amend to include excluding event staff</li> <li>• Amend to include the words "and excludes the Waitangi Day event held at the Waitangi Treaty Grounds"</li> </ul>
TA -R1 PER – 4	<ul style="list-style-type: none"> <li>• Amend to include the word temporary</li> </ul>
TA- R1 PER- 5	<ul style="list-style-type: none"> <li>• Amend to include the word temporary</li> </ul>
TA R2-PER-2	<ul style="list-style-type: none"> <li>• Amend to allow the extension of Temporary Military activity to occur over 31 days for the purpose of set up and pack down</li> </ul>



Provision(s)	Officer Recommendation(s)
TA R3 -PER3	<ul style="list-style-type: none"> <li>Amend to insert the words "or an adjacent "</li> </ul>

## Analysis of Submissions on Key Issue 2

### Matters raised in submissions

59. WBFL (S463.086) support TA-R1 and the permitted allowance for Temporary Activity events. However, they suggest reformatting the performance standards to make them clearer.
60. The submitter requests to amend Rule TA-R1 to state in PER-1 "each event", PER-2 "The temporary activity occurs between does not occur outside the hours of 6:30am to 10:00m on each day", PER-3 "A maximum of 500 persons (excluding event staff) are hosted on the site each day" and adding "temporary" to both PER-4 and PER-5.
61. Waitangi Limited (S503.050) request relief for TA-R1 PER-1, PER-2 and PER-3 to better account for the activities that currently occur on the Waitangi Estate site.
62. With regard to PER-1, additional events are sought for the Waitangi Estate with five temporary events requested per year for the Waitangi Estate, excluding Waitangi Day they are not seeking these events exceed the maximum of two days consecutively. The submitter requests the amendment of TA-R1 PER-1 to state "... consecutive days excluding the Waitangi Estate where a maximum of five events are allowed on the Treaty Grounds per calendar year." Waitangi Limited state that this better reflects the current number of events that are carried out on the site per year.
63. Regarding PER-2, Waitangi Limited seeks to be excluded from compliance with the hours provided for during the Waitangi Day celebrations for a period a week either side of Waitangi Day. The submitter requests the amendment of TA-R1 PER-2 to state "...on each day, excluding a week either side of Waitangi Day.". The submitter has requested this as celebrations for Waitangi Day begin before 6am and continue until after 10pm.
64. Regarding PER-3, the submitter has requested that they are excluded from the cap on attendance for the Waitangi Day event. Waitangi Ltd requests amendment of TA-R1 PER 3 to state "...each day, excluding the Waitangi Day Event held at the Waitangi Treaty Grounds". During pre-hearing discussions,, they advised attendance figures are unknown Their view is 'restrictions on number of persons are not considered relevant in this instance', and that additional controls within this rule will adversely



effect this National event and are minor given this event marks a National Holiday.

65. NZDF (S217.008) while in general support of the chapter are seeking an amendment to TA-R2 PER-2 which would include the time required for set up and pack down for a Temporary Military activity to the 31 days provided for on one site.
66. FENZ (S512.038) supports and KiwiRail (S416.036) support in part TA-R3, stating their concerned that the plan appears to limit establishment of temporary works sites which may be adjacent to transport or other infrastructure and for safety reasons it's not always an option to work from within a transport corridor. The submitter requests to amend PER-1 of Rule TA-R3 to include "... located on the same or an adjacent site...".

### **Analysis**

67. WBFL (S463.086) are seeking to make TA-R1 clearer by adding the term 'each' before event. The effect of this is it would define every single individual event and the duration. The determining word "each" is sought to improve the usability and clarity of TA-R1 with one minor amendment proposed to the framework. The amendments to PER 1, PER 3 and PER 4 are minor and relate to the topic definition and/or are clarifications which ensure that the intent of the provisions are clear.
68. In my opinion, amending PER 1 as suggested by WBFL adds readability and makes clear the intent of the provision which is that each event is only intended to last a maximum of two days.
69. The inclusion of the word 'temporary' in front of the word 'event' in PER-4 and PER-5 is perhaps unnecessary given the purpose of the rule is to managed temporary activities. To include the word has no unintended consequences and reflecting on the suggestion may make the rule clearer for the plan user.
70. There is no information to support the change being sought to PER-2 which seeks the Rule change from a 'must occur within' to a 'must not occur outside'. WBFL may wish to provide further information at the hearing on the need for this approach. The inclusion of 'temporary' in front of the word as noted in the paragraph above is acceptable.
71. The request to exclude staff from TA-R1 PER-3 has no detail as to why this is necessary. However, the likelihood is for recreational events such as weddings, small concerts and similar the intent of the provision as notified was likely intended to only address the number of attendees and not staff or support workers. In my opinion, this is an acceptable amendment. The term 'hosted' may introduce ambiguity and is in my view not necessary.



72. The request from Waitangi Limited to increase the number of temporary events which are allowed on the Treaty Grounds per calendar year in PER-1 appears reasonable given the importance of the site to the nation, and that the site is likely to be accustomed to managing major events and is recommended to be accepted. However, given the relief sought for PER-2 which seeks preclusion from the hours provided for over two weeks for the Waitangi Day celebrations, the effect of the consecutive day limit in the first part of the rule becomes unclear. I can only assume that the two consecutive day limit per event is intended to apply to all other events apart from the Waitangi Day Event. Waitangi Limited may wish to provide more clarity on intent in evidence to the panel.
73. During the pre-hearing discussion and assessing the request to preclude Waitangi Day celebrations from complying with the specified limitation on hours in PER-2, Waitangi Limited advised as set out above:
- a) there is a lot of preparation work required for set up and break down for this event given its significance and size;
  - b) various dignitaries and important people can and do attend at various times during the celebrations and it is necessary and appropriate to receive these parties and 'host them'; and
  - c) the time these visits occur are not under the control of Waitangi Limited and can occur at any time.
74. For these reasons I agree it is appropriate that additional hours are provided for during this period.
75. In my opinion, the request to preclude the Waitangi Day event from complying with the 500-person limit, is also appropriate. The Waitangi Treaty Grounds have been hosting this event for a considerable period of time. It seems given the nature of the event that it would be unreasonable to set regulation that would both require a ticket to attend and also limit attendance.
76. With regard to the relief sought by NZDF to add set up and pack down to the 31-day limit on Temporary military training activities, I have reviewed a number of other recent district plans. These include the Proposed Waikato District Plan (Appeals Version), the Proposed Wairarapa Combined District Plan (as notified), and the Proposed Timaru District Plan (as notified). All include provisions to provide for set up and pack down in addition to the 31-calendar day limit. For this reason, I support this.
77. KiwiRail's request to amend TA-R3 PER-1 to include immediately adjacent locations of temporary buildings or structures ancillary to a





construction project is unclear. I have examined other district plans including the Proposed Napier District Plan and the South Waikato District Plan and I have not found a planning provision that limits temporary construction works sites to the subject site. In my view that it is therefore unreasonable to limit temporary buildings or structures ancillary to a construction project to the subject site on all occasions.

78. I also consider that the relief sought is appropriate, insofar as the limitation proposed by KiwiRail relates to immediately adjacent sites. This is a reasonable limitation as temporary work sites would be retained within the vicinity of the works and limit effects such as vehicle movements.

### **Recommendation**

79. I recommend the submission by WBFL be accepted in part insofar as the word 'each' is included in TA-R1 PER 1 and the word 'temporary' is included in PER 4 and PER 5 and that staff are excluded from the maximum attendance limit in PER 3. I do not support the amendment proposed to PER-2 move from a 'must occur within' to a 'must not occur outside' approach nor the inclusion of the word 'hosted'.
80. I recommend that the relief sought to increase the number of events in TA-R1 PER-1 on the Waitangi Estate to 5 is accepted. However, more information is required to determine if the two-day limit is still intended to apply for all events on the Waitangi Estate, including Waitangi Day.
81. I recommend the relief sought to exempt the Waitangi Day celebration on the Waitangi Estate from compliance with the time limitation in TA-R1 PER 2 be accepted along with the attendee limits in PER 3.
82. I recommend that the relief sought by the NZDF to add set up and pack down times to TA-R2 PER-2 be accepted.
83. I also recommend that the relief sought by KiwiRail to TA-R3 PER-1 include adjacent sites be accepted.

### **Section 32AA evaluation**

84. The recommended amendments are primarily around clarifying the wording of the performance standards and do not materially change the performance standards and will assist with consistent implementation of the plan. The changes also are in line with what has been occurring on these sites and other Councils'. The changes do not add any new Rules, Policies or objectives.





### 5.2.3 Key Issue 3: Temporary buildings and structures

#### Overview

Provision(s)	Officer Recommendation(s)
TA –R-3 PER2	Retain as notified

#### Analysis of Submissions on Key Issue 4

85. Northland Planning and Development 2020 Limited (S502.089) support in part TA-R3, stating PER-2 wording has been amended to exclude 'or adjoins' the General Residential Zone. The submitters state that it's common that General Residential zone is adjoined by a larger Rural Zone and these large rural sites shouldn't be restricted to temporary buildings or structures less than 30m<sup>2</sup>. The submitters suggest PER-2 should provide control within the General Residential Zone only and requests to amend PER-2 to include "... where the site is located within the General Residential zone."

#### Analysis

86. In considering the submission, I used a comparison i.e. the area of a commonly used structure for construction activities in the Far North, a shipping container. I calculated the 'floor area' of a '40-foot shipping container'. This is approximately 26.5m<sup>2</sup>, which is smaller than the 30m<sup>2</sup> provided by TA-R3 PER-2. While I accept that this may be insufficient for major projects, I do not support an unlimited floor area for temporary buildings and structures adjoining Residential Zones which is what is sought.
87. If additional controls were proposed by the submitter at the hearing, then this may be considered.

#### Section 32AA evaluation

88. No change to the provision is recommend and, on this basis, no further evaluation is required under section 32 AA of the RMA.

### 5.2.4 Key Issue 4: TA-R5 and Temporary Agricultural Aviation Noise

#### Overview

Provision(s)	Officer Recommendation(s)
TA-R5	<ul style="list-style-type: none"> <li>Amend to exclude agricultural aviation activities.</li> </ul>
TA-RXX	<ul style="list-style-type: none"> <li>New Rule be inserted - Agricultural Aviation activities</li> </ul>
TA RXX PER-1	<ul style="list-style-type: none"> <li>All zones - Activity status - Permitted</li> </ul>



Provision(s)	Officer Recommendation(s)
	<ul style="list-style-type: none"> <li>• A maximum of up to 30 days in any 12-month period or 315 aircraft hours (whichever is greater).</li> </ul>

## Analysis of Submissions on Key Issue 4

### Matters raised in submissions

89. DOC (S364.026) support and request retention of TA-R5. NZAAA (S182.024) and BAL (S143.010) submissions are similar and are supportive of each other. Both submitters seek to have agricultural aviation activities provided for under new rules.
  
90. BAL and NZAAA both request agricultural aviation is deleted from the definition of general aviation activity and a new standalone definition of Agricultural Aviation Activities (S182.001) as follows:
 

*Agricultural aviation activities; means the intermittent operation of an aircraft (including fixed wing aeroplanes and helicopters) from a rural airstrip or helicopter landing area for primary production activities, and; conservation activities for biosecurity, or biodiversity purposes; including stock management, and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTA's).*
  
91. BAL seeks a new rule addressing noise from agricultural aviation activities. I have discussed this submission with the Report Writer of the NOISE chapter, Mr Kenton Baxter. He confirms that there are similar submissions regarding requests for amended definitions, new definitions, and enabling provisions coded to the NOISE topic. He has addressed these submission points in his Key Issue 11 in his S42A Report. I agree that it is more appropriate that provisions specifically related to noise is addressed as part of the NOISE chapter framework. The NOISE chapter also being heard at this hearing. BAL's submission relating to the NOISE chapter is not discussed further in this report.
  
92. NZAAA advances two options for Agricultural Aviation Activities to be included in the PDP:
  - Include Agricultural Aviation Activities as an activity ancillary to primary production, biosecurity and biodiversity activities OR,
  - Include a new permitted activity rule that provides for intermittent Agricultural Aviation Activities; AND



- Include a specific provision in the NOISE chapter to exempt noise from for intermittent agricultural aviation activities from complying with that chapter.
93. This report, while taking bullet point 1 and 3 above into account, will primarily addresses bullet point 2 above. Mr Baxter's s.42A specifically addresses point 3 insofar as he recommends that, subject to certain matters, it is appropriate to preclude noise generated by from the newly defined Agricultural Aviation Activities. However, this preclusion should be subject to consideration of any requirements that may apply to the land use provisions in the Temporary Activities chapter.
94. Both submitters seek the new rule as they are of the view TA-R5 doesn't appropriately apply to agricultural aviation and request to amend the rule to ensure this.

## Analysis

95. I have read CI7.37 in the District-Wide Matters Standard in the National Planning Standards which states:
- "If provisions to manage temporary activities, buildings and events are addressed, they must be located in the Temporary activities chapter".
96. In my opinion, it is arguable that 'agricultural aviation activities' as described in the proposed definition are appropriately considered 'temporary' as they are not 'permanent' but may occur regularly. On balance, I am of the view that, if agricultural aviation provisions are to be included in the PDP they are most appropriately located in the Temporary Activities chapter, except for noise related provisions which should be in the NOISE chapter.
97. In evaluating the proposed definition of Agricultural Aviation Activities, it is necessary to consider the general scope of matters that a district plan can control with regard to the operation of aircraft. Aircraft in the air are outside the scope of the PDP, including flight paths, noise (while in the air and immediately before and after flight) and discharges while in the air such as chemical sprays and fertilizers. The PDP can only manage aviation activities while aircraft are on the ground. For example, the location and use of airfields, engine testing and matters that relate to the use of the 'land'. In this example, the provision sought relates to temporary use of the land to provide for flights for specific purposes. TA-R5 specifically provides for 'emergency services military and conservation' activities. I agree that these are appropriate.



98. I understand Mr Baxter, Reporting Officer for the Noise Topic, has signalled a new definition is recommended for 'agricultural aviation activities' and associated note that precludes these activities from complying with the requirements of the NOISE chapter. This preclusion is subject to any compliance matters in the Temporary Activities chapter. I support Mr Baxter's recommendations and consider that they achieve the relief sought by submitters for Submissions S182.024 and S143.010. I also recommend Rule TA-R5 is amended to clarify that it does not apply to agricultural aviation activities.
99. The definition is set out in Mr Baxter's S42A noise report which is also been heard at this hearing. The definition is as follows (s182.001):
- Agricultural aviation activities; means the intermittent operation of an aircraft (including fixed wing aeroplanes and helicopters) from a rural airstrip or helicopter landing area for primary production activities, and; conservation activities for biosecurity, or biodiversity purposes; including stock management, and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTA's).<sup>1</sup>*
100. If the recommended definition for Agricultural Aviation activities is adopted, a further rule is recommended allowing for the land use aspect of this activity to occur. It is proposed that a permitted activity provision be included.
101. As Mr Baxter observes in his Report at paragraph 235, the relief sought by NZAAA (S182.022) does not include reference to NOISE-S1 (Maximum noise levels) and instead requests this permitted rule is limited to a period up to 30 days in any 12-month period or 315 aircraft hours (whichever is greater).
102. I agree with the request to provide for up to 30 days as this generally aligns with a number of other activities in the Temporary Activities chapter, except for the exceptions I have recommended in this report.

### **Recommendation**

103. I recommend that the submission from DOC be accepted in part insofar as the Submissions from NZAAA and BAL are accepted in that, for the reasons above I recommend that:
104. A new Rule TA-XX be inserted, permitting agricultural aviation activities in all zones.
105. A new TA XX PER 1 Rule be inserted providing temporary Agricultural Aviation activities be limited to a period up to 30 days in any 12-month period or 315 aircraft hours (whichever is greater).



## Section 32AA evaluation

106. The recommended amendment definition and Rules is around clarifying temporary activities and providing a clearer definition of what is a temporary activity for a specific plan user. The recommended changes will assist with consistent and easier implementation of the plan as temporary agricultural aviation activities are now provided for in this chapter. The new definition and Rules provide for the same use as others engaging in temporary activities.

## 6 Conclusion

107. This report has provided an assessment of submissions received in relation to the Temporary Activities chapter. The primary amendments that I have recommended relate to:
- a) amendments to TA R1 - PER 1 PER 4 and PER 5 to provide clarity and reduced unintended consequences;
  - b) amendments TA-PER- 1 PER 2 and PER 3 to provide for events which occur during the year at the Waitangi Treaty grounds and the Waitangi Day event; and
  - c) amendments to allow for set up and pack down to Temporary Military Activities.
108. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Temporary Activities chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and in Appendix 2.
109. I recommend that provisions for the Temporary Activities matters be amended as set out in the Temporary Activities in Appendix 1 below for the reasons set out in this report

**Recommended by:** Lynette Morgan Policy Planner Far North District Council

**Approved by:** James R Witham – Team Leader District Plan, Far North District Council.

A handwritten signature in blue ink, appearing to be "James R Witham", is written over a faint, light blue circular stamp.

**Date:** 20 September 2024

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