

DDPR_feedback_0085s	
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Response Date	Sep 01 22 and Aug 31 22
Notes	
Q1	Select the chapter you want to provide feedback on
Q2	In general, to what extent do you support the contents of this chapter?
Q3	Objective/Policy/Rule/Standard reference:
Q4	Feedback/Comments
Q5	Objective/Policy/Rule/Standard reference:
Q6	Feedback/Comments
Q7	Objective/Policy/Rule/Standard reference:
Q8	Feedback/Comments
Q9	Objective/Policy/Rule/Standard reference:
Q10	Feedback/Comments
Q11	supporting documents?
	0
Q12	If you need more space, or have any other general comments, please leave them here
	<p>Kia ora, The New Zealand Motor Caravan Association made a submission to the draft Waitaki District Plan (as per the email below). Our submission is concerned with the following chapters of the draft plan: * Interpretation: definition of various activities; * Provision for campgrounds in the various zones of the draft plan; * Objectives, policies and planning for campgrounds. We think it is more appropriate to provide our submission via email as opposed to filling out individual online forms for each section/chapter. Please confirm if our submission has been received and accepted. Thanks. Ngā mihi Kind regards Rayya Ali Planning and Policy Advisor New Zealand Motor Caravan Association Inc. P 09 298 5466 extn. 709 E rayya@nzmca.org.nz 4 Graham Road, Takanini, Auckland 2112 www.nzmca.org.nz</p>



02 August 2021

Submission to Draft Waitaki District Plan
Waitaki District Council
20 Thames Street
Oamaru 9444

Emailed to: planreview@waitaki.govt.nz

Submission on Waitaki District Council Draft District Plan

Introduction

- 1 The New Zealand Motor Caravan Association Inc. (NZMCA) welcomes the opportunity to submit on Waitaki District Council's Draft District Plan.
- 2 The NZMCA is a non-profit organisation which represents the interest of New Zealanders who enjoy exploring the country at leisure in their motorhomes and caravans. The Association has in excess of 112,000 members nationwide with approximately 5,800 members residing in and around Waitaki¹.
- 3 One of NZMCA's purposes includes public advocacy for the interests of camping and domestic tourism in Aotearoa New Zealand. This purpose has motivated its interest in the Draft Waitaki District Plan and driven this submission to various aspects of the Plan.
- 4 The NZMCA operate a number of campgrounds in various different zones around the country which specifically cater for NZMCA members travelling in self-contained vehicles. These are provided for the enjoyment of people, supporting local communities and the economy. People enjoy camping in areas with natural scenery and landscapes as well as in areas close to the central business centres. These provide people with convenience to be able to bike and walk to the supermarkets, convenience and retail stores, and enjoy activities the local area has to offer.
- 5 This submission covers four specific policy questions as follows:
 - The importance of domestic tourism in the local economy
 - The treatment of freedom camping
 - Definition of buildings
 - Planning for camping ground

¹ This includes South Canterbury, Otago and Clutha Valley regions that neighbour Waitaki District.

The Importance of Domestic Tourism

Economic and social benefits

- 6 While district plans are primarily regulatory documents required of local authorities under the Resource Management Act, the Act itself is facilitative legislation which amongst other things ‘enables people and communities to provide for their social, economic and cultural well-being and their health and safety’. This means that while a district plan must be concerned with managing land uses in order to avoid, remedy or mitigate any adverse effects of land use activities on the environment, it should still be concerned for community needs and aspirations in doing so. This requires a balance of focus for policy and within this balance NZMCA submits that domestic tourism and its facilitation has some relevance.
- 7 NZMCA is a key agent in New Zealand’s domestic tourism sector. Our members travel extensively in self-contained camping vehicles such as motorhomes and caravans exploring Aotearoa New Zealand at their leisure. In doing so they spend money at local businesses, go sightseeing and take part in local activities. NZMCA promotes and supports this activity and encourages its members to not only be responsible campers but to also give something back to the communities which host them.
- 8 Visitor expenditure data in the Waitaki District shows 68% of spending came from domestic tourism which far outweighed that of international (32%)². The MBIE summary document on tourism in Waitaki shows approximately \$122.8m was spent by domestic travellers as opposed to only \$61.7m by international visitors³.
- 9 Waitaki District has a motorhome friendly status with NZMCA holding its 64th National Rally at the Oamaru Racecourse in 2020. This event welcomed some 700 motorcaravan vehicles to the district which provided a very handy and noticeable economic boost to the town.
- 10 It is NZMCA’s submission that camping – in its various forms, is an important recreational and economic activity for Waitaki District. As such, the Association believes that the District Plan should make specific provisions for camping in its objectives, policies and rules.

Freedom Camping

- 11 The NZMCA is concerned that clear and appropriate provision has not been made in the draft district plan for opportunities for people to camp responsibly in safe, convenient and pleasant locations across the district.
- 12 Most of the zones in the draft Waitaki District Plan (the draft plan) require a resource consent for as a Discretionary activity for ‘activities not otherwise provided for’ in the plan. For example, Rule RLZ – 16 of the Rural Lifestyle Zone, Rule OSZ – R16 of the Open Space Zone amongst others.
- 13 In our view, this ‘catch all’ rule would also include freedom camping as defined by section 5 of the Freedom Camping Act 2011. The Freedom Camping Act, Reserves Act 1977, reserve management plans, and council bylaws regulate where freedom camping can occur in the district.

² Tourism Waitaki General Manager - <https://www.waitaki.govt.nz/News/Waitaki-Announces-Domestic-Campaign>

³ Summary Report August 2019 – Tourism Waitaki: <https://www.mbie.govt.nz/dmsdocument/1957-summary-report-tourism-waitaki-pdf>

- 14 Section 6 of Waitaki’s Freedom Camping by law adopted in December 2021 permits freedom camping in any local authority area within the district unless it is prohibited or restricted by the bylaw, or under any other enactment. Therefore, freedom camping in specific areas will require resource consent for a discretionary or non-complying activity based on the zone rules provided in the draft plan, unless specific provision for it is made in these rules. Such an outcome would be inconsistent with the generally permissive intent of the freedom camping bylaw. Visitors complying with the bylaw and freedom camping in appropriately self-contained vehicles may unknowingly be in breach of the District Plan rules.
- 15 We submit it would be more appropriate to explicitly exclude freedom camping from the plan and avoid the need for land-use consent in areas where a council bylaw or reserve management plan permits freedom camping. For example, the definition section of the Dunedin City Council’s second-generation plan explicitly notes freedom camping is not managed by the plan, rather it is managed through DCC bylaw⁴.
- 16 We recommend **AMENDING** the draft plan to either explicitly exclude freedom camping from requiring resource consent under the draft plan or making freedom camping a permitted activity.

Definition of Building

- 17 We note the draft plan has adopted the definition of Building from the National Planning Standards (NPS).
- 18 The NPS definition of ‘building’ captures non-motorised caravans which are not capable of moving under their own power. NZMCA members use non-motorised caravans for the same purpose as motorised motorhomes, campervans, and house buses (which are not captured by the NPS definition). For the NZMCA and its more than 112,000 members (many of whom travel with non-motorised caravans), the NPS definition creates a number of potential implications, which stem from the fact that members with non-motorised caravans will, by definition, be using and parking in a ‘building’.
- 19 To address this issue and provide consistency and clarity, we recommend amending the definition of ‘building’ as suggested in the **attached advice** from Simson Grierson Lawyers.
- 20 Our suggestion is consistent with the NPS and the way in which Council currently defines ‘building’ in the operative district plan. Introducing a sub-category is one possible option, which other councils have relied on. A recent example is the notified Porirua City District Plan and the New Plymouth District Plan. The NPS definition of *educational facility* means “land or buildings used for teaching or training by *childcare services*, schools, or tertiary education services, including any ancillary activities”. Both Porirua District Plan and New Plymouth District plans have decided to include a separate definition of the term “childcare services”, on the basis that this subcategory is required to assist with plan interpretation.
- 21 We have been involved in the review of a number of district plan reviews where we have recommended a sub-category to the definition of buildings is adopted. In this case, we would recommend a similar approach is adopted and a subcategory to the definition of buildings is adopted to exclude non-motorised caravans.

⁴ Dunedin City Council – 2GP: Definition of campgrounds <https://2gp.dunedin.govt.nz/plan/pages/plan/book.aspx?exhibit=DCC2GP>

- 22 We think it would clearer for readers of the plan if the definition of “building” explicitly excludes non-motorised caravans as follows:

means a temporary or permanent movable or immovable physical construction that is:

- i. partially or fully roofed; and*
- ii. fixed or located on or in land;*

but excludes: any motorised vehicle, or other mode of transport that could be moved under its own power, or non-motorised caravans other than those used for a residential accommodation/ business purpose for a continuous period of more than two (2) months.

Planning for Camping Grounds

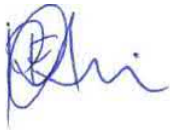
- 23 This section focuses on the provision of camping grounds in the various zones of the draft district plan and the relevant objectives and policies.
- 24 Campgrounds are not provided for specifically in any zones of the district plan, with the exception of Sports and Active Recreational zone which has provision for it specifically as a Discretionary Activity.
- 25 Camping is a recreational activity pursued outdoors where people relax, enjoy themselves and connect with nature. The sports and recreational zone of the draft plan includes camping ground activity which means it can be categorised as a recreational activity. However, the interpretation chapter of the draft plan does not specifically define recreational activities which creates ambiguity amongst readers and interpreters.
- 26 Although the interpretations chapter has a specific definition for campgrounds which is as defined by the Camping-grounds Regulations 1985, this activity in terms of the environmental effects, is similar to residential activity and visitor accommodation is provided for in other zones so camping grounds should be as well.
- 27 Taking the above into consideration, although camping grounds are not provided for specifically in the various chapters of the draft plan, recreational activity, visitors accommodation and residential activity are provided for as a permitted or restricted discretionary activity with relevant performance standards in place.
- 28 We suggest **AMENDING** the various chapters of the plan allowing for more permissive rules related specifically to campgrounds in the Waitaki District. This can be achieved by including camping grounds as a recreational activity and visitors accommodation within the interpretation chapter.
- 29 Most of the zones in the draft plan do not specifically mention camping as an activity. However, we note that campgrounds can easily meet the objectives, policies and intention of many of these zones and although the Open Space and Sports and Recreation zone specifically has a rule relating to campgrounds, it is provided for as a discretionary activity. Campgrounds can meet the objectives, policies and the intention of the Open Space and Sports and Recreation zone.
- 30 Allowing for more permissive rules around the establishment of campgrounds will make it easier to establish sites for vehicle-based camping in the Waitaki District. These may be at a variety of scales from those catering for five to ten vehicles upwards. In turn, it will also create positive social and economic benefits for the community.

Conclusions

- 31 The Association submits that the final District Plan should adopt a more deliberate and permissive stance toward camping; including freedom camping and amend several of the draft Plan's provisions as suggested above.
- 32 We hope Waitaki District Council will take our feedback and recommendations into consideration when drafting the Proposed Plan for public notification.
- 33 NZMCA would like an opportunity to make a verbal submission in support of this submission.

Nāku noa, nā

New Zealand Motor Caravan Association Inc.

A handwritten signature in blue ink, appearing to read 'Rayya Ali', is positioned below the typed name.

Rayya Ali

Planning and Policy Advisor

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EXECUTIVE SUMMARY

1. The definition of 'building' in the National Planning Standards (**NPS**) states:

***BUILDING** means a temporary or permanent movable or immovable physical construction that is:*

- (a) Partially or fully roofed; and*
- (b) Fixed or located on or in land;*

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

(the '**Definition**')

2. The Definition captures non-motorised caravans. For the NZMCA this creates a number of potential implications, which stem from the fact that members with non-motorised caravans will, by definition, be using and parking a 'building'.
3. For example, NZMCA members go camping in motorised motorhomes, campervans, converted house buses and non-motorised caravans. Members also store their vehicles, including non-motorised caravans, at home when they are not being used for camping. Undertaking these activities in a non-motorised caravan may, depending on the approach taken by certain district plans, trigger the need for resource consent, including when members use non-motorised caravans at NZMCA motor caravan parks, campgrounds, freedom camping sites, or store their caravan at home.
4. The NZMCA recommends amending the Definition at the time you incorporate into your district plan, to avoid such implications.

ABOUT THE NZMCA

5. Formed in 1956, the NZMCA is a non-profit club representing over 93,000 individual New Zealanders who share a passion for exploring our country at leisure in their certified self-contained motorhomes (motorised vehicles) and caravans (non-motorised vehicles).
6. The NZMCA is one of the largest domestic tourism organisations in New Zealand and is projected to surpass 100,000 individual members in 2021.

7. NZMCA members are hybrid campers frequently alternating between commercial camping-grounds, NZMCA motor caravan parks, private properties that offer overnight parking, public campsites and freedom camping areas. The NZMCA currently operates 45 member-only motor caravan parks nationwide. These parks provide members travelling in self-contained motorhomes and caravans with a safe and convenient place to temporarily park overnight.

OUTLINE OF THE ISSUE

8. In its current form the Definition captures non-motorised caravans, being items that are not capable of moving under their own power (i.e. they are towed, not self-propelled). Motorhomes are excluded from the Definition on this basis, as are campervans and house buses, which are self-propelled.
9. The development of the Definition is outlined in detail in the Ministry for the Environment (**MfE**) 'Recommendations on Submissions Report (**Recommendations Report**)'.¹ Relevantly, the Recommendations Report indicates an awareness of the above issue for caravans, and expressed a view that, where appropriate, councils should narrow the Definition in their district plans to exclude caravans as required.
10. The NZMCA considers that a 'use' qualifier would be an appropriate way to deal with this issue, so that the use of caravans for their intended purpose is not captured by the Definition. The amendment to the Definition outlined below seeks to introduce this refinement, so that caravans will not, in all cases, be captured by the Definition.

What the current Definition means for the NZMCA and its members

11. The issue created by the Definition's capture of non-motorised caravans is that there is a need to engage with plan provisions applying to buildings. This may trigger the need for resource consent to be obtained, including when members are staying at NZMCA parks, or storing caravans on their own property when members are not travelling.

¹ Ministry for the Environment. 2019. *21 Definitions Standard- Recommendations on Submissions Report for the first set of National Planning Standards* Wellington: Ministry for the Environment, at 51.

12. This could pose several problems for the NZMCA and its members, including:
- (a) where members store their caravans on their private properties. Depending on the zoning of the property, there may be a need to obtain resource consent for a second building, despite the fact that the caravan may be left vacant and not intended for use as an additional dwelling;
 - (b) there will be a question as to whether any caravan will need to comply with all built form and location standards applying in the relevant zone, including minimum set back from boundaries. If those standards apply, then the caravan will need to be parked in a location that will comply, or there will be a technical infringement of a standard; and
 - (c) depending on the zone (and relevant provisions) of any NZMCA park, there may be issues where more than one caravan uses the site, with the potential to trigger a resource consent.
13. Local authorities may also need to apply for resource consent at freedom camping areas that permit vehicles, including non-motorised caravans.

OPTIONS TO ADDRESS THE ISSUE

14. Part 14 of the NPS comprises a set of mandatory directions, which local authorities must comply with. There is no discretion in relation to the NPS definitions, they must be adopted.
15. However, local authorities have the power to introduce a subcategory into any Definition, as described in direction 1 of Part 14 of the NPS, which provides:

Where terms defined in the Definitions List are used in a policy statement or plan, and the term is used in the same context as the definition, local authorities must use the definition as in the Definitions List. However, if required, they may define:

- (i) *terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher level definition in the Definitions List.*

16. As noted above, the Recommendations Report acknowledges that non-motorised caravans will meet the Definition and raises the potential for local authorities to use subcategories or narrower definitions to manage or permit these items where required:

We acknowledge that there are other items that are moveable and have a roof and so could meet the recommended definition of a building. In particular, tents, caravans and marquees would be included. We acknowledge that the definition of building is broadly crafted and councils will need to use subcategories or narrower application definitions and rules to manage or permit these items where required.

(Emphasis added)

17. Accordingly, the NZMCA suggests that it would be appropriate for local authorities to take a pragmatic and more refined approach to incorporating the Definition in their district plans, by adopting one of the following two options:
- (a) adding a subcategory to the exclusion clause in the Definition so that non-motorised caravans are excluded; or
 - (b) adding a subcategory and 'use' qualifier to the exclusion clause, so that non-motorised caravans are excluded when certain criteria are met.
18. The NZMCA accepts that the Definition is not formulated in a way that presents a clear pathway for a 'subcategory' approach. The first two limbs of the Definition are qualifying criteria, rather than descriptive terms (i.e. describing types of buildings), and so it is the exclusion clause that provides the better option for refinement. At present, that exclusion clause is currently limited to:
- (a) motorised vehicles; and / or
 - (b) modes of transport that can be moved under their own power.
19. The NZMCA seeks that an additional exclusion be added for non-motorised caravans and recommends that one of the following amendments be adopted (all changes underlined).

Option 1:

BUILDING means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and
- (b) Fixed or located on or in land;

but excludes:

- i. any motorised vehicle;
- ii. other mode of transport that could be moved under its own power; and
- iii. non-motorised caravans

20. In our view, this approach would be consistent with the subcategory approach, as it adds a new subcategory to the exclusions in a manner that does not widen the application of the Definition. A consequence of this amendment is, however, that all caravans will be excluded from the Definition, when there could be the potential that they are used in practice as buildings.
21. Alternatively, the NZMCA recommends that the exclusion clause be amended to incorporate a subcategory and a 'use' qualifier in the exclusion clause. This would allow the definition to capture non-motorised caravans that are no longer being used for their intended purpose. The NZMCA recommends that this be done by considering use against a temporal measure.

Option 2:

BUILDING means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and
- (b) Fixed or located on or in land;

but excludes:

- i. any motorised vehicle;
- ii. other mode of transport that could be moved under its own power; and
- iii. non-motorised caravans...other than those used for a [residential accommodation / business purpose] for a continuous period of more than XX months.

- 22.** The Option 2 amendment will link the ‘use’ of the caravan to whether it is a building as defined. The NZMCA considers that this approach would be appropriate, and consistent with the discussion in the Recommendations Report.

- 23.** If local authorities are unable to adopt Options 1 or 2 above, we recommend developing practice notes or guidance specific to non-motorised caravans. Given the signals in relation to ‘vehicles’ in the MfE guidance and Recommendations Report, it would seem prudent to publish practice notes or guidance that clarify whether non-motorised caravans are to be treated as buildings, or whether they may, in certain circumstances, be excluded.

To James Imlach, New Zealand Motor Caravan Association Incorporated (**NZMCA**) **9 September 2020**

From Sarah Scott, Mike Wakefield

Subject Advice addressing the definition of “Building” in the National Planning Standards

The Issue for NZMCA

1. At issue for the NZMCA is the definition of “Building” included in the first National Planning Standards (**NPS**),¹ which captures non-motorised caravans because they are not capable of moving under their own power. The full definition is as follows (**Definition**):

means a temporary or permanent movable or immovable physical construction that is:

(a) Partially or fully roofed; and

(b) Fixed or located on or in land;

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

2. The capture of non-motorised caravans by the Definition creates a number of potential implications for NZMCA and its members, including that members will, by definition, be operating a ‘building’ when using and storing their non-motorised caravans. This could, depending on the approach taken by district plans, trigger the need for resource consent to be obtained, including when members are either staying at NZMCA-operated motor caravan parks, or storing their caravans when not in use.

Background to the Definition

3. When developing the Definition, the Ministry for the Environment (**MfE**) recognised that non-motorised caravans would be captured. Relevantly, the Recommendation Report notes (our emphasis):²

RMA plans seek to manage effects from buildings in the main where those effects are more long term than from, for example, a car parked on a section and used every day. However, **where those vehicles no longer move** (likely no longer used for transportation but for activities such as business, storage or accommodation) **we consider they would have similar effects as buildings and should be captured**

1 Which were developed in accordance with sections 58B to 58J of the RMA, published in April 2019 and came into force on 3 May 2019.

2 Ministry for the Environment. 2019. *21 Definitions Standard - Recommendations on Submissions Report for the first set of National Planning Standards* Wellington: Ministry for the Environment, at 51.

by the definition. We therefore recommend excluding motorised vehicles or any other mode of transport that could be moved under its own power...

We acknowledge that there are other items that are moveable and have a roof and so could meet the recommended definition of a building. In particular, tents, caravans, and marquees would be included. We acknowledge that the definition of building is broadly crafted and councils will need to use subcategories or narrower application definitions and rules to manage or permit these items where required.

4. The above excerpts indicate that the issue that the Definition is trying to address is the use of non-motorised caravans as permanent buildings and for a business or accommodation, rather than for their normal intended use. Treating non-motorised caravans in this way may be entirely appropriate where they are being used as, for example, a residential dwelling for an extended period of time. However, that is a temporal 'use' issue, rather than an outcome determined by whether they can move under their own power, and it is this nuance that the Definition has not, in our view, captured.
5. The consequence is that the Definition has created something of an arbitrary distinction between motorhomes and non-motorised caravans, based on whether they can move under their own power or not, which does not recognise that the use is essentially the same. Importantly however, MfE recognised this issue and suggested that councils will need to address it through individual district plans.
6. While adopting the NPS definitions is mandatory (as they are comprised in Part 14 of the NPS), local authorities can develop more refined solutions for certain definitions. This is subject to a requirement that any solution is consistent with the primary definition, and not widen its scope.
7. We have identified several ways in which the Definition could be refined to address the identified issue.

An additional exclusion

- 7.1 An additional exclusion to the Definition could be added for non-motorised caravans. If this approach were adopted, the Definition could be reformatted as follows:

means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and*
- (b) Fixed or located on or in land;*

but excludes:

- i. any motorised vehicle;*
- ii. other mode of transport that could be moved under its own power; and*
- iii. non-motorised caravans (and tents)³...*

7.2 This approach would add a new subcategory to the exclusions without widening the application of the Definition, which was an approach recognised by MfE in its Recommendations Report.

A qualified 'use' exclusion

7.3 The second solution is to include a 'use' qualifier in the additional exclusion, relevant to non-motorised caravans. For example:

but excludes:

- i. any motorised vehicle;*
- ii. other mode of transport that could be moved under its own power; and*
- iii. non-motorised caravans...other than those used for a [residential accommodation / business purpose] for a continuous period of more than XX months.*

7.4 The effect of this type of qualifier would be to ensure that non-motorised caravans that are not being used for their intended purpose, in light of a temporal measure, are captured by the Definition. This approach is similar to that taken by a number of territorial authorities across the country.

7.5 The adoption of a 'use' qualifier does come with the potential that it could be seen as a departure from the Definition. It could also be considered that specific rules and standards of zone provisions will provide a more appropriate way to address land use issues.

Practice note / guidance document

³ The focus of our advice has been on non-motorised caravans, but an exclusion could also be sought for tents, acknowledging that the Definition technically captures these items as well.

- 7.6** A third option, which would sit outside the district plan, would be to develop a practice note / guidance document specific to non-motorised caravans. Given the signals in relation to 'vehicles' in the MfE guidance and recommendations, in our view it would be prudent in any case to clarify how non-motorised caravans are treated by district plans.
- 7.7** Our recommendation is that either of the first two options above are better outcomes as it avoids any confusion or potential for debate as to whether the district plan captures non-motorised caravans in the definition of 'Building'.

DDPR_feedback_0469s		
	Name	Rayya Ali
	Organisation	New Zealand Motor Caravan Association
	Email	rayya@nzmca.org.nz
	Response Date	Sep 01 22 08:43:26 am
	Notes	NZMCA
Q1	Select the chapter you want to provide feedback on	
	Part 1 - Introduction and General Provisions	
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02 August 2021

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Emailed to: planreview@waitaki.govt.nz

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Freedom Camping

- 11 The NZMCA is concerned that clear and appropriate provision has not been made in the draft district plan for opportunities for people to camp responsibly in safe, convenient and pleasant locations across the district.
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- 13 In our view, this ‘catch all’ rule would also include freedom camping as defined by section 5 of the Freedom Camping Act 2011. The Freedom Camping Act, Reserves Act 1977, reserve management plans, and council bylaws regulate where freedom camping can occur in the district.

² Tourism Waitaki General Manager - <https://www.waitaki.govt.nz/News/Waitaki-Announces-Domestic-Campaign>

³ Summary Report August 2019 – Tourism Waitaki: <https://www.mbie.govt.nz/dmsdocument/1957-summary-report-tourism-waitaki-pdf>

- 14 Section 6 of Waitaki’s Freedom Camping by law adopted in December 2021 permits freedom camping in any local authority area within the district unless it is prohibited or restricted by the bylaw, or under any other enactment. Therefore, freedom camping in specific areas will require resource consent for a discretionary or non-complying activity based on the zone rules provided in the draft plan, unless specific provision for it is made in these rules. Such an outcome would be inconsistent with the generally permissive intent of the freedom camping bylaw. Visitors complying with the bylaw and freedom camping in appropriately self-contained vehicles may unknowingly be in breach of the District Plan rules.
- 15 We submit it would be more appropriate to explicitly exclude freedom camping from the plan and avoid the need for land-use consent in areas where a council bylaw or reserve management plan permits freedom camping. For example, the definition section of the Dunedin City Council’s second-generation plan explicitly notes freedom camping is not managed by the plan, rather it is managed through DCC bylaw⁴.
- 16 We recommend **AMENDING** the draft plan to either explicitly exclude freedom camping from requiring resource consent under the draft plan or making freedom camping a permitted activity.

Definition of Building

- 17 We note the draft plan has adopted the definition of Building from the National Planning Standards (NPS).
- 18 The NPS definition of ‘building’ captures non-motorised caravans which are not capable of moving under their own power. NZMCA members use non-motorised caravans for the same purpose as motorised motorhomes, campervans, and house buses (which are not captured by the NPS definition). For the NZMCA and its more than 112,000 members (many of whom travel with non-motorised caravans), the NPS definition creates a number of potential implications, which stem from the fact that members with non-motorised caravans will, by definition, be using and parking in a ‘building’.
- 19 To address this issue and provide consistency and clarity, we recommend amending the definition of ‘building’ as suggested in the **attached advice** from Simson Grierson Lawyers.
- 20 Our suggestion is consistent with the NPS and the way in which Council currently defines ‘building’ in the operative district plan. Introducing a sub-category is one possible option, which other councils have relied on. A recent example is the notified Porirua City District Plan and the New Plymouth District Plan. The NPS definition of *educational facility* means “land or buildings used for teaching or training by *childcare services*, schools, or tertiary education services, including any ancillary activities”. Both Porirua District Plan and New Plymouth District plans have decided to include a separate definition of the term “childcare services”, on the basis that this subcategory is required to assist with plan interpretation.
- 21 We have been involved in the review of a number of district plan reviews where we have recommended a sub-category to the definition of buildings is adopted. In this case, we would recommend a similar approach is adopted and a subcategory to the definition of buildings is adopted to exclude non-motorised caravans.

⁴ Dunedin City Council – 2GP: Definition of campgrounds <https://2gp.dunedin.govt.nz/plan/pages/plan/book.aspx?exhibit=DCC2GP>

- 22 We think it would clearer for readers of the plan if the definition of “building” explicitly excludes non-motorised caravans as follows:

means a temporary or permanent movable or immovable physical construction that is:

- i. partially or fully roofed; and*
- ii. fixed or located on or in land;*

but excludes: any motorised vehicle, or other mode of transport that could be moved under its own power, or non-motorised caravans other than those used for a residential accommodation/ business purpose for a continuous period of more than two (2) months.

Planning for Camping Grounds

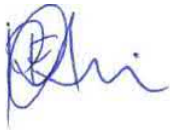
- 23 This section focuses on the provision of camping grounds in the various zones of the draft district plan and the relevant objectives and policies.
- 24 Campgrounds are not provided for specifically in any zones of the district plan, with the exception of Sports and Active Recreational zone which has provision for it specifically as a Discretionary Activity.
- 25 Camping is a recreational activity pursued outdoors where people relax, enjoy themselves and connect with nature. The sports and recreational zone of the draft plan includes camping ground activity which means it can be categorised as a recreational activity. However, the interpretation chapter of the draft plan does not specifically define recreational activities which creates ambiguity amongst readers and interpreters.
- 26 Although the interpretations chapter has a specific definition for campgrounds which is as defined by the Camping-grounds Regulations 1985, this activity in terms of the environmental effects, is similar to residential activity and visitor accommodation is provided for in other zones so camping grounds should be as well.
- 27 Taking the above into consideration, although camping grounds are not provided for specifically in the various chapters of the draft plan, recreational activity, visitors accommodation and residential activity are provided for as a permitted or restricted discretionary activity with relevant performance standards in place.
- 28 We suggest **AMENDING** the various chapters of the plan allowing for more permissive rules related specifically to campgrounds in the Waitaki District. This can be achieved by including camping grounds as a recreational activity and visitors accommodation within the interpretation chapter.
- 29 Most of the zones in the draft plan do not specifically mention camping as an activity. However, we note that campgrounds can easily meet the objectives, policies and intention of many of these zones and although the Open Space and Sports and Recreation zone specifically has a rule relating to campgrounds, it is provided for as a discretionary activity. Campgrounds can meet the objectives, policies and the intention of the Open Space and Sports and Recreation zone.
- 30 Allowing for more permissive rules around the establishment of campgrounds will make it easier to establish sites for vehicle-based camping in the Waitaki District. These may be at a variety of scales from those catering for five to ten vehicles upwards. In turn, it will also create positive social and economic benefits for the community.

Conclusions

- 31 The Association submits that the final District Plan should adopt a more deliberate and permissive stance toward camping; including freedom camping and amend several of the draft Plan's provisions as suggested above.
- 32 We hope Waitaki District Council will take our feedback and recommendations into consideration when drafting the Proposed Plan for public notification.
- 33 NZMCA would like an opportunity to make a verbal submission in support of this submission.

Nāku noa, nā

New Zealand Motor Caravan Association Inc.

A handwritten signature in blue ink, appearing to read 'Rayya Ali', is positioned below the typed name.

Rayya Ali

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EXECUTIVE SUMMARY

1. The definition of 'building' in the National Planning Standards (**NPS**) states:

***BUILDING** means a temporary or permanent movable or immovable physical construction that is:*

- (a) Partially or fully roofed; and*
- (b) Fixed or located on or in land;*

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

(the '**Definition**')

2. The Definition captures non-motorised caravans. For the NZMCA this creates a number of potential implications, which stem from the fact that members with non-motorised caravans will, by definition, be using and parking a 'building'.
3. For example, NZMCA members go camping in motorised motorhomes, campervans, converted house buses and non-motorised caravans. Members also store their vehicles, including non-motorised caravans, at home when they are not being used for camping. Undertaking these activities in a non-motorised caravan may, depending on the approach taken by certain district plans, trigger the need for resource consent, including when members use non-motorised caravans at NZMCA motor caravan parks, campgrounds, freedom camping sites, or store their caravan at home.
4. The NZMCA recommends amending the Definition at the time you incorporate into your district plan, to avoid such implications.

ABOUT THE NZMCA

5. Formed in 1956, the NZMCA is a non-profit club representing over 93,000 individual New Zealanders who share a passion for exploring our country at leisure in their certified self-contained motorhomes (motorised vehicles) and caravans (non-motorised vehicles).
6. The NZMCA is one of the largest domestic tourism organisations in New Zealand and is projected to surpass 100,000 individual members in 2021.

7. NZMCA members are hybrid campers frequently alternating between commercial camping-grounds, NZMCA motor caravan parks, private properties that offer overnight parking, public campsites and freedom camping areas. The NZMCA currently operates 45 member-only motor caravan parks nationwide. These parks provide members travelling in self-contained motorhomes and caravans with a safe and convenient place to temporarily park overnight.

OUTLINE OF THE ISSUE

8. In its current form the Definition captures non-motorised caravans, being items that are not capable of moving under their own power (i.e. they are towed, not self-propelled). Motorhomes are excluded from the Definition on this basis, as are campervans and house buses, which are self-propelled.
9. The development of the Definition is outlined in detail in the Ministry for the Environment (**MfE**) 'Recommendations on Submissions Report (**Recommendations Report**)'.¹ Relevantly, the Recommendations Report indicates an awareness of the above issue for caravans, and expressed a view that, where appropriate, councils should narrow the Definition in their district plans to exclude caravans as required.
10. The NZMCA considers that a 'use' qualifier would be an appropriate way to deal with this issue, so that the use of caravans for their intended purpose is not captured by the Definition. The amendment to the Definition outlined below seeks to introduce this refinement, so that caravans will not, in all cases, be captured by the Definition.

What the current Definition means for the NZMCA and its members

11. The issue created by the Definition's capture of non-motorised caravans is that there is a need to engage with plan provisions applying to buildings. This may trigger the need for resource consent to be obtained, including when members are staying at NZMCA parks, or storing caravans on their own property when members are not travelling.

¹ Ministry for the Environment. 2019. *21 Definitions Standard- Recommendations on Submissions Report for the first set of National Planning Standards* Wellington: Ministry for the Environment, at 51.

12. This could pose several problems for the NZMCA and its members, including:
- (a) where members store their caravans on their private properties. Depending on the zoning of the property, there may be a need to obtain resource consent for a second building, despite the fact that the caravan may be left vacant and not intended for use as an additional dwelling;
 - (b) there will be a question as to whether any caravan will need to comply with all built form and location standards applying in the relevant zone, including minimum set back from boundaries. If those standards apply, then the caravan will need to be parked in a location that will comply, or there will be a technical infringement of a standard; and
 - (c) depending on the zone (and relevant provisions) of any NZMCA park, there may be issues where more than one caravan uses the site, with the potential to trigger a resource consent.
13. Local authorities may also need to apply for resource consent at freedom camping areas that permit vehicles, including non-motorised caravans.

OPTIONS TO ADDRESS THE ISSUE

14. Part 14 of the NPS comprises a set of mandatory directions, which local authorities must comply with. There is no discretion in relation to the NPS definitions, they must be adopted.
15. However, local authorities have the power to introduce a subcategory into any Definition, as described in direction 1 of Part 14 of the NPS, which provides:

Where terms defined in the Definitions List are used in a policy statement or plan, and the term is used in the same context as the definition, local authorities must use the definition as in the Definitions List. However, if required, they may define:

- (i) *terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher level definition in the Definitions List.*

16. As noted above, the Recommendations Report acknowledges that non-motorised caravans will meet the Definition and raises the potential for local authorities to use subcategories or narrower definitions to manage or permit these items where required:

We acknowledge that there are other items that are moveable and have a roof and so could meet the recommended definition of a building. In particular, tents, caravans and marquees would be included. We acknowledge that the definition of building is broadly crafted and councils will need to use subcategories or narrower application definitions and rules to manage or permit these items where required.

(Emphasis added)

17. Accordingly, the NZMCA suggests that it would be appropriate for local authorities to take a pragmatic and more refined approach to incorporating the Definition in their district plans, by adopting one of the following two options:
- (a) adding a subcategory to the exclusion clause in the Definition so that non-motorised caravans are excluded; or
 - (b) adding a subcategory and 'use' qualifier to the exclusion clause, so that non-motorised caravans are excluded when certain criteria are met.
18. The NZMCA accepts that the Definition is not formulated in a way that presents a clear pathway for a 'subcategory' approach. The first two limbs of the Definition are qualifying criteria, rather than descriptive terms (i.e. describing types of buildings), and so it is the exclusion clause that provides the better option for refinement. At present, that exclusion clause is currently limited to:
- (a) motorised vehicles; and / or
 - (b) modes of transport that can be moved under their own power.
19. The NZMCA seeks that an additional exclusion be added for non-motorised caravans and recommends that one of the following amendments be adopted (all changes underlined).

Option 1:

BUILDING means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and
- (b) Fixed or located on or in land;

but excludes:

- i. any motorised vehicle;
- ii. other mode of transport that could be moved under its own power; and
- iii. non-motorised caravans

20. In our view, this approach would be consistent with the subcategory approach, as it adds a new subcategory to the exclusions in a manner that does not widen the application of the Definition. A consequence of this amendment is, however, that all caravans will be excluded from the Definition, when there could be the potential that they are used in practice as buildings.
21. Alternatively, the NZMCA recommends that the exclusion clause be amended to incorporate a subcategory and a 'use' qualifier in the exclusion clause. This would allow the definition to capture non-motorised caravans that are no longer being used for their intended purpose. The NZMCA recommends that this be done by considering use against a temporal measure.

Option 2:

BUILDING means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and
- (b) Fixed or located on or in land;

but excludes:

- i. any motorised vehicle;
- ii. other mode of transport that could be moved under its own power; and
- iii. non-motorised caravans...other than those used for a [residential accommodation / business purpose] for a continuous period of more than XX months.

- 22.** The Option 2 amendment will link the ‘use’ of the caravan to whether it is a building as defined. The NZMCA considers that this approach would be appropriate, and consistent with the discussion in the Recommendations Report.

- 23.** If local authorities are unable to adopt Options 1 or 2 above, we recommend developing practice notes or guidance specific to non-motorised caravans. Given the signals in relation to ‘vehicles’ in the MfE guidance and Recommendations Report, it would seem prudent to publish practice notes or guidance that clarify whether non-motorised caravans are to be treated as buildings, or whether they may, in certain circumstances, be excluded.

To James Imlach, New Zealand Motor Caravan Association Incorporated (**NZMCA**) **9 September 2020**

From Sarah Scott, Mike Wakefield

Subject Advice addressing the definition of “Building” in the National Planning Standards

The Issue for NZMCA

1. At issue for the NZMCA is the definition of “Building” included in the first National Planning Standards (**NPS**),¹ which captures non-motorised caravans because they are not capable of moving under their own power. The full definition is as follows (**Definition**):

means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and*
- (b) Fixed or located on or in land;*

but excludes any motorised vehicle or other mode of transport that could be moved under its own power.

2. The capture of non-motorised caravans by the Definition creates a number of potential implications for NZMCA and its members, including that members will, by definition, be operating a ‘building’ when using and storing their non-motorised caravans. This could, depending on the approach taken by district plans, trigger the need for resource consent to be obtained, including when members are either staying at NZMCA-operated motor caravan parks, or storing their caravans when not in use.

Background to the Definition

3. When developing the Definition, the Ministry for the Environment (**MfE**) recognised that non-motorised caravans would be captured. Relevantly, the Recommendation Report notes (our emphasis):²

RMA plans seek to manage effects from buildings in the main where those effects are more long term than from, for example, a car parked on a section and used every day. However, **where those vehicles no longer move** (likely no longer used for transportation but for activities such as business, storage or accommodation) **we consider they would have similar effects as buildings and should be captured**

1 Which were developed in accordance with sections 58B to 58J of the RMA, published in April 2019 and came into force on 3 May 2019.

2 Ministry for the Environment.2019. *21 Definitions Standard - Recommendations on Submissions Report for the first set of National Planning Standards* Wellington: Ministry for the Environment, at 51.

by the definition. We therefore recommend excluding motorised vehicles or any other mode of transport that could be moved under its own power...

We acknowledge that there are other items that are moveable and have a roof and so could meet the recommended definition of a building. In particular, tents, caravans, and marquees would be included. We acknowledge that the definition of building is broadly crafted and councils will need to use subcategories or narrower application definitions and rules to manage or permit these items where required.

4. The above excerpts indicate that the issue that the Definition is trying to address is the use of non-motorised caravans as permanent buildings and for a business or accommodation, rather than for their normal intended use. Treating non-motorised caravans in this way may be entirely appropriate where they are being used as, for example, a residential dwelling for an extended period of time. However, that is a temporal 'use' issue, rather than an outcome determined by whether they can move under their own power, and it is this nuance that the Definition has not, in our view, captured.
5. The consequence is that the Definition has created something of an arbitrary distinction between motorhomes and non-motorised caravans, based on whether they can move under their own power or not, which does not recognise that the use is essentially the same. Importantly however, MfE recognised this issue and suggested that councils will need to address it through individual district plans.
6. While adopting the NPS definitions is mandatory (as they are comprised in Part 14 of the NPS), local authorities can develop more refined solutions for certain definitions. This is subject to a requirement that any solution is consistent with the primary definition, and not widen its scope.
7. We have identified several ways in which the Definition could be refined to address the identified issue.

An additional exclusion

- 7.1 An additional exclusion to the Definition could be added for non-motorised caravans. If this approach were adopted, the Definition could be reformatted as follows:

means a temporary or permanent movable or immovable physical construction that is:

- (a) Partially or fully roofed; and*
- (b) Fixed or located on or in land;*

but excludes:

- i. any motorised vehicle;*
- ii. other mode of transport that could be moved under its own power; and*
- iii. non-motorised caravans (and tents)³...*

7.2 This approach would add a new subcategory to the exclusions without widening the application of the Definition, which was an approach recognised by MfE in its Recommendations Report.

A qualified 'use' exclusion

7.3 The second solution is to include a 'use' qualifier in the additional exclusion, relevant to non-motorised caravans. For example:

but excludes:

- i. any motorised vehicle;*
- ii. other mode of transport that could be moved under its own power; and*
- iii. non-motorised caravans...other than those used for a [residential accommodation / business purpose] for a continuous period of more than XX months.*

7.4 The effect of this type of qualifier would be to ensure that non-motorised caravans that are not being used for their intended purpose, in light of a temporal measure, are captured by the Definition. This approach is similar to that taken by a number of territorial authorities across the country.

7.5 The adoption of a 'use' qualifier does come with the potential that it could be seen as a departure from the Definition. It could also be considered that specific rules and standards of zone provisions will provide a more appropriate way to address land use issues.

Practice note / guidance document

³ The focus of our advice has been on non-motorised caravans, but an exclusion could also be sought for tents, acknowledging that the Definition technically captures these items as well.

- 7.6** A third option, which would sit outside the district plan, would be to develop a practice note / guidance document specific to non-motorised caravans. Given the signals in relation to 'vehicles' in the MfE guidance and recommendations, in our view it would be prudent in any case to clarify how non-motorised caravans are treated by district plans.
- 7.7** Our recommendation is that either of the first two options above are better outcomes as it avoids any confusion or potential for debate as to whether the district plan captures non-motorised caravans in the definition of 'Building'.

DDPR_feedback_0470s		
	Name	Rayya Ali
	Organisation	New Zealand Motor Caravan Association
	Email	rayya@nzmca.org.nz
	Response Date	Sep 01 22 08:44:11 am
	Notes	NZMCA
Q1	Select the chapter you want to provide feedback on	
	Zoning	
Q2	In general, to what extent do you support the contents of this chapter?	
	Oppose	
Q3	Objective/Policy/Rule/Standard reference:	
Q4	Feedback/Comments	
Q5	Objective/Policy/Rule/Standard reference:	
Q6	Feedback/Comments	
Q7	Objective/Policy/Rule/Standard reference:	
Q8	Feedback/Comments	
Q9	Objective/Policy/Rule/Standard reference:	
Q10	Feedback/Comments	
Q11	supporting documents?	
	0	
Q12	If you need more space, or have any other general comments, please leave them here	