

Deliberations on amendments to the Freedom Camping Bylaw 2014

TO	Judicial Committee
FROM	Scott Summerfield - Strategic Planning Team Leader
DATE	24 November 2015
SUBJECT	Deliberations on amendments to the Freedom Camping Bylaw 2014

1 Purpose of Report

This report seeks Judicial Committee decisions on proposed amendments to the Freedom Camping Bylaw 2014. This report follows consultation on the amendments from 18 September to 19 October 2015, and hearings on 12 November 2015 by the Judicial Committee.

2 Background

Under the Freedom Camping Act 2011 (the Act) freedom camping is permitted on local authority area (area of land that is within the district and that is controlled or managed by the local authority), unless it is prohibited or restricted in accordance with a bylaw made in accordance with the Act.

In 2014 Council undertook the process of looking at how it regulated freedom camping within the district. As a result the Freedom Camping Bylaw 2014 (the Bylaw) was adopted and came into force on 1 December 2014.

The existing bylaw is not due for review until 2024. Since adoption of the Bylaw, staff, elected members and the community have provided feedback on the appropriateness of classifications on Council land relating to prohibition or restriction under the Bylaw. On 5 August 2015 Council directed staff to investigate amendments to seven areas under in the Bylaw, with a view to making changes to the bylaw in time for the 2015/2016 summer period.

On 16 September 2015 Council decided to adopt draft amendments to the Bylaw for consultation. The proposed amendments were open for submissions from 18 September to 19 October 2015, and hearings were held in front of the Judicial Committee on 12 November 2015. Minutes for this hearing are included as **Attachment C**.

A number of Community Boards made changes to designated sites in restricted areas under the Bylaw in November 2015. Two of these changes, at Te Puru and Matarangi, were made pending the outcome of Council deliberations on sites consulted on as part of the amendments to the Bylaw.

3 Issue

The Judicial Committee is required to deliberate on submissions received on the proposed amendments to the Freedom Camping Bylaw 2014 and then to decide whether they will recommend Council adopt those amendments to the Bylaw. An overview of the seven sites in the proposed amendments to the bylaw are included in the following section, as well as a summary of submissions received for each site and staff recommendations for deliberations and adoption. Following adoption by Council on 9 December, the proposed amendments will be effective from 14 December, in time for the 2015/16 summer period.

4 Discussion

Deliberations on the proposed amendments to the Freedom Camping Bylaw 2014

A number of issues have been raised relating to the classification of certain areas under the Freedom Camping Bylaw. These relate to:

- a perceived misclassification of the area as either restricted or prohibited;
- perceived incorrect designated freedom camping site within a restricted area, or;
- a lack of regulation on a site not currently included in the Bylaw.

The Freedom Camping Act 2011 allows Council to prohibit or restrict freedom camping only:

- i) to protect the area;
- ii) to protect the health and safety of people who may visit the area;
- iii) to protect access to the area.

Any decision made by Council to change or apply a new classification to one of the seven areas need to be consistent with one or more of the three reasons set out above. One submitter at the hearing contested that, if these criteria apply to an area, then Council is able to take other factors into consideration such as the quiet enjoyment of property by property owners, or the need to protect views or business interests. Staff, including legal counsel, do not consider this is accurate and that the Act is very clear that the factors to be taken into consideration are only the ones in section 11 of the Act. It is not recommended that Council consider other factors beyond those set out in the Act in deliberating on the amendments.

The majority of the 131 submitters were individuals who submitted on a particular site or group of sites, however there were also several organisations which submitted on particular sites of interest to them. A number of organisations submitted on all proposals in the bylaw, notably the Holiday Accommodation Parks Association of New Zealand (HAPNZ) and the New Zealand Motor Caravan Association (NZMCA).

54 Wires Road, Hikutaia

Site overview

54 Wires Road, Hikutaia is currently a restricted area in the Bylaw. However, staff have identified that this site is currently subject to a lease in favour of a private owner and therefore not managed by Council. This site should accordingly be removed from the Bylaw.

Summary of Submissions

Three submissions were received on 54 Wires Road. HAPNZ submitted that they considered the site should stay in the bylaw without providing a reason, while NZMCA submitted that Council was right in removing the site from the Bylaw given the lease in favour of a private owner over the site. One further submitter noted their opposition to the proposal, however this was in the context of a pro forma objection to all of Council's proposals for amendments to the Bylaw and wasn't substantiated.

Staff Analysis and Recommendation

As the site is currently leased to an adjoining property owner for their use staff recommend that Council proceed with their initial proposal that the site at 54 Wires Road is removed from schedule two in the Bylaw.

Brown Street, Thames

Site overview

The area at Brown Street, Thames (between Walter Avenue and the Thames Squash Club) is not currently in the Bylaw as either a prohibited or restricted site. Council decided to consult on prohibiting the site in the Bylaw following concerns that unregulated freedom

camping at this site is causing damage to low hanging pohutakawa trees and that the short and narrow car parks gave rise to access, and health and safety issues.

Summary of Submissions

Four submissions were received on this proposal, with two submitters supporting the proposal to prohibit freedom camping. The NZMCA opposed the proposal and considered that it would be possible to find a designated area for freedom camping on the site that did not damage the pohutakawa or compromise traffic safety and access. One further submitter noted their opposition to the proposal, however this was in the context of a pro forma objection to all of Council's proposals for amendments to the Bylaw and wasn't substantiated.

Staff Analysis and Recommendation

Upon further consideration, staff agree with the NZMCA that a small area on the site could be found to be a designated area for freedom camping. Staff recommend that Council do not proceed with their initial proposal to prohibit Brown Street in the Bylaw and instead make Brown Street a restricted site. The Thames Community Board will then have the opportunity at their first meeting of 2016 to identify a designated area for freedom camping along Brown Street.

Te Puru Beachfront Reserve between Tatahi Street and Aputa Avenue

Site overview

The Te Puru beachfront reserve between Tatahi Street and Aputa Avenue is currently a restricted site in the Bylaw and consists of a small reserve between two properties and the coast. The public has raised concerns relating to freedom campers using the entirety of the reserve for camping rather than only the designated area. This reserve is currently restricted to protect the area and the health and safety of visitors. Staff consider that public concerns regarding access and use of this reserve can be adequately addressed by the Community Board in considering the most appropriate site for a designated area. This should be considered in conjunction with Council's compliance staff in ensuring that freedom camping occurs only on the designated area. There has been no notable change in the site or in the analysis of it under Section 11 of the Act to recommend a position different from that adopted in the Bylaw.

Summary of Submissions

Six submissions were received on the Te Puru Beachfront Reserve between Tatahi Street and Aputa Avenue. Three submitters supported Council's proposal to continue the existing restriction of freedom camping on this site, while the other three submitters were opposed to the proposal. Two of those submitters considered the site should instead be prohibited to freedom camping. One of the submitters in support of Council's proposal, a neighbour to the site, was welcoming of freedom camping in Te Puru as a freedom camper himself and noted that he had not observed any issues relating to freedom camping on the site. The one other neighbour of the reserve submitted against the proposal and instead sought prohibition of the site, noting that community use of the reserve had decreased since freedom camping had been allowed there, and that campers in the areas were a risk to nearby dotterel nesting sites. The submitter also noted during the hearing that their personal wellbeing and health and safety was compromised by having an unwelcome freedom camping site adjoining their property which Council staff were not in a position to enforce adequately. The other submitter who sought prohibition of the site noted that the reserve was already under pressure from trailer boat parking and access to the nearby boat ramp.

Staff Analysis and Recommendation

Analysis of what is the appropriate status for this site in the bylaw is made difficult by conflicting views from the two neighbours to the reserve over what the impact of freedom camping on the reserve and the community use of it has been since the bylaw was introduced in December 2014. The site is also one of a few in the bylaw where freedom

campers are able to park so close to neighbouring properties, which was noted by one of the submitters as impacting on their health.

Staff consider that there is sufficient cause to prohibit freedom camping on this site, in order to protect community use of the site, to protect access to the nearby boat ramp, to limit freedom campers in the vicinity of dotterel nesting sites and to protect the health and safety of immediate neighbouring residents. Freedom camping in this part of Te Puru however will continue, albeit off this specific reserve, either at the end of Aputa Avenue where the area is Council land not included in either of the bylaw schedules, or on adjacent sites which are not in any title and therefore available by default for freedom camping.

Staff recommend that Council does not proceed with their initial proposal to continue with the restricted status of the site and instead classify the Te Puru Beachfront Reserve between Tatahi Street and Aputa Avenue as a prohibited site in the Bylaw.

Carey Road Esplanades and Foreshore Area, Port Charles

Site overview

The Carey Road Esplanades and Foreshore Area at Port Charles is currently a restricted site under the Bylaw. Members of the public, the Department of Conservation and staff have raised concerns around the impact of freedom camping on birdlife, particularly dotterels and pateke, in the area which nest along the foreshore. Council consulted on changing the status of the site from restricted to prohibited in order to protect birdlife in the area.

Summary of Submissions

Six submissions were received for this site. One submitter agreed that the area was an important nesting site for dotterels and variable oystercatchers and that freedom campers were currently able to camp too close to nests. Another submitter supported the proposal as they were concerned that freedom campers would be at risk, and possibly put at risk local residents, from tsunami events - the submitter had observed increased wave size at Carey Road from recent earthquakes in the Pacific.

The NZMCA opposed the proposal as they consider that freedom camping could be allowed at the site either away from nests or outside of nesting seasons. At the hearing, the NZMCA suggested Council should first work with DOC and local conservation groups to determine whether a total prohibition of birdlife at the site was required to protect birdlife.

Staff Analysis and Recommendation

Staff have liaised with DOC and the Pateke Recovery Group (in response to the submission by the NZMCA) on exploring temporary prohibition of the site in order to protect birdlife, if necessary, and allow freedom camping outside of breeding seasons. Advice from DOC and the Pateke Recovery Group is that while dotterels have a limited nesting season, Pateke roost along the waterfront esplanade at Carey Road year round and as such are at risk from freedom camping on the site.

Staff recommend that Council proceed with their initial proposal that the Carey Road Esplanades and foreshore area change from restricted to prohibited in the Bylaw.

Opito Bay Road and Skippers Road Reserves, Opito Bay

Site overview

Opito Bay Road and the reserves adjoining Skippers Road at Opito Bay are currently restricted in the Bylaw, with a small designated area being located along the Opito Bay waterfront on Opito Bay Road. Staff and the public have noted that the area is not appropriate for freedom camping since the Bylaw came into effect in December 2014. This is in part due to the presence of Dotterels and Variable Oystercatchers in the area though also relates to the impact of freedom camping on inhibiting public access to the beachfront and reserves in the area over the summer period. Compliance staff have recently been promoting the use of the Department of Conservation's Opito Bay Recreation Reserve

(sometimes referred to as the Stewart Stream Reserve) as an appropriate site for freedom camping in Opito Bay, in consultation with the Department's staff. Freedom camping is allowed on Department of Conservation land unless otherwise specified on a site by site basis.

Summary of Submissions

44 submissions were received on Council's proposal for Opito Bay Road, Skippers Road and associated reserves. 39 of these were in support of the proposal, while four were in disagreement and the submission from the NZMCA referred instead to supporting Council's collaborative approach to finding appropriate spaces in Opito Bay for freedom camping.

Many submitters agreed with Council's view that freedom camping in the area put endangered birdlife at risk, was causing damage to the beach and dune systems, was impacting the ability of the public to access the beach and reserves and posed a health and safety risk. A number of submitters noted that the Black Jack Road from Kuaotunu to Opito Bay was dangerous for campervans to travel on, and put the freedom campers and other road users at risk. Several submitters noted that freedom campers in Opito Bay near Moore Crescent Reserve may block the landing area for the Westpac Rescue helicopter.

Submitters opposed to the proposal noted that they considered Opito Bay should be able to be accessed by all and that freedom campers as tourists make an important contribution to economic development in the area.

Several submitters noted that the Jack Mills Reserve on Black Jack Road which was included in schedule two of the Bylaw as restricted had been removed from the proposed area for prohibition. This mapping was an oversight on the part of staff and is now included in the area proposed to be prohibited in the Bylaw. Submitters noted a number of other sites had been removed from the mapping included in the current Bylaw and requested these also be prohibited, however, other than the Jack Mills Reserve, these sites are Crown owned and administered by the Department of Conservation and therefore out of the jurisdiction of Council's Bylaw.

Staff Analysis and Recommendation

The vast majority of submissions for Opito Bay supported Council's proposal and gave local evidence and experience to support Council's reasoning for the proposed change. The prohibition does not apply to Opito Bay in its entirety, despite a number of submitters seeking this, as there remains non-Council land available for freedom camping, as well as some Council roading and reserves to which the reasons for prohibition in other areas do not apply. As a result, the outcome sought by the NZMCA and several other submitters to allow some freedom camping in Opito Bay will be upheld also.

Staff recommend that Council proceed with their initial proposal that Opito Bay Road and Skippers Road and associated reserves restricted to prohibited in the Bylaw. Staff also recommend that Council include the Jack Mills Reserve is part of the prohibited area.

Omara Boat Ramp Reserve, Matarangi

Site overview

The site at the Omara Boat Ramp Reserve in Matarangi is currently prohibited in the Bylaw. However, elected members and staff have noted that, despite the boat ramp experiencing heavy use over the summer period, the area is large enough to accommodate both recreational boat users and some freedom campers. The current prohibition of the site was based on staff advice from 2014 that access to the boat ramp may be compromised by freedom camping.

Summary of Submissions

Three submissions were received on the Omara Boat Ramp Reserve, Matarangi. HAPNZ submitted that they considered the site should remain prohibited in order to protect the

access of boat ramp users and protect the health and safety of campers. NZMCA noted their support for the proposal. One further submitter noted their opposition to the proposal, however this was in the context of a pro forma objection to all of Council's proposals for amendments to the Bylaw and wasn't substantiated.

Staff Analysis and Recommendation

Despite concerns from HAPNZ that freedom camping at the Omara Boat Ramp may lead to conflict between boat ramp users and campers, advice from staff and the Mercury Bay Community Board is that there is sufficient room at the boat ramp for both groups.

Accordingly, staff recommend that Council proceed with their initial proposal that the Omara Boat Ramp Reserve, Matarangi change from prohibited to restricted in the Bylaw. The Mercury Bay Community Board has identified an appropriate designated area for the site which will be effective from 14 December 2015 should Council decide to change the status of the site from prohibited to restricted.

Waterway Parade Car Parks, Pauanui

Site overview

The Waterway Parade car parks are currently a restricted area in the Bylaw. Staff and Pauanui residents have raised concerns that the use of this site for freedom camping presents access issues for both residents of Waterways Parade and for users of the Pauanui Waterways Esplanade. In addition to this, there are concerns that these access issues may give rise to health and safety risks for both freedom campers and residents and ratepayers.

Summary of Submissions

Council received 78 submissions on this proposal, with 76 in favour of prohibiting freedom camping at the site, and the NZMCA and one other submitter opposed to the proposal. The vast majority of submitters agreed with Council that the location of the site gave rise to potential access issues for residents and visitors to the reserve, which in turn created health and safety risks. A number of submitters supporting the proposal also noted that there are other areas in Pauanui available for freedom campers which don't have the same access and health and safety concerns associated with them. One submitter cited her conversations with freedom campers who did not consider the site attractive for camping as it is small and located in a quiet residential area. The Pauanui Community Office noted that the Reserve Management Plan for the site requires Council to maintain public access to the jetty and pontoon, and that allowing freedom camping in the car parks undermines that plan.

The NZMCA submitted that only one car park was available for use by a certified self-contained car park, suggesting that the response by the Council may be disproportionate. The submitter requested that if the particular positioning of the current site was problematic, to move the site to another adjacent car park. The NZMCA submission also referred to staff reports to the Tairua-Pauanui Community Board which identified over summer there has been no issues with freedom camping which would warrant prohibition at the site.

Staff Analysis and Recommendation

A substantial number of submissions were received confirming Council's view that the long, narrow profile of Waterways Parade and the need for residents to be able to access the reserve were sufficient reason to prohibit freedom camping at the Waterways Parade car parks. The NZMCA referred to earlier reports to the Tairua-Pauanui Community Board in their submission which stated that no problems had been observed which would justify prohibition of the car parks in the Bylaw. However, this report was provided to the Tairua-Pauanui Community Board as part of an agreement with local residents to monitor the level of freedom camping at the site over the 2014/2015 summer period only and was not an assessment of the appropriateness of freedom camping at the site under the Act. Staff note that there are a number of other places in Pauanui available for freedom camping, either as

designated areas or general Council land which is available for freedom camping under the Act.

Staff recommend that Council proceed with their initial proposal that the Waterways Parade car parks in Pauanui change from restricted to prohibited in the Bylaw.

A summary table of the sites, their current status in the Bylaw, the proposed status which Council consulted on and the status proposed by staff for adoption is included as **Attachment A**.

Submissions received which were out of scope

Council received a number of submissions which were out of scope as they related to areas outside of the seven areas consulted on as part of the amendments to the Bylaw. Four of these related to Matapaua Bay, two related to the Tararu Beachfront North Reserve and one related to freedom camping sites at Tapu. These submissions will be forwarded to the relevant Community Board for consideration and, if appropriate, included on the issues register for freedom camping for consideration by Council when the bylaw is next reviewed or amended.

Submissions calling for more active enforcement of the bylaw

Two submissions commented on Council generally needing to increase resourcing for enforcement of the bylaw, with one submitter asking to have a bylaws officer based in Coromandel Town to better be able to enforce the bylaw in the northern most areas of the peninsula.

Submissions supporting Council promoting appropriate areas for freedom camping

A number of submitters, either directly or indirectly, sought Council proactivity in promoting appropriate areas for freedom camping around the district rather than relying on existing maps of restricted sites and corresponding designated areas to direct campers to where they can stay. There is a difference between designated areas, which are areas within a restricted site where the reasons for prohibition do not apply, and areas which Council may actively wish to promote as appropriate for freedom camping. While Council is not able to prohibit sites for any reasons other than those provided for in the Act, having promoted areas for freedom camping may be one way of directing freedom campers away from residential areas and popular reserves with residents and visitors.

5 Suggested Resolution(s)

That the Judicial Committee:

1. Receives the Deliberations and Adoption of amendments to the Freedom Camping Bylaw 2014 report.
2. Notes that it has considered all submissions to the Council's proposed amendments to the Freedom Camping Bylaw 2014
3. Recommends to Council that it has followed the required special consultative procedure as set out in the Local Government Act 2002.
4. Recommends to Council the adoption of the amendments to the Freedom Camping Bylaw 2014 as set out in **Attachment A**.
5. Recommends to Council the adoption of the amended Freedom Camping Bylaw 2014 included as **Attachment B**.

References-Tabled/Agenda Attachments

Attachment A *Table of Amendments to the Freedom Camping Bylaw 2014*

Attachment B *Amended Freedom Camping Bylaw 2014 for adoption*

Attachment C *Minutes of the amendments to the Freedom Camping Bylaw hearing*

Attachment A

[Attachment A - Table of Amendments to the 2014 Freedom Camping Bylaw](#)

Attachment B

Attachment B - Amended Freedom Camping Bylaw 2014 for adoption

Attachment C

Attachment C - Hearing minutes for amendments to Freedom Camping Bylaw