



Date:	Monday, 13 November 2017 (continued on Thursday, 16 November 2017)
Time:	9.30am
Location:	Council Chamber 107 Heuheu Street Taupō

SUPPLEMENTARY AGENDA

MEMBERSHIP

Chairperson Mayor David Trewavas

Deputy Chairperson Cr Rosie Harvey

Members

- Cr John Boddy
- Cr Barry Hickling
- Cr Rosanne Jollands
- Cr Tangonui Kingi
- Cr Anna Park
- Cr Christine Rankin
- Cr Kirsty Trueman
- Cr John Williamson
- Cr Maggie Stewart

Quorum 6

Gareth Green
Chief Executive Officer

Order Of Business

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4.2 DRAFT 2017 FREEDOM CAMPING BYLAW DELIBERATIONS REPORT

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PURPOSE

This paper considers the issues and submissions made on the draft 2017 Freedom Camping Bylaw.

EXECUTIVE SUMMARY

Council has been considering options to manage freedom camping since 2016. Council has since been out with a draft freedom camping bylaw for public consultation that was more in line with the purpose of the Freedom Camping Act 2011 (the Act).

Council adopted the draft freedom camping bylaw and statement of proposal at its 14 September meeting (Resolution # TDC201709/02) for public consultation. The consultation occurred between 19 September and 20 October 2017, and 44 submissions and 5 late submission have been received. Council heard from 9 submitters on 13 November 2017.

Freedom camping continues to be polarising and the perceptions that people hold about freedom camping remain. Council is unlikely to mitigate these deeply held views. Again the submissions received are often contradictory and Council needs to balance these polarising views with the purpose of the Act.

It is recommended that Council adopts the current draft freedom camping bylaw. This ensures that Council keeps the bylaw in line with the Act and ensures use of the bylaw powers of restricting and prohibiting areas where there are proven concerns. It also ensures that Council is likely to maintain the Motorhome Friendly statuses for Taupō and Mangakino, and realises the associated potential economic benefits.

RECOMMENDATION(S)

That Council adopts the draft 2017 Freedom Camping Bylaw as agreed at the meeting.

BACKGROUND

Council has been considering options to manage freedom camping since 2016. In May 2016 Council directed officers to investigate the freedom camping issues and in particular the potential for a bylaw under the Freedom Camping Act 2011 (the Act).

To help better understand the nature and extent of the issues associated with freedom camping Council surveyed the community and utilised a working group of stakeholders. In response to that information Council developed a draft freedom camping Bylaw and consulted the community. That draft bylaw proposed a restrictive approach designating specific sites where freedom camping could occur.

Council received substantial feedback from different parts of the community and specific interest groups. There was a wide range of views expressed by those who were interested with no consensus on how best to manage freedom camping.

During deliberations on the draft bylaw Council considered a number of different ways to manage freedom camping including restricting camping in different parts of the district, creating prohibited areas and introducing time restrictions. A further report was presented to Council on 1 August.

Based on the information presented to Council a revised draft freedom camping bylaw was considered appropriate and Council directed officers to redraft its draft bylaw in line with the discussion. A more permissive bylaw was drafted which has brought it more in line with the Act.

Council resolved at its 14 September 2017 meeting (TDC201709/02) that again a bylaw is the most appropriate method for managing the issues associated with freedom camping and that the draft bylaw as amended be adopted for public consultation. Included in the changes was prohibiting freedom camping from Ferry Road.

PROCESS TO DATE

Council directed officers, at its May 2016 Meeting (Resolution # TDC201605/09), to investigate a potential freedom camping bylaw under the Act and establish a working group of stakeholders to consider the issue. The process to date has included:

- Established a working group of stakeholders and undertook four workshops considering the issues and potential solutions
- A survey over June 2016 to better understand the issues with 196 responses. About two thirds of the respondents acknowledged that freedom campers provide some benefit to the community
- Informal engagement with interested and affected parties
- A survey over November 2016 considering potential areas for freedom camping that received 223 responses. This survey highlighted the complexity and polarising nature of the issue
- Council considered potential areas and solutions at the meeting in December 2016 and directed officers to draft a freedom camping bylaw based of the areas identified (Resolution # TDC201612/05)
- Council adopted the draft freedom camping bylaw and statement of proposal for public consultation in accordance with section 83 of the LGA at the February 2017 meeting (Resolution # TDC201702/09)
- Council considered the submissions received through the public consultation and agreed to make some significant changes to the draft freedom camping bylaw. Due to the nature of the significant changes Council agreed to re-consult on the amended draft freedom camping Bylaw.
- The second public consultation period was held between 19 September and 20 October 2017 and 44 submissions and 5 late submission have been received.
- Hearings were held on the 13 November and Council heard from 9 submitters.

DISCUSSION

The freedom camping issue continues to be polarising and many of the issues previously raised have been raised again although only 44 submissions and 5 late submissions have been received through this round of public consultation.

Issues raised are predominantly similar to the previous consultation, including:

Issue	Comments
Freedom camper profiles	Some submitters noted that it is the non-self-contained vehicles giving all freedom campers a bad name. However, others again suggested prohibiting all freedom campers.
Ratepayer funding	Some submitters question ratepayer funding being used to supplement a free loading holiday. They believe it is unfair for ratepayers to support infrastructure for freedom campers. They note that they should be using campgrounds. However, conversely some submitters noted that managing the issue ensures better compliance by freedom campers and taking a friendlier approach will ensure Taupo remains a destination for visitors. Ultimately some costs will fall to the ratepayer for the supply and maintenance of some services.
Infrastructure	Some submitters question supplying infrastructure, however conversely again some suggest being more encouraging. The provision of resources for infrastructure is important in terms of making freedom camping areas attractive and usable for both self-contained and non-self-contained campers. This infrastructure includes toilet facilities, car park areas, dump stations and fresh water. Adequate facilities encourage campers into certain locations, ensure proper usage and improve the visitor experience. The government has also recognised the burden of supplying adequate infrastructure to help with the demand and has created a tourism fund to

	assist local authorities like ourselves. Officers have already submitted an application to the fund that was successful and have also made another application recently to assist with some scoping work.
Enforcement	<p>A number of submitters questioned the level of enforcement currently being undertaken. They noted that the only way to adequately manage the issues with freedom campers is adequate enforcement.</p> <p>As Council will be aware, the contract for regulatory enforcement is currently out for tender. The tender now includes the requirement for after-hours services to specifically target unauthorised freedom camping.</p> <p>During normal working hours, the existing compliance team will undertake freedom camping enforcement.</p>
Nearby property owners	<p>Again we have received some submissions on the potential Roberts Street freedom camping area from owners of residences at 101 Roberts Street. Please note that these submissions tended to be the same as their initial consultation submissions with no changes.</p> <p>Roberts Street is no longer a designated freedom camping area.</p> <p>However, if Council chooses to add this area to the prohibition schedule, Council will need to be satisfied there is sufficient evidence to justify the prohibition as well as consider the need to re-consult.</p>
Time limit and potential curfew	Some submitters questioned the proposed time limit and suggested either shorter or longer periods. Curfews were also suggested for some sites around Taupo township.
Fee system	<p>A couple of submitters suggested using a fee system and having some form of identification to show they were allowed to park across the district.</p> <p>As Council is aware this negates the powers of the Act and as such Council will lose its enforcement powers.</p>
Lakeshore prohibition	<p>Some submitters questioned the removal of the lakeshore prohibition and some suggested making it longer. However, again conversely there were some submitters commending Council for its removal and bringing the bylaw more in line with the Act.</p> <p>Again, as Council is aware much of the lakeshore is reserve where camping is banned under the Reserves Act 1977. However, if Council chooses to add this area to the prohibition schedule, Council will need to be satisfied there is sufficient evidence to justify a prohibition as well as consider the need to re-consult.</p>
Other freedom camping areas	Confusion continues areas under Council and Department of Conservation (DOC) control, particularly in regard to the landing reserve under DOC. Although we do not have direct control over DOC reserves officers can work alongside DOC rangers and can carry out compliance work on their land and vice versa.

New issues discussed, included:

Issue	Comments
Ferry Road	<p>The Ferry Road prohibition area has received polarising responses from those happy with the prohibition and noting it does not go far enough, and those seeking to understand the issue with the site justifying the prohibition. A few submitters have noted that there was no evidence supplied within the Statement of Proposal to justify this area being prohibited.</p> <p>Some have also noted that campers, particularly NZMCA members, clean up after themselves, its proximity to town and the economic benefits this brings as a consequence. However, again some believe this prohibition has not gone far enough and should be extended.</p>

Mangakino	<p>Some submitters have recommended the removal of the Mangakino Recreation Reserve from the open camping schedule.</p> <p>The Mangakino Recreation Reserve Management Plan currently allows camping and would require revising to remove it from the plan. Also this is in stark contrast to many in the Mangakino community that have recognised the benefits that freedom campers have been bringing to the area.</p> <p>Council will need to be mindful if it agrees to remove freedom camping from this area as this could be considered a significant change and require further consultation.</p>
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OPTIONS

Option 1. Status Quo – Do nothing

This option sees Council not adopting a bylaw and relying on the powers of the Act only. Council is unable to restrict or prohibit freedom campers from specific areas of concern.

Advantages	Disadvantages
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Unable to fully manage the ill-effects of freedom camping by accessing the full powers of the Act. • Likely to receive community criticism for not doing anything to manage a known issue. • Likely to receive further criticism by not being seen to be prohibiting or restricting freedom campers from areas of concern and ensuring that the vehicles are self-contained. • Could have unforeseen consequences. • Investment of resources to date is lost.

Option 2. Adopt the draft 2017 freedom camping Bylaw

This option sees Council adopting the draft Freedom camping Bylaw in its current form and ensures that Council can use all the powers under the Bylaw and Act. It ensures that Council restricts freedom camping to certified self-contained vehicles across the district with a time limit of three nights/four days in any one spot, and the ability to move that person on if they stay too long. It also gives Council flexibility to add further areas in the future if and when issues arise.

Advantages	Disadvantages
<ul style="list-style-type: none"> • The bylaw is more in line with the purpose of the Act. • Potentially unlikely to be judicially reviewed. • Able to manage the ill-effects of freedom camping. • Council is seen to be doing something. • Could be seen to be encouraging more freedom campers, maintaining Taupō and Mangakino’s Motorhome Friendly statuses and realising the associated economic benefits. • Allows flexibility moving forward. 	<ul style="list-style-type: none"> • Could potentially receive community criticism for not being restrictive enough. • Does not realise a minority of the local community’s expectation of a total prohibition across the district.

Option 3. Adopt the draft 2017 freedom camping Bylaw with amendment

This option sees Council amending the bylaw with regard to the submissions received. This option could be either more permissive or restrictive. This option sees Council able to utilise the powers of the Bylaw and Act. However dependent on the changes could see Council opening itself to challenge.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Able to manage the ill-effects of freedom camping. • Council is seen to be doing something. 	<ul style="list-style-type: none"> • If amendments are too restrictive the risk of judicial review continues. • Dependent on how significant the amendments are there might be a potential requirement to re-consult. • Could have unforeseen consequences. • Could lose the Motorhome Friendly status for Taupō and Mangakino and the potential associated economic benefits.

Analysis Conclusion:

Option 1 ensures that Council can use the powers of the Act and is unlikely to be judicially reviewed. However, Council will not be able to utilise the benefits of restricting or prohibiting freedom camping from problem areas, or specifically restrict freedom camping to certified self-contained vehicles across the district for specified times. Council could also receive criticism for not doing anything.

Options 2 and 3 ensure that Council can use the powers of the Act and the bylaw powers of restricting and prohibiting areas that have concerns with freedom camping. It also ensures that Council is seen to be doing something with a proven problem.

However, dependent on how significant any proposed amendments are to the current draft bylaw, there may be a requirement to re-consult. Again, if Council makes the bylaw any more restrictive this could again open Council to challenge due to the permissive nature of the Act.

Option 2 is preferred as this ensures that Council keeps the bylaw in line with the Act and ensures the Council can use the bylaw powers of restricting and prohibiting areas where there are proven concerns, including restricting to certified self-contained vehicles across the district. It also ensures that Council is likely to maintain the Motorhome Friendly statuses for Taupō and Mangakino, and realise the associated potential economic benefits.

CONSIDERATIONS

Financial Considerations

There are costs associated with the bylaw development which has been met by within current budgets. However, Council needs to be mindful that any increased enforcement comes with increased resourcing and financial costs. Council will need to be thinking about these possible consequential financial implications as part of the Long-term Planning.

Legal Considerations

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of Section 10 of the Local Government Act 2002.

The Freedom camping Act 2011 (the Act) explicitly permits freedom camping in any local authority area unless it is restricted through a bylaw or another enactment. The Act allows a local authority to make a freedom camping bylaw which can restrict or prohibit freedom camping from an area within the district. The prohibitions and restrictions are intended to be the exception and not the rule under the Act.

Under section 11(2) of the Act; a local authority must be satisfied that a freedom camping bylaw is necessary for one or more of the following purposes:

- a. to protect the area;
- b. to protect the health and safety of people who may visit the area; and/or
- c. to protect access to the area.

And Council must also be satisfied that there is sufficient evidence for a freedom camping bylaw to be made to protect these areas.

Policy Implications

The proposal has been evaluated against other Council Policy. Any new Bylaws form part of Council's overall operating procedures and are consistent with existing policy.

Risks

The threat of judicial review continues, however, the permissive nature of the revised draft bylaw ensures that this threat is less likely.

Adverse public reaction from Council perceived to not be doing enough also continues, however Council can minimise this risk through a clear communications plan.

SIGNIFICANCE OF THE DECISION OR PROPOSAL

Council's Significance and Engagement policy identifies the following matters that are to be taken into account when assessing the degree of significance of proposals and decisions:

- a. The level of financial consequences of the proposal or decision;
- b. Whether the proposal or decision will affect a large portion of the community or community of interest;
- c. The likely impact on present and future interests of the community, recognising Māori cultural values and their relationship to land and water;
- d. Whether the proposal affects the level of service of an activity identified in the Long Term Plan;
- e. Whether community interest is high; and
- f. The capacity of Council to perform its role and the financial and other costs of doing so.

Officers have undertaken a rounded assessment of the matters in clause 11 of the Significance and Engagement Policy (2016), and are of the opinion that the proposal under consideration is significant.

The matters covered in this paper affect a large portion of the community, and it is considered a significant decision in accordance with Council's policy. A special consultative procedure has been followed in accordance with section 83 of the Local Government Act (LGA).

COMMUNICATION/ENGAGEMENT

This matter is of significant public interest and a special consultative procedure has been followed. Following this officers will ensure the decision and ongoing processes are clearly communicated through the appropriate channels.

CONCLUSION

Freedom camping is a complicated issue and continues to be polarising. The perceptions that people have about freedom camping continue and Council is unlikely to mitigate these deeply held views.

The submissions received again are often inconclusive and contradictory. Council needs to balance these polarising views with the purpose of the Act and those wishing to see all freedom camping banned.

Option 2, adopting the current draft freedom camping bylaw, is preferred. This ensures that Council keeps the bylaw in line with the Act and ensures use of the bylaw powers of restricting and prohibiting areas where there are proven concerns. It also ensures that Council is likely to maintain the Motorhome Friendly statuses for Taupō and Mangakino, and realises the associated potential economic benefits.

It is recommended that Council adopts the current draft freedom camping bylaw.

ATTACHMENTS

Nil