



**NAPIER CITY COUNCIL**

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# Extraordinary Meeting of Council

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## OPEN AGENDA

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Meeting Date: **Thursday 24 November 2016**  
Time: **9am**  
Venue: **Century Theatre  
Herschell Street  
Napier**

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**Council Members** The Mayor (In the Chair), Councillors Boag, Brosnan, Dallimore, Hague, McGrath, Price, Tapine, Taylor, Wise, Wright.

**Officer Responsible** Chief Executive, Wayne Jack

**Administrator** Team Leader Governance, Jane McLoughlin

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**Next Council Meeting**  
**Wednesday 14 December 2016**

# ORDER OF BUSINESS

## APOLOGIES

Received prior to the meeting: Deputy Mayor, Councillor Jeffrey.

## CONFLICTS OF INTEREST

## PUBLIC FORUM

## ANNOUNCEMENTS BY THE MAYOR

## ANNOUNCEMENTS BY MANAGEMENT

## SUBMISSIONS

## DELIBERATIONS

## LOCAL GOVERNMENT ACT 2002

The Council resolves, in terms of Section 82 (3) of the Local Government Act 2002, that the principles set out in that section have been observed in such manner that the Napier City Council consider, in its discretion, is appropriate to make decisions on the recommendations set out in this agenda (including the Public Excluded section).

## NEW REPORTS

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## NEW REPORTS

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### 1. HEARING REPORT: FREEDOM CAMPING BYLAW 2016

<b>Type of Report:</b>	<i>Legal and Operational</i>
<b>Legal Reference:</b>	<i>Local Government Act 2002</i>
<b>Document ID:</b>	<i>325940</i>
<b>Reporting Officer/s &amp; Unit:</b>	<i>Dean Moriarity, Team Leader Policy Planning Kim Anstey, Planner Policy/Analyst</i>

#### 1.1 Purpose of Report

This report provides an analysis of submissions received on the proposed Freedom Camping Bylaw 2016, and outlines recommendations to Council on proposed amendments as a result of submissions.

#### Report Structure

The analysis of submissions identified seven main categories of issues. Each category details the issues raised in the submissions and provides an officer's response. **Attachment A** is a summary table of the main points of each submission and whether or not the submission has been accepted or rejected as per the Officer's recommendations. **Attachment B** and **C** are the submissions.

#### Officer's Recommendation

- a. Council receive and hear the submissions on the Freedom Camping Bylaw 2016 and determine whether any changes are required to this proposed bylaw.
- b. Based solely on the written submissions, officers recommend the adoption of the Freedom Camping Bylaw 2016, subject to the following changes:
  1. Amend Map 2: Perfume Point Carpark to reduce the restricted area for freedom camping to the south side of the carpark only.
  2. Change the colouring of the maps to green for restricted areas and red for prohibited.

#### 1.2 Background

##### The Freedom Camping Act 2011

The Freedom Camping Bill was introduced to Parliament in May 2011, to enable Councils to determine where camping is allowed, where it is restricted to campervans with self-containment, and where it is prohibited. It also provides Councils with the ability to enforce any breaches of the Act or Bylaw. The Act has a permitted presumption that allows freedom camping everywhere, except at those sites identified in a Council Bylaw as being prohibited or restricted.

## **Napier's Freedom Camping Bylaw**

The original Napier City Council Freedom Camping Bylaw came into force in December 2014, and identified where freedom camping is prohibited and permitted (with restrictions). The Bylaw created five restricted sites for freedom campers in Napier; two sites at Westshore, the Perfume Point carpark, the Northern Ocean Spa carpark, and the Ellison Road Pump Track carpark. Freedom camping in self-contained vehicles was also permitted in 'other' areas in Napier but limited to a maximum stay of one night in any one location. 'Other' areas are effectively all streets with a speed limit of 50km/hr or less. This provision remains in the proposed bylaw (clause 5.1).

The Freedom Camping Bylaw 2014 permitted freedom camping in both self-contained and non-self-contained vehicles in the restricted areas. The original bylaw however, did not envisage the effects that the non-self-contained vehicles/campers would have on particular (popular) locations and following a number of complaints from residents, business owners, and event organisers, the Council reviewed and amended the Freedom Camping Bylaw in 2015.

The 2015 review of the Freedom Camping Bylaw focused on the visible issues that became apparent with non-self-contained vehicles at the Ocean Spa carpark. An existing carpark on the foreshore reserve south of the pump track on Marine Parade was identified as a potential area for non-self-contained freedom camping. The proposal to add this resource as an additional specific restricted area was duly adopted by Council and notified for submissions in accordance with the special consultative procedure. Following the hearing of submissions on the review of the Freedom Camping Bylaw 2015, Council adopted and ratified the current Freedom Camping Bylaw at an ordinary meeting of Council in November 2015.

In 2015, Napier gained motorhome friendly accreditation. This is a strategic partnership between the New Zealand Motor Caravan Association (NZMCA), the Council and local event organisers. As part of the accreditation programme, the NZMCA promote Napier as a motorhome friendly destination on the understanding that Council decisions will support and not unduly restrict opportunities for freedom camping.

### **The 2016 Review**

During the 2015/16 summer, Westshore residents began to express their dissatisfaction with freedom campers at Westshore Beach Reserve. Their concern centred on the fact that over summer, campervans at Westshore occupy every available space in the carpark, limiting opportunities for day trippers to utilise the closest, most accessible access, to Westshore Beach.

The Northern Ocean Spa carpark also produced a number of issues relating to conflict with other users of this space, and the large Pohutukawa trees at this site. The location of the Pohutukawa trees in relation to the carpark layout creates limited spaces for the larger self-contained campers. Damage to both vehicles and trees can occur from the low hanging branches, and limited visibility and manoeuvrability creates conflict with other carpark users. The prime location of this carpark raises the question of whether this is the best use of this space. This carpark already doubles as an area where sporting events are held and the Sunday market has also recently moved into this space.

Another issue that caused consternation and confusion has been clause 7.2 of the current bylaw. This clause is not clear as to whether freedom campers are able to stay for one night or three nights when staying in a carpark on a Council Reserve.

The final issue identified at this time was the suitability of whether the McLean Park carpark is a suitable area for accommodating freedom camping. As it stands under the current bylaw, freedom campers could exercise their right to stay in this carpark before and during sports events.

In response to these issues and concerns, Council confirmed the review of the 2015 bylaw and approved the proposed Freedom Camping Bylaw 2016 and Statement of Proposal for consultation purposes.

In very brief summary, the proposed changes to the 2015 Bylaw are as follows:

- a) Remove the Northern Ocean Spa carpark and the two Westshore sites as restricted areas.
- b) Amend clause 7.2 to allow freedom campers in any non-prohibited areas managed or controlled by Napier City Council for one night only rather than 3 nights (this will include reserve carparks).
- c) Add Westshore Foreshore Reserve and McLean Park to the list of prohibited sites (alongside the CBD, Taradale, Marewa and Tamatea shopping districts).

While recognising the benefits that freedom camping tourism brings to Napier, Council has a responsibility to ensure that areas are protected, public access to areas are protected, and the health and safety of people who visit the area is protected.

Council aims to strike a balance between meeting the needs of freedom campers, its responsibilities under the Freedom Camping Act 2011, and its wider responsibilities as a local authority under the Local Government Act 2002. As indicated in the statement of proposal, although the proposal is to close three of the smallest sites for freedom camping, Council is intending to undertake assessments of the suitability of other sites that could be used to accommodate self-contained vehicles. This work is both current and ongoing.

#### Notification of the proposed changes

The draft Freedom Camping Bylaw 2016 was approved for public consultation by Council on 7 September 2016. The period for submissions ran from 19 September until 28 October. The public consultation process followed the special consultative procedure pursuant to section 83, 83AA and 86 of the Local Government Act 2002 and Section 11(5) of the Freedom Camping Act.

Public notice of the Freedom Camping Bylaw review was placed in the Courier Mail on Wednesday 14 September. A copy of the proposed Freedom Camping Bylaw 2016 and Statement of Proposal were distributed to the Napier and Taradale libraries, the City Council Civic Building reception and the following identified stakeholders who had either submitted on previous bylaws, or who were identified as affected parties:

Blue Water Lodge	Napier i-site
Holiday Parks Association of NZ	Hawkes Bay Triathlon
Westshore Holiday Park	East Pier Hotel
NZTA – Napier Office	Fish Bikes
NZTA - Palmerston Nth Office	Westshore Residents Association
Masonic Hotel	New Zealand Motor Caravan Association (NZMCA)
Kennedy Park Resort	

In total, 197 submissions were received. A copy of these submissions is appended to this report. Officers suggest several changes to be made to the draft freedom camping bylaw in response to submissions received.

### 1.3 Summary of Submissions

The 197 submissions received included comments on a variety of aspects of the proposed bylaw and freedom camping in general. The following is a summary of the main points:

- 168 submitters were in full support of the proposed bylaw.
- The main reasons in support of the prohibition of Westshore Beach Reserve were:
  - o The view that freedom camping should not be permitted in residential areas.
  - o The restricted sites at Westshore have resulted in the displacement of day trippers and recreational users of the Westshore Beach Reserve.
  - o Campervans and associated equipment for camping creates an unsightly affect in an area high in amenity values.
- 18 submissions (1 signed by 21 residents of the Quayside Apartments) support the bylaw in part but express concern that closure of 3 of 5 restricted sites would put pressure on the remaining sites, particularly Perfume Point which is already experiencing congestion problems.
- 11 submissions would like to see freedom camping remain an option at Westshore, possibly “in a more suitable location”.
- The NZCMA national office, local branch and 157 Lower North Island members acknowledged the issues with the current beach front (4a) restricted site at Westshore, but felt that outright prohibition of the reserve is unnecessary, and that freedom camping at Westshore could be better managed with further restrictions introduced on number and location of vehicles, or through the provisions of clause 5 and 7 (one night only).
- Te Awa residents raise concerns on congestion, enforcement and the visual impacts of the non-self-contained site on SH2.
- There is reasonable support to accommodate freedom campers in Napier with a number of submissions indicating they would like to see other, more suitable options for freedom camping to be made available in the Napier District.
- 6 submissions opposed the proposed bylaw and would prefer the status quo (i.e. retain the 2015 bylaw).

### 1.4 Analysis of Submissions

#### Issue 1: Westshore

##### Submissions in Support

Out of a total of 197 submissions, 167 are in full support of the proposed bylaw, including the proposal to prohibit Westshore Beach Reserve. Of these submissions, 80 reiterated a view that Freedom Camping should be prohibited in residential areas. Additional reasons in support of the prohibition of Westshore Beach Reserve included concern of the extra pressure that freedom campers were having on this public space, both environmentally

(**S160, S166**) and through restricting access for other users (**S160, S164, S168, S169**). Others expressed a desire to have the primary use of the Westshore Beach Reserve retained for day visitors, locals and events (**S153, S154, S163, S159**).

### Submissions that support in part with alternative suggestions

The NZCMA recognise the controversial status of the current restricted sites for freedom camping at Westshore, but express the view that the proposal to prohibit the entire reserve is not the most appropriate, and proportionate response, to the perceived problem. The NZCMA (**S173**), NZCMA local branch (**S174**) and the NZCMA Lower North Island Rally (**S173**, which included 157 signatures) request that Council consider the following different options relating to restricted sites for freedom camping at Westshore:

1. Restrict the number of spaces available for self-contained freedom campers within the existing carpark either/or during peak periods only, or throughout the year.
2. Expand the restricted site into the area currently mapped for freedom camping to provide alternative spaces at peak periods. This is being suggested as an option to help protect access for legitimate users (motorhomes and day visitors) in the carpark currently being utilised.
3. Prohibit the carpark currently utilised, but continue to allow restricted freedom camping at other vehicle accessible sites along the reserve, using the proposed default rules under sections 5 to 7 of the bylaw to manage the activity.

NZCMA submission states that they believe these alternative solutions could be a way to resolve the issues at Westshore amicably for all interested parties.

Submissions (**S172, S177** and **S180**) would like to see other more suitable options opened for freedom campers at Westshore. Submission (**S172**) argues that Westshore offers a number of accommodation options for visitors, and that freedom campers are another valuable sector of the visitor market that need to be catered for in Westshore. A further concern is that the prohibition of Westshore Beach Reserve will be difficult to enforce. Submission **S180** suggests the low lying land opposite the school may be a suitable alternative location and submission **177** suggests selected areas between Fenwick Street and James Street, or the Boydstown area of Meeanee Quay.

### Submissions that Oppose

Submissions **S184, S185, S176, S183, S182** do not support any changes to freedom camping at Westshore. Submission (**S185**) states that the current beach front (4a) restricted site at Westshore is not in close proximity to residents, and prohibiting freedom camping at Westshore would be an unreasonable limitation on the existing rights to enjoy this area. Submission (**S184**) argues that the beach is for everyone, and there is no difference between cars or motorhomes. Submission (**S183**) expresses concern that prohibiting freedom camping at Westshore will have an adverse impact on the Westshore shopping village and sees the potential for a unique and welcoming place that could include more tree planting. Submission (**S176**) would like to see site 4a opened to the size marked in the current bylaw for a maximum of 20 self-contained vehicles. The reasoning on the suitability of this site is listed in the submission.

### Officer's Response - Westshore

Westshore Beach is Napier's most popular destination for people wanting to undertake a range of beach based recreational activities include swimming, picnicking and water sports. The reserve includes a children's play area, surf clubs, and changing and toilet

facilities. The beach reserve extends for several kilometres which allows people to disperse along the beach for a feeling of relative solitude while still being in the middle of the Napier urban area, and therefore close to a range of hospitality activities.

The introduction of the Freedom Camping Act, and the identification of two existing carparks as restricted areas for freedom camping, has meant that freedom campers have quickly and collectively exercised their rights to occupy part of this prime beach front location. The popularity of this location has meant that self-contained freedom campers, who are able to stay overnight, have tended to exclusively occupy all available carparks during the peak summer period. Local residents have, to some degree, been excluded from accessing Westshore Beach at this particular location, and for mobility restricted people, it has impacted on their ability to access the Westshore beach front. This particular location is the only readily accessible part of the beach allowing easy access to the waterfront without having to navigate relatively steep shingle banks.

The proposal to prohibit the Westshore Beach Reserve is considered to be in accordance with the legislative responsibilities under the Freedom Camping Act (i.e. to protect the area, to protect the health and safety of those who visit the area and to protect access to the area). The strong support in prohibiting Westshore Beach Reserve indicates that a significant proportion of Napier residents feel that this proposal is warranted.

Several submissions have questioned whether this response is the most appropriate and proportionate response to the perceived problem, and whether some other 'more suitable' alternative options should be considered (including other locations).

The need to prohibit the whole of the Westshore Reserve from freedom camping arises because Napier has a relatively liberal Freedom Camping Bylaw that effectively permits freedom camping (in self-contained vehicles at least) throughout large parts of the city.

Clause 7.2 allows restricted freedom camping in the majority of reserve carparks in the Napier District. These reserves are listed on page 8 of the proposed 2016 bylaw. Clause 5.1 allows restricted freedom camping in all areas of the Napier District that are not prohibited or restricted (generally on all streets with a speed limit of 50km/hour or less). The restrictions are that vehicles must be self-contained and stay one night only.

These areas are too numerous and widespread to be mapped and advertised on the various camping apps, but they effectively work to allow a dispersal of camper vehicles throughout the city. The reality is that these provisions spread the load of freedom camping throughout the city, and therefore avoid the effects associated with a concentration of freedom campers in one location.

The Westshore Beach Reserve is, intentionally, readily accessible for vehicle access. Traditionally this has not caused widespread problems or issues but the ability to freedom camp potentially changes the entire nature of how people are able to behave in this popular location. The reserve has a number of carparks, tracks, and grass areas all readily accessible by vehicles. People tend to drive to wherever they want in the Reserve and park up.

Reliance on clauses 5.1 and 7.2, may result in more freedom campers legitimately accessing Westshore beach reserve, staying for one night and then moving to a new location within the reserve for an additional night and so on. The only way to prevent this from occurring would be to define specific car park areas, and physically prevent vehicle access to all remaining areas of the reserve. This is potentially a significant change to the reserve, particularly in how people are able to access, use, and enjoy it. It is also something that would require a financial commitment to construct, of which there is currently no budget.



In order to retain clauses 5.1 and 7.2 that apply across the whole district, and to protect the area and access to the area at Westshore, the most practicable and efficient option was to prohibit freedom camping at Westshore Beach Reserve. It should also be noted that freedom campers are still able to legitimately access Westshore Beach Reserve during the day. They will simply not be permitted to camp overnight.

The suggestion to limit the number of parks available for freedom camping or the times of the year it can occur, are legitimate requests that can be considered by Council. The provisions of the current bylaw and the proposed bylaw allow Council the option to consider any options that fall within the two separate policy positions. However, an increase in provisions and restrictions in the bylaw will create additional burdens on monitoring, compliance and enforcement. Additional commitment to resourcing may be required should Council choose to accept these suggestions. Limitations on numbers of vehicles are not considered an enforceable provision. It introduces unresolvable issues around determining which vehicles are legitimate by virtue of who arrived first. Defining and delimiting specific locations where freedom camping is able to occur provides greater ease of monitoring and enforcement.

The request to consider new ‘more suitable’ locations is unfortunately beyond the scope of what can be legitimately sanctioned through this submission process. Entirely new areas proposed for freedom camping should themselves be promulgated through the special consultative procedure so that all interested parties have the opportunity to comment on them. In terms of Westshore, Officers have explored a number of potential alternative locations and to date none have been considered suitable (for a variety of reasons) to accommodate a restricted freedom camping site.

In response to the submissions that state freedom camping should be prohibited in all residential areas, this request is outside the scope of the bylaw review. It is not recommended that freedom camping be completely removed from residential areas as the two activities can be compatible under certain circumstances.

In addition, the submissions are unclear on what actually is meant by all residential areas. The freedom camping in Westshore occurs on a Foreshore Reserve Zone not a Residential Zone, although it is adjacent to one. The implications of prohibiting freedom camping in all residential areas, potentially including on all zones adjacent to residential zones, has not been investigated at this time.

*Officers recommend that the proposed prohibition of Westshore Beach Reserve remains.*

## **Issue 2: Perfume Point (Map 2)**

A number of submissions expressed concern on the impact that prohibiting Westshore Beach Reserve and removing Ocean Spa carpark would have on the remaining sites, in particular the restricted site at Perfume Point. Submitters highlight the recreational, social and environmental significance that this carpark has to local residents and stress the need to protect the area, the health and safety of the people who visit the area, and access to this area. The submissions expressed concerns that this carpark is already affected by overcrowding and the submissions provide photographic evidence of campervan vehicles taking up multiple car parking spaces and blocking pedestrian access.

One submission suggests restricting freedom camping at this site to the south side of the cark only. While another submission suggests limiting the times self-contained vehicles are able to use this site to between 8pm and 9am during daylight saving and 5pm and 9am at other times of the year.

### **Officer's Response**

The concerns of Quayside residents (**S194**) and others (**S193, S195, S196** and **S197**) validate staff observations of the issues that are becoming evident at this site as large oversized vehicles and their occupants limit access to other users of this reserve. Perfume Point is another popular location catering for a range of recreational users who appreciate the ability to conveniently access the waterfront. Their ability to do so is becoming increasingly difficult and as the submitters highlight, the prohibition on the Westshore Beach Reserve is likely to exacerbate this trend.

Two valid options to address the issue have been suggested, one limiting the hours freedom campers can park up (night time only **S194**), the other restricting freedom camping to the southern portion of the carpark (**S171**). Both suggestions aim to achieve a compromise between freedom camping and other users of the carpark.

The suggestion to restrict hours however, creates a whole raft of monitoring and enforcement issues. Vehicles used for freedom camping are multi-functional combining both private vehicle functions as well as accommodation. Freedom campers do not theoretically freedom camp until they utilise the accommodation component of their vehicle. A vehicle that is parked up during the day is simply a vehicle. Restricting hours will likely require constant monitoring and on-going enforcement to move legally certified vehicles from exercising their right to park temporarily in a carpark. There may legitimately be no intention to park overnight. Questions remain as to what powers exist that Council could enforce to ensure legally certified vehicles are not permitted to park in Council owned car parks during the day.

The suggestion to limit freedom camping to only part of the carpark is considered to be within scope of changes to the bylaw able to be authorised as part of the submissions. It is recognised that some of the larger freedom camping vehicles take up multiple parks at this site. A workable solution may be to remark the southern section of the carpark to accommodate large vehicles and reduce the size of the restricted area to this section only.

The centre island layout of this carpark and the standard carpark markings currently limits the number of campervan vehicles that are able to utilise this site. Providing larger parks in one section may be a more effective use of space and may not in practice, place any additional limits on the amount of vehicles able to be accommodated at this site (as they tend to currently park across multiple parks and therefore limit the number of parking sites in this location in any case).

Considering this bylaw review is already reducing the supply of available sites, it is not deemed appropriate to prohibit the remaining section of the carpark as suggested in submission **S171**. It needs to be recognised that Campervans may still be able to exercise their right under 5.1 of the bylaw and stay one night in the normal car sized parking spaces. However, it is envisioned that in delineating the carparks and reducing the size of the area as advertised, campervans may only utilise the appropriately marked spaces. The following diagram depicts the recommended change to the restricted site at Perfume Point:



**Issue 3: Foreshore Reserve Carpark (non-self-contained vehicles, map 3)**

Five submissions from Te Awa Ave residents (**S188, S189, S190, S191 and S192**) have expressed concern on various matters relating to the restricted site for non-self-contained vehicles. The concerns raised include traffic safety issues at the entrance to the site, overcrowding, inadequate toilet facilities, and the lack of consultation when the site was developed.

**Officer’s response**

The non self-contained freedom camping site has only been in existence since December 2015, and the intention at this stage is continue to monitor this site to understand all of the issues associated with its operation. Generally the site has worked a lot better than the Northern Ocean Spa carpark that it effectively replaced. It has been positively received by travelling visitors staying temporarily in Napier. The following provides some background and explains how Council are addressing some of the issues raised.

**Traffic safety**

In the process of amending the bylaw in 2014 to create this site, a number of discussions were held with the New Zealand Transport Authority (NZTA) as to the suitability of the existing access. NZTA’s safety engineer indicated that there would be minimal effect on the state highway and recommended the removal of a shrub to provide better sight lines to the north. This work was done prior to the site becoming operational. NZTA also indicated that should safety become an issue at the entrance, there would be a willingness to work closely with Council to develop a workable solution. Recent discussions have seemingly resulted in an agreement in principle to reconfigure the access way to create a left in / left out only arrangement.

### Overcrowding

At the introduction of the bylaw in 2014, Council made a decision to provide for non-self-contained tourist vehicles in a single restricted area only. Any vehicles staying in this location are either in compliance with the bylaw or they are not. As with all freedom camping sites around the country, Council has to work hard to monitor compliance, especially during the summer months, and it is a daily and constant requirement to determine whether all vehicles are compliant or not. The regulatory team have been working on improvements to their monitoring system, and time is required to see how successful this will be at reducing overcrowding during the peak times. The intention is that when the carpark is full, the non-self-contained freedom campers should seek out alternative accommodation providers such as campgrounds or hostels.

### Toilet amenities

When the toilet facilities were first installed, the holding tank for the sewage did require regular cleaning due to the popularity of the site. An additional holding tank has subsequently been installed and the facility now is part of a regular maintenance programme covered within infrastructure maintenance budgets.

### Consultation

The creation of the site for non-self-contained vehicles was done through an amendment to the bylaw in 2015. The process for amending a bylaw is through the special consultative procedure as prescribed in the Local Government Act 2002. The proposal was undertaken in accordance with the special consultative procedure and publically notified. A total of 12 submissions were received. The majority of submissions in opposition to the non-self-contained site focused on the impact that this site would have on budget accommodation providers and concerns about enforcement. Council considered all issues raised in the submissions prior to adopting the current bylaw.

Council does monitor this area for compliance with the bylaw, and issues infringements if necessary. A landscape assessment has been scheduled to be completed in Autumn 2017, with the view to consider plantings that will soften the impact of this site.

<p><i>No change to the bylaw is recommended from these submissions.</i></p>
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### **Issue 4: Mclean Park**

Three separate submissions from the NZCMA (**S173, S174, S175**) take issue with the proposal to prohibit McLean park and have instead suggested that Council use clause 9.1 (d) of the proposed bylaw to temporarily close the Mclean Park carpark to freedom campers during event days.

9.1 *The Chief Executive of the Council may temporarily close or restrict an area for freedom camping in any area, or part of an area where closure or restriction is considered necessary to:*

e) *Provide for unfettered public access, including in circumstances where events are planned for that area.*

9.2 *Notice will be given of any temporary closure or restriction, and the removal of any closure or restriction, in any manner the Chief Executive considers is appropriate to the reason for the closure or restriction. Prior notice of any temporary closure or restriction will be given where possible.*

### **Officer's Response**

McLean Park is Hawkes Bay's premier sporting venue and regularly hosts large sporting events such as the All Blacks, cricket world cup games, Black Caps international fixtures in both tests and one dayers, Hawke's Bay Rugby Football Union home games, Central Districts cricket matches and a host of other such fixtures.

Additionally, the Hawke's Bay Rugby Union lease office space at Mclean Park. Our Property team have confirmed that while the carpark is not part of the lease, there is an informal arrangement that the carpark will be available to event organisers during matches and events.

The carpark in question is also the carpark for Centennial Hall that sits adjacent to Mclean Park and this facility is also home to a variety of sporting events primarily aimed at the local community level. All of these events require substantial amounts of parking to ensure off-site parking is kept to a minimum. Typically when an event is booked at McLean Park and/or Centennial Hall, the arrangement includes approval for use of the existing carparks.

While this carpark is not currently usually utilised for freedom camping, there is a risk with the existing bylaw that campers could legitimately block access to this area when events are being hosted at this venue. Given the extensive and regular use of McLean Park and/or Centennial Hall it is simply not practicable to process and notify repeated temporary closures of the carpark in this location. In order to protect access to this busy carpark, it is deemed not suitable for hosting freedom camping.

No change is recommended as a result of these submissions.

### **Issue 5: Submissions on Bylaw Content**

#### Clause 9.1(e)

NZMCA submissions (**S173, S174, S175**) are questioning the validity to clause 9.1 (e). The clause states:

*9.1 The Chief Executive of the Council may temporarily close or restrict an area for freedom camping in any area, or part of an area where closure or restriction is considered necessary to:*

- e) Protect residents from significant adverse effects associated with freedom camping in public spaces.*

In summary, the NZMCA express the view that this clause is vague, broad and uncertain in definition and could potentially enable council to close an area for reasons that fall outside of the Freedom Camping Act 2011.

### **Officer's Response**

This clause only gives the Chief Executive the ability to *temporarily* close an area for freedom camping. A full closure of a site would require a bylaw review. This clause provides Council with the ability to manage risks associated with freedom camping in public spaces that involve significant anti-social behaviour. Groups congregating (such as gangs) and causing disruption by way of incidences such as theft, assault, intimidating or inappropriate behaviour, repeated infringements such as playing loud music, and lighting

fires are some examples of when freedom camping spots could conceivably be required to be closed temporarily in order to prevent significant adverse effects on residents.

While it is recognised that the majority of campers are law-abiding and campers can, and typically do, improve natural surveillance and perceptions of safety, it is also recognised that a concentration of people in public spaces brings a degree of risk that needs to be managed.

No change is recommended as a result of these submissions.

### Self-containment Definition

Submissions from NZMCA (**S173, S174, S175**) recommends Council amend the definition of 'certified self-contained vehicle'. NZMCA (with the support of Local Government New Zealand) have commissioned the NZ Standards Authority to review the standard for certified self-contained vehicles. The review is looking to 'raise the bar' for self-containment certification.

The NZCMA state that the reason behind commissioning NZ Standards is to address the situation of small 'sleepervan' vehicles that have self-containment certification, but the toilet is not easily accessible and the occupants may have no intent on using them. NZMCA are arguing that although these vehicles technically comply with the toilet requirements of the NZS 5465, the restricted access to the toilet means these vehicles fails to achieve the overriding intent of the self-containment standard.

The NZMCA submissions are recommending that Council adopt the anticipated changes now, rather than wait until the review is concluded (this is expected during winter 2017). The following is the definition NZCMA are recommending be adopted, with the highlighted section showing the wording that differs from the current definition:

***Certified self-contained vehicle*** means a vehicle designed and built for the purpose of camping which has the capability of meeting the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days without requiring any external services or discharging any waste and complies with New Zealand Standard 5465:2001, as evidenced by the display of a current self-containment warrant issued under New Zealand Standard Self Containment of Motor Caravans and Caravans, NZS 5465:2001. *For the avoidance of doubt, the vehicle shall be equipped with a toilet that is adequately restrained or secured when travelling. The toilet shall be readily usable within the vehicle including sufficient head and elbow room at all times, even with the bed made up.*

### **Officer's Response**

While recognising the issues around self-containment certification as described by the NZCMA, officers consider that pre-empting this proposed change could be problematic for the following reasons:

1. Freedom campers already face a complex mix of regulatory regimes as they travel through the country. Introducing a rule on self-containment that varies from the standard could add to this confusion.
2. Enforcing this definition would likely result in an increase workload for enforcement officers and therefore the costs and practical implications of adopting this definition need to be fully considered.

3. It is likely that the process for reviewing the standard would include a body of research on the impact that a toughened stance on self-containment would bring. Officers feel it a safer option to wait until the standard has been reviewed.

No change is recommended as a result of these submissions.

### Length of Stay

Submission **S171** is in general agreement with the proposed changes to the bylaw but suggests changes to the bylaw wording on the length of stay. The submission requests a change from:

*'no person may freedom camp for more than 10 nights in any calendar month'*

to

*'freedom camping is restricted to a max. of ten consecutive nights in any four week period.'*

The reasoning behind this request is the view that the current wording allows people to stay for 20 days in a row (10 at the end of one month and 10 at the beginning of the next month).

### **Officer's Response**

A calendar month is typically defined as "a period from a specified day in one month to the day numerically corresponding to that day in the following month, less one."

Freedom campers arrive on any given day, and as such, for the purposes of the bylaw, for the first night they camp their car registration details are recorded (as well as on all subsequent nights). The bylaw allows freedom campers to stay for no more than 3 consecutive nights at a time and no more than 10 nights in a calendar month. For example, if a freedom camper arrives on 15 January then they must spend no more than 10 nights "on any land controlled or managed by NCC in the local authority area" before 14 February. Campers are not entitled to stay for 20 days in a row.

The provision as it stands is clear and unambiguous and therefore no change is recommended as a result of this submission.

### Colour of Maps

Submitter **S171** recommends changing the colour of the maps in the bylaw to green for restricted areas and red for prohibited. Currently all maps are coloured red.

### **Officer's Response**

This suggestion is considered to be within scope of changes to the bylaw able to be authorised as part of the submissions, and is considered a more logical colour for indicating where freedom camping is permitted.

<p><i>Officers recommend changing the colour of the maps in the bylaw to green for restricted areas and red for prohibited.</i></p>
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### Interpretation of freedom camping, clause 7.2 and non-certified self-contained vehicles.

A submission from All Points Camping Club of New Zealand (**S170**) requests that the bylaw allow for all types of camping (including tents), not just those specified as self or

non-self-contained vehicles. The submission would like Council to ensure that free opportunities exist for families and organisations who may not be able to afford camping grounds or certified self-contained vehicles.

The submission also requests the wording ‘non-self-contained vehicles’ to be replaced with ‘non-certified self-contained vehicles’ for reasons being that a vehicle may be fully self-contained but not certified. For example, pop up campers and large tents such as OZTrails often do not meet the technical requirements for self-containment, but are in fact self-contained.

Lastly the submission seeks clarification on clause 7.2, stating that the current wording is misleading.

### **Officer’s Response**

#### Tents

While the definition of freedom camping in the Act does include camping in tents, under the legislation a Council is able to determine certain restrictions on freedom camping within its district. Council currently has chosen not to permit freedom camping in tents within Napier, preferring instead that tents be accommodated within camping grounds.

#### Self-contained Wording

The bylaw already provides an area for non-self-contained freedom camping within Napier but this is for vehicles only (i.e. tents are not permitted). Certification is not required for non self-contained vehicles so it is considered that the current wording is sufficient. Council currently has chosen to use certification of vehicles to determine where vehicles are allowed to freedom camp within the city because it is both nationally applied (and therefore understood by freedom campers) as well as being simple and easy to monitor for compliance, involving only a very quick external inspection of the vehicle.

#### Clause 7

Clause 7.1 of the proposed bylaw prohibits freedom camping on all Council reserves but an exemption on this prohibition is applied by way of clause 7.2 that then permits freedom camping within the carparks of the reserves. Freedom camping in vehicles is restricted to the carparks only but freedom campers are still required to comply with the (standard) conditions listed in 5.1.

*No improvements have been identified as a result of this submission and therefore no change is recommended.*

### **Issue 6: Impacts Associated with Freedom Camping (but not directly on the bylaw)**

A large number of submissions commented on the impacts associated with freedom camping. These impacts do not relate to any specific part of the bylaw, but to freedom camping in general. These comments are reflective of the general perceptions nationwide around freedom camping and can be summarised as follows:

1. The enforcement of freedom camping rules is ineffective and a burden on ratepayers.
2. Freedom campers do not contribute that much to the local economy.



3. Freedom camping is contributing to a loss of local amenity i.e. the displacement of locals, day trippers and recreational users, dogs defecating, rubbish, unsightly views, anti-social behaviour.
4. Homeless people are impacted by the freedom camping bylaw.
5. Freedom camping should not occur in residential areas.
6. There are sufficient campgrounds in the vicinity to cater for freedom campers.

### **Officer's Response**

In 2011, Central Government passed enabling legislation that permits freedom camping throughout the country. The activity has become increasingly popular, placing pressure on all communities throughout the country (although some much more than others). There is no ability under the legislation to prohibit freedom camping from the whole of a local authority's jurisdictional area, meaning to some degree and in some location/s, they must be accommodated.

As required by legislation, the criteria used to establish a freedom camping site is a meaningful assessment of the following:

- a) Protection of the area
- b) Protection of the health and safety of those who visit the area
- c) Protection of access to the area.

Council cannot develop a freedom camping bylaw on the basis of loss revenue for commercial campground operators, views, or costs of enforcement. The net result of this has created some feelings of animosity between residents and freedom campers as evidenced by the real or perceived issues raised in submissions.

Officers continue to monitor trends and developments with freedom camping throughout the country to develop a better understanding of the costs and benefits associated with freedom camping. Enforcement of freedom camping is a cost to Council, but the economic benefits of accommodating these tourists needs to also be factored into the equation. While a number of submissions have raised specific concerns about the current freedom camping sites in relation to the impacts as listed above, there seems to be a general feeling expressed in some of the submissions that Napier residents still want to be accommodating to freedom campers.

Ultimately, in determining compliance with the bylaw (and all other bylaws), freedom campers either comply or they do not. As an example a homeless person who, like everybody else in society, is perfectly entitled to freedom camp provided all relevant conditions are complied with. The issues raised above are not of themselves limited to freedom camping, and fall within Council's wider responsibilities. They require multiple responses relating to monitoring, enforcement, compliance and ongoing operational responses to improve situations and solve problems.

<p><i>No changes to the bylaw are recommended as a result of these submissions.</i></p>
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### **Issue 7: Alternative locations**

A number of submissions raise concerns on the impact that closing areas to freedom camping would have on the remaining areas. Several submissions suggest opening up additional areas in the Foreshore Reserve further along SH2, south of Marine Parade. NZTA (**S178**) submits that it is preferable to have freedom camping sites in 50km/hr zones, rather than 100km/hr zones. They also express a desire that careful consideration needs to be given to ensuring that access standards to existing sites are adequate to

ensure the safety and efficiency of SH2 is maintained. Several submitters have identified the fact that the NZMCA have a campground for their members use in Erikson Road.

The alternative locations suggested in submissions include:

1. Ocean Spa Carpark at night.
2. Large gravel area opposite Westshore Hotel.
3. Carpark opposite Westshore School.
4. Boydstown area of Meeanee Quay.
5. Centre carparks on the northern side of the Fishing Club.
6. Foreshore Reserve on SH2 at Awatoto.

### **Officer's Response**

Issues of increased congestion as a result of reducing supply have been recognised in the current central government led review of freedom camping. While the Freedom Camping Act is designed to prevent and mitigate the harms that occur from having freedom camping in unsuitable locations, it also allows for the reduction in the supply of available camp sites in order to alleviate these harms. It is hoped that some best practice guidance material will be produced at a national level that assists individual local authorities in addressing issues associated with freedom camping in order to alleviate these concerns.

In the interim, any reduction in the supply of freedom camping options could potentially increase demand in the remaining areas. However, the intention is to carefully monitor the situation over summer. Additionally, the Council has requested officers develop a freedom camping strategy that includes site specific assessments of all potential sites to determine their suitability for accommodating freedom camping. The objective of this exercise is to develop a more long term focused, district wide approach to freedom camping to ensure this particular tourist market is adequately catered for in Hawke's Bay.

The request to consider new 'more suitable' locations is unfortunately considered to be beyond the scope of what can be legitimately sanctioned through this submission process. Entirely new areas proposed for freedom camping should themselves be promulgated through the special consultative procedure so that all interested parties have the opportunity to comment on them.

The NZMCA do provide a facility for their members in Napier. However, the freedom camping legislation still requires Council to provide options for freedom camping within the district.

The only suggestion that officers believe is within scope for consideration for this bylaw review (without triggering the need for a new special consultative procedure) is the option relating to Ocean Spa at night only (**S186**). The reason why this option has difficulties has already been canvassed in Issue 2: Perfume Point, but for ease of reference is reproduced below.

The suggestion to restrict hours creates a whole raft of monitoring and enforcement issues. Vehicles used for freedom camping are multi-functional combining both private vehicle functions as well as accommodation. Freedom campers do not theoretically freedom camp until they utilise the accommodation component of their vehicle. A vehicle that is parked up during the day is simply a vehicle.

Restricting hours will likely require constant monitoring and on-going enforcement to move legally certified vehicles from exercising their right to park temporarily in a carpark. There may be legitimately no intention to park overnight but enforcement would be required to prevent people parking during the day. Questions remain as to what powers exist that

Council could enforce to ensure legally certified vehicles are not permitted to park in Council owned car parks during the day.

*No changes to the bylaw are recommended as a result of these submissions.*

## **1.2 Attachments**

- A Submissions Summary [⇒](#)
- B Submissions 2 - 100 [⇒](#)
- C Submissions 101 - 197 [⇒](#)