

Extraordinary Meeting of Council

OPEN MINUTES

Meeting Date: **Thursday 24 November 2016
(reconvened on 14 December 2016)**

Time: **9am- 2.14pm (reconvened at 3.04pm-
5.07pm)**

Venue: **Century Theatre (reconvened at
Herschell Street Main Committee
Napier Room, 3rd floor,
 Civic Building)**

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

In Attendance: Chief Executive, Director City Strategy, Team Leader Policy Planning, Policy Planner, Team Leader Governance, PA to Mayor

APOLOGIES

Councillors Boag / Wise

That the apologies from Deputy Mayor Faye White and Councillor Jeffrey be received.

CARRIED

CONFLICTS OF INTEREST

Councillor Wright and Councillor Price noted a conflict of interest with the submission by Andrew and Haley Price (submission number 192). Councillor Dallimore noted a conflict of interest and excused himself from the meeting.

Councillors Taylor / Brosnan

That the conflicts of interests raised by Councillors White, Price, and Dallimore be received.

CARRIED

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

1. HEARING REPORT: FREEDOM CAMPING BYLAW 2016

<i>Type of Report:</i>	<i>Legal and Operational</i>
<i>Legal Reference:</i>	<i>Local Government Act 2002</i>
<i>Document ID:</i>	<i>325940</i>
<i>Reporting Officer/s & Unit:</i>	<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.

1.2 At the meeting:

The Policy Planner presented on the context of freedom camping and the process of the review of the Bylaw.

Elisabeth Beachen had requested to speak but gave her apologies prior to the meeting.

The following members of the public delivered their oral submissions at the meeting:

- Craig Daly
- June Clifford
- Maria Van der Linden
- James Imlach, NZMCA
- Roger Wallis, NZMCA - Lower North Islands Rally
- Desmond Green, NZMCA – Local Branch
- Ron Carswell
- Dorothy and Denis Pilkington

The hearing of submissions was adjourned for morning tea at 10.30am and then reconvened at 10.48am.

The following members of the public delivered their oral submissions at the meeting:

- Robert Bird
- Malcolm Beets
- Cathy McDonald (tabled a petition)
- Gary McDonald
- Richard Karn
- Paul Laursen

The meeting was adjourned for lunch at 11.31am and then reconvened at 11.56am.

The following members of the public delivered their oral submissions at the meeting:

- Andrew Price

The meeting was then adjourned at 12.15 and then reconvened at 12.45pm.

The following members of the public delivered their oral submissions at the meeting:

- Ann Bowes

Discussion occurred around ensuring Napier continues to be a city which accommodates freedom campers, and noting the value both monetary and otherwise that they bring to Napier. Discussion also occurred on negative aspects such as health and safety concerns like overcrowding, traffic concerns, and lack of access to the waterfront for ratepayers.

The submissions were closed at 12.53pm. Deliberations started at 12.53pm.

Key deliberations included that the Council:

- should adopt a framework including a long term view and a set of guiding principles on freedom camping to guide discussions on how Napier should accommodate and embrace freedom camping, in particular noting
 - that the Freedom camping is increasing across the country, and
 - that attracting and embracing this market needs to be balanced with the wishes of ratepayers, the law, and
 - the implementation of such a long term view needs to be managed appropriately including enforcement.
- establish a working group to set this long term view and guiding principles.
- considered that any amendments to the bylaw now are conceived with a view that they are only interim measures until the long term view is set.

Officer's Recommendation

- a. Council receive the submissions on the freedom camping bylaw 2016.
- b. Council approve the officer's recommendations on each individual submission as outlined in Attachment A.
- c. Council make the following changes to the proposed bylaw, and approve the adoption of the bylaw subject to the following changes:
 - a) Amend Map 2: Perfume Point Carpark to reduce the restricted area for freedom camping to the south side of the carpark only.
 - b) Change the colouring of the maps to green for restricted areas and red for prohibited.

Council agreed to:

1) restrict the numbers to four clearly marked self-contained vehicle spaces in Westshore opposite domain road, and increase enforcement so the rules are generally adhered to.

CARRIED

2) the Officer's recommendation C) on Perfume Point a) to amend Map 2: Perfume Point Carpark to reduce the restricted area to 7 spaces for freedom camping to the south side of the carpark only.

CARRIED

3) request the Chief Executive to close the site for freedom camping in the Foreshore Reserves carpark on Marine Parade on a temporary basis due to safety issues.

CARRIED

(Councillors Boag, Wright and Price abstained).

4) the officer's recommendation on McLean Park that no further amendment to bylaw is necessary.

CARRIED

5) supporting clauses include

- Increased enforcement across all areas
- Definition of calendar month added to section 4 of the Bylaw.
- 5.1.b could be amended so that period of stay in any one location should be no longer than 1 night.
- Definition of self-contained vehicles is included in the Bylaw.
- Change the colouring in the map of the bylaw as outlined in the Officer's recommendation c) b).

6) A blanket ban on non-self-contained vehicles in Napier City, if legal advice permits this decision within the scope of the hearing.

CARRIED

The meeting was adjourned by the Mayor at 2.14pm, until legal advice is received.

RECONVENE THE MEETING

COUNCIL RESOLUTION

Councillors Taylor / Wise

That the extraordinary meeting of 24 November 2016 be reconvened at 3.04pm, 14 December 2016, in the Main Committee Room, 3rd Floor, Civic Building, Hastings Street, Napier.

CARRIED

The meeting reconvened at 3.04pm, on 14 December 2016, in the Main Committee Room, 3rd Floor, Civic Building, Hastings Street, Napier.

At the meeting

1. The meeting started with Matthew Lawson, Legal Counsel, advising on how the special consultative procedure works and a discussion on what scope the Council had to make changes to the proposed Bylaw based on the submissions.
2. Mr Lawson advised Councillors that:
 - a. their decisions on Westshore and Perfume Point were within scope,
 - b. their decision to provide a blanket ban on all non-self contained vehicles was not in scope and would possibly be considered ultra vires; and

- c. that closing the Foreshore Reserves Car Park resulting in no space being available for non-self contained vehicles within Napier City, was also was outside of scope and potentially ultra vires.
3. The health and safety concerns raised by Councillors at the previous meeting was also addressed by Mr Lawson. Mr Lawson advised that the Chief Executive does not have the discretion under the current bylaw to close the site, although this power is encapsulated in the proposed bylaw.
 4. Officials advised that following the adjournment of the 24 November 2016 meeting, they assessed the safety issues in conjunction with NZTA. This assessment targeted those things that were unsafe about the reserve, including parking on yellow lines, signage, and enforcement.
 5. Officials further advised that the safety assessment identified the following mitigations to the concerns identified:
 - a. Modify the entry point
 - b. Widen the area within the carpark for turning
 - c. Provide signage on the north bound lane to indicate there is no right hand turn.
 6. Officials advised that they are confident that all safety issues are being managed and therefore the site does not need to be temporarily closed, except for when the actual work is completed.
 7. Councillor Brosnan tabled her understanding of the decisions made at the 24 November 2016 meeting and moved to amend decisions foreshadowing Clause 3.9.17 of the Standing Orders, to revoke what she had listed as resolution 3 (regarding *designating the Foreshore Reserve Car Park as a site for self-contained vehicles only, in effect prohibiting non-self-contained vehicles across the city*), in light of the advice received from Legal Counsel.

MOTION

**COUNCIL
RESOLUTION**

Councillors Brosnan / McGrath

Motion to revoke resolution 3 as outlined in the resolutions tabled by Councillor Brosnan, regarding designating the Foreshore Reserve Car Park as a site for self-contained vehicles only, in effect prohibiting non-self-contained vehicles across the city, invoking Clause 3.9.17 of the Standing Orders.

CARRIED

AMENDMENT

**COUNCIL
RESOLUTION**

Councillors Brosnan / Wise

To revoke resolution 3 as outlined in the resolutions tabled by Councillor Brosnan, regarding designating the Foreshore Reserve Car Park as a site for self-contained vehicles only, in effect

prohibiting non-self-contained vehicles across the city, invoking Clause 3.9.17 of the Standing Orders.

CARRIED

8. On reviewing the other decisions tabled by Councillor Brosnan, Mr Lawson advised that any recommendations which are management directions should not form part of the decisions of the form and content of the bylaw.
9. Councillor Brosnan made a notice of motion to amend resolution 6 of her list; to
 - a. instruct staff to action a bylaw review process;
 - b. form a working party;
 - c. produce a draft bylaw for consultation, including prohibiting the Foreshore Reserve Car Park site for freedom camping; and
 - d. to find whether an appropriate site for non-self-contained vehicles can be found.
10. Mr Lawson advised that Councillor Brosnan's proposed amendment would be in danger of subverting the special consultative procedure amendment, and would be outside the of scope of the review of the bylaw.
11. Mr Lawson further advised that the Chief Executive has discretion in areas of safety. The safety concerns of the Foreshore Reserve Car Park are being addressed by the Chief Executive through the New Zealand Transport Agency. Closing the Foreshore Reserve Car Park would be outside the scope of the bylaw review.

NOTICE OF MOTION

COUNCIL RESOLUTION

Councillors Brosnan / Wise

Motion to amend resolution 6 of her list, to instruct staff action a bylaw review process, form a working party, produce a draft bylaw for consultation including prohibiting the Foreshore Reserve Car Park site for freedom camping and to find whether an appropriate site for non-self-contained vehicles can be found.

WITHDRAWN BY COUNCILLOR BROSINAN

12. Councillor Brosnan spoke to her motion. Councillor Brosnan made the following points:
 - a. Requested the minutes record, that in her view, a year ago, Councillors, in providing for non-self-contained vehicles, did so only after being told they had to provide for them, and that there were no other areas in the country that have prohibited them completely.
 - b. She does not believe the safety issues around the Foreshore Reserve Car Park have been resolved through the mitigations outlined by the Officers.
 - c. She considers that as a Councillor she is carrying out her duty of care under the Health and Safety Act by directing the Chief Executive to close the site until health and safety concerns could be addressed.
13. Mayor advised Council to focus on changes to the Freedom Camping Bylaw. He confirmed that a working group will be established as previously discussed at the 24th November meeting.

14. Further discussion on the health and safety concerns continued, and included whether closing the Foreshore Reserve Car Park for health and safety concerns was within scope of the bylaw review. The following key points were made during the discussion:

- a. Mr Lawson reiterated that a decision to close the Foreshore Reserve Car Park would be outside of the scope of the review and therefore not a lawful decision to make. Mr Lawson advised Councillors that to close the area, it would need to be done separately by amending the bylaw and going through the special consultative procedure again, or a separate agenda item under the Reserves Act, to temporarily close access to a reserves area.
- b. The Chief Executive advised that his role is to be accountable for health and safety. He has, in conjunction with technical advisors, undertaken an assessment of the health and safety concerns raised, and these are being addressed.

AMENDMENT

COUNCIL RESOLUTION

Councillors Brosnan / Wise

Decision 1 as outlined in the tabled decisions by Councillor Brosnan, that is, *to instruct the CEO to exercise discretion in immediately closing the Foreshore Reserve car park for safety reasons* be revoked, only if, the minutes record that the Council has asked for it to be closed due to their concerns on health and safety of the site and it is the opinion of staff that this not happen.

CARRIED

15. Discussion on whether there were other options for creating the new area in Westshore for 4 vehicles, rather than spending \$50,000.

16. Officers advised they are looking into how it can be done and whether it can be formed by marking out areas rather than forming a carpark.

17. Councillor Hague invoked Standing Order Clause 3.9.17 to review decisions made on Perfume Point and Westshore, in particular:

- a. the decision of having seven vehicles in a row in Perfume Point;
- b. whether the amount of nights at the area can be restricted to one or two nights stay; and
- c. whether there is a possible close out period for holidays.

NOTICE OF MOTION

COUNCIL RESOLUTION

Councillors Hague /Taylor

Motion to revisit those decisions made on the 24th of November regarding Westshore and Perfume Point, specifically decisions of seven vehicles in a row at Perfume point, length of stay at Westshore, and possible close out period for holidays.

CARRIED

18. Mr Lawson advised that it would not be within scope to add a close out period to the Perfume Point site because this was not raised as an option during consultation.

AMENDMENT

**COUNCIL
RESOLUTION**

Councillors Hague /Taylor

Amendment to Council decisions on 24 November 2016, to

- a. Exclude parking at Westshore from 24 December to 7 February in any year.**
- b. Reduce number of motor home availability from seven to four at Perfume Point.**
- c. Reduce the number of overnight stays at Westshore and Perfume Point to two nights.**

CARRIED

19. Councillor Brosnan outlined that we should have consistency across the waterfront areas.

20. The Mayor noted that we shouldn't limit the site at the Pump Truck as that is working fine and does not affect any houses or residents.

21. Councillor Wise proposed to amend the number of night stays at the Foreshore Reserve Car Park.

NOTICE OF MOTION

**COUNCIL
RESOLUTION**

Mayor /Taylor

Motion to revisit the number of nights for people to stay in the Foreshore Reserve Car Park.

CARRIED

AMENDMENT

**COUNCIL
RESOLUTION**

Mayor /Taylor

Reduce the non-self-contained vehicles from three nights to two nights.

CARRIED

22. Mr Lawson advised the reason why Council cannot close the site at Perfume Point is that it is not within scope. Mr Lawson further advised that the number of vehicles at the Foreshore Reserve Car Park could be reduced but it comes down to a question of degree. He said that if a reduction is required and there is a reasonable

basis for that, then provided that the change is not so significant to effectively subvert the public's participation in the process, then it can be done.

23. Mayor stated that if Council reduced the number of carparks at the Foreshore Reserve Car Park, the area would need to be redesigned which would incur costs. He advised, that due to concerns about the potential cost to modifying the site at Westshore, Councillors should be aware of the implications of their decisions.

24. Councillors determined that separate to the consideration of the proposed Freedom Camping Bylaw today, Officers should review the Freedom Camping Bylaw and go through another full consultative process.

25. Council made the following directions to Officers:

- a. to assign resource to provide night time policing (Westshore context);
- b. to form a working party to look at the Freedom Camping Bylaw for the long-term, similar to the Taupo model; and
- c. to create a consultation policy (or review the significance policy to be more task specific).

26. Council agreed to the following resolutions to be a record of the decisions in relation to the proposed Freedom Camping Bylaw 2016:

**COUNCIL
RESOLUTION**

Mayor / Councillor McGrath

- a. That Council confirm receipt of both the written and oral submissions on the *Freedom Camping Bylaw 2016*.
- b) That Council approve the response on each individual submission as outlined in Attachment A.

CARRIED

**COUNCIL
RESOLUTION**

Mayor / Councillor McGrath

- a. That Council approve the adoption of the *Freedom Camping Bylaw 2016* (Attachment B) subject to the following changes:
 - i. Designate, develop and mark a new freedom camping area for self-contained vehicles in Westshore Beach Reserve for four vehicles only, opposite Domain Road (immediately adjacent to the existing carpark, as per the diagram in Attachment C)
 - ii. Amend Map 2: Perfume Point carpark to reduce the restricted area for self-contained vehicles to four spaces, their placement to be in consultation with residents as appropriate.
 - iii. For each of the areas in i. and ii. above, impose a maximum two night stay, and a closure of Westshore site from 24 December to 7 February in any year.

- iv. Add a definition of calendar month to section 4 of the bylaw.
- v. Amend 5.1b so that period of stay should be no longer than one night *“in any one location”*.
- vi. Change the colouring of the maps to green for restricted areas and red for prohibited.
- vii. Amend bylaw to maximum two night stay in non-self-contained vehicles in the Foreshore Reserve Car park.

27. The Chief Executive advised that there is a process to follow for the bylaw to take effect, and that this may not be able to occur prior to the start of the proposed close out period this year.

The meeting concluded at 5.07pm.

APPROVED AND ADOPTED AS A TRUE AND ACCURATE RECORD OF THE MEETING

CHAIRPERSON: _____ **DATE OF APPROVAL:** _____