

# Council Briefing

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## Notice of Briefing

Briefing to be held in the Council Chamber, Forum North, Whangarei on:

**Thursday  
7 July 2016  
1.00pm**

Her Worship the Mayor (Chairperson)  
Cr S J Bell  
Cr S J Bretherton  
Cr C B Christie  
Cr P A Cutforth  
Cr S J Deeming  
Cr S M Glen  
Cr P R Halse  
Cr C M Hermon  
Cr G C Innes  
Cr G M Martin  
Cr B L McLachlan  
Cr S L Morgan  
Cr J D T Williamson

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# 1. Freedom Camping Bylaw

**Reporting officer:** Shireen Munday (Policy & Bylaws Analyst)  
**Date of meeting:** 7 July 2016

## 1 Purpose

This briefing is to provide Councillors with more details and information in relation to two topics that were identified as issues through the consultation and associated hearings and submissions process for the proposed Freedom Camping Bylaw to assist in Council's decision-making at the deliberations meeting.

## 2 Background

Council provided direction to staff to proceed with the development of a draft Freedom Camping Bylaw (the Bylaw) in March 2015. At that workshop Council discussed the following two key parameters that should form the basis of the bylaw:

- Freedom camping should be restricted to self-contained vehicles only
- Freedom camping should be available at a single location for a maximum of three nights only (within a 30 day period).

Council adopted a Statement of Proposal on a proposed Freedom Camping Bylaw at its meeting on 23 March 2016 for public consultation. The proposal included the following main points:

- Freedom Camping to be restricted to self-contained vehicles only
- freedom camping to be restricted to a maximum of three nights in one location
- 18 areas to be restricted, either through a summer prohibitions, a designated site or designated carparks
- 23 areas to be prohibited for freedom camping at all times.

Council received 42 submissions on the proposed Bylaw. Eight submitters attended the hearing on 24 May 2016 to speak to their submission. Submitters made a total of 137 submission points that were grouped into nine main topics.

These nine topics, together with staff commentary and recommendations, were presented to Council at the deliberations meetings which commenced on 28 June 2016. During deliberations, Councillors discussed two of the topics of the report at length. The meeting was adjourned and staff have been asked to report back regarding the particular issues raised in discussions in relation to the two topics.

### 3 Discussion

Staff have been asked to report back on Topic 3 (proposal to restrict freedom camping to self-contained vehicles only) and Topic 4 (summer prohibition).

#### 1.1 4.1 Topic 4 – Summer prohibition

The proposal included seven areas for which a summer prohibition from 18 December to 8 February each year was proposed. Three submitters were opposed to the summer prohibition, four submitters felt the summer prohibition would be too long and one submitter considered it would be difficult to enforce.

The Section 11 analysis for these areas in the Statement of Proposal provides an analysis of the issues present at these areas. The analysis shows that for each of the seven areas, some type of restriction or prohibition is necessary to either protect the area, protect the health and safety of visitors to the area or protect access to the area.

A summer prohibition was recommended to accommodate the contrasting levels of usage of the identified areas between summer and winter, however it is not the only type of restriction that may address the issues of concern.

The following table provides alternative restrictions to the proposed summer prohibition that could be applied that would address the issues present at each area:

Area	Restriction/Prohibition to be applied
Langs Beach	Schedule 2 – prohibited
Mcleod Bay – Stuart Road, all road reserve	Schedule 2 – prohibited
Moureeses Bay Recreation Reserve	Schedule 1 – restricted to a designated site
Ruakaka Beach Reserve	Schedule 1 – restricted to a designated site
Sandy Bay – road reserve carpark	Schedule 1 – restricted to a designated site
Wellingtons Bay – main reserve (Whangaumu Reserve)	Schedule 1 – restricted to a designated site
Woolleys Bay – eastern carpark	Schedule 2 - prohibited

In relation to the Woolleys Bay eastern carpark being changed to a prohibited area as above, it would be possible to increase the size of the designated site at the Woolleys Bay eastern carpark to allow for a larger number of freedom camping vehicles than previously indicated.

## 1.2 4.2 Topic 3 – proposal to restrict freedom camping to self-contained vehicles only

### Background

As outlined above, the proposal adopted by Council for community consultation included restricting all freedom camping activities in the District to self-contained freedom camping only.

The Statement of Proposal states that feedback from the community as well as Council staff indicates that inappropriate disposal of human waste, grey and black water and solid waste are key concerns relating to freedom camping activities.

The deliberations report presented to Council on 28 June 2016 shows that in relation to the issue of self-contained as opposed to non self-contained freedom camping, five submitters supported self-contained freedom camping, three submitters expressed opposition to non self-contained freedom camping and 1 submitter wished to see non self-contained freedom camping only by way of a Council permit. Six submitters expressed support for non self-contained freedom camping.

In the general comments section of the hearings report presented to Council on 24 May 2016, it states that 14 submitters commented regarding their concerns about human waste and the impact freedom camping activities have on public facilities, which was deemed to be largely related to non self-contained freedom camping activities.

During deliberations, Council discussed the proposed restriction for self-contained vehicles only. A number of councillors indicated that they had re-considered the original direction provided and now wished to consider allowing non self-contained freedom camping in the District, at designated sites, where 24 hour toilet facilities are available.

At this point the meeting was adjourned so that staff could provide further information on the topic.

An analysis of the issues raised has been undertaken, most specifically in relation to the process requirements of the Local Government Act 2002, including decision-making and consultation. Advice has been sought from Council's Legal Counsel and also an external source.

This advice provides that if Council wishes to consider including non self-contained freedom camping opportunities in the Bylaw, then Council would need to first consult on this particular aspect of the proposed Bylaw with the community.

The key reason for this is that the Statement of Proposal, which included a draft of the proposed Bylaw, did not include any provisions for non self-contained freedom camping activities with an associated analysis under Section 11 of the Freedom Camping Act 2011. The proposal did not provide clear information to people who may be affected by the proposal in accordance with the consultation requirements of section 82 of the Local Government Act.

In the case of *Nelson Gambling Taskforce Incorporated v Nelson City Council*, the High Court held that the Council's purported amendments to its gambling policy were unlawful because the changes made were outside the scope notified.

Therefore amendments to a proposed bylaw, through the consultation and deliberations process, can only be made where they are within the scope of the consultation notified.

The Statement of proposal did not contain an assessment, analysis and identification of suitable non self-contained freedom camping areas. The proposal did not provide the community, and in particular persons who may be affected by the matter, with clear information on the proposal so that they had an opportunity to present their views on the issue to Council.

## Options

Based on the above advice and comments, Council has two options to consider. Staff are seeking direction from Council regarding these options.

### Option 1

Council proceeds with the current Bylaw timetable, completes deliberations and makes the Bylaw as scheduled at the July 2016 Council meeting. The implementation phase of the Bylaw, including training, the set-up of systems to support enforcement activities and the development and installation of signage commences, with the Bylaw coming into force on Labour Weekend 2016.

Council also requests staff to report back on issues and options relating to non self-contained freedom camping activities. Council can then consider whether it wishes to propose to amend the Bylaw to include non self-contained freedom camping options. If Council determines to propose an amendment for public consultation, that process could be completed prior to the 2017/2018 summer period for implementation.

### Option 2

Council determines to stop the current process and develop a new Statement of Proposal for community consultation. An estimated timeline would be as follows:

Item	Timing
Staff develop a revised Statement of Proposal (after further engagement with key internal and external stakeholders)	July 2016
Statement of Proposal presented to Council for adoption for public consultation	August 2016
Consultation period (minimum 1 month)	August/September 2016
Hearings/Deliberations (after local authority elections)	October/November 2016
Making of final Bylaw	December 2016
Implementation preparation	December 2016 – February 2017
Bylaw in force	February/March 2017

## Recommendation

### **Staff recommend Option 1.**

Option 1 will allow the implementation of the Bylaw prior to the 2016/2017 summer season. Council's current regulatory framework for freedom camping activities is inconsistent and difficult to enforce, which is reflected in the complaints made to Council to date. Feedback on the effectiveness of the Bylaw over the summer 2016/2017 period can be incorporated into any future analysis and will enhance Council's ability to more accurately address the problem.

The timeframe necessary to re-consult with the community in Option 2 means that while the current Council could adopt the Statement of Proposal, the hearings and deliberations would have to proceed after the local authority elections in October 2016. This delay would then further impact on the ability to implement the Bylaw prior to the 2016/2017 summer season.