

**Chairperson and Committee Members**  
STRATEGY AND POLICY COMMITTEE

22 MARCH 2018

Meeting Status: **Public**

Purpose of Report: For Decision

## **FREEDOM CAMPING IN KĀPITI**

### **PURPOSE OF REPORT**

- 1 To review the current lack of a Freedom Camping Bylaw and provide advice to council on the preparation and potential adoption of such a Bylaw.

### **DELEGATION**

- 2 The Committee has the delegation to consider this matter under Section B.1 of the Governance Structure and Delegations: *'This Committee will deal with all strategy and policy decision-making that is not the responsibility of the Council. Key responsibilities will include:*
  - *Development and/or review of strategies, plans, policies and bylaws'.*

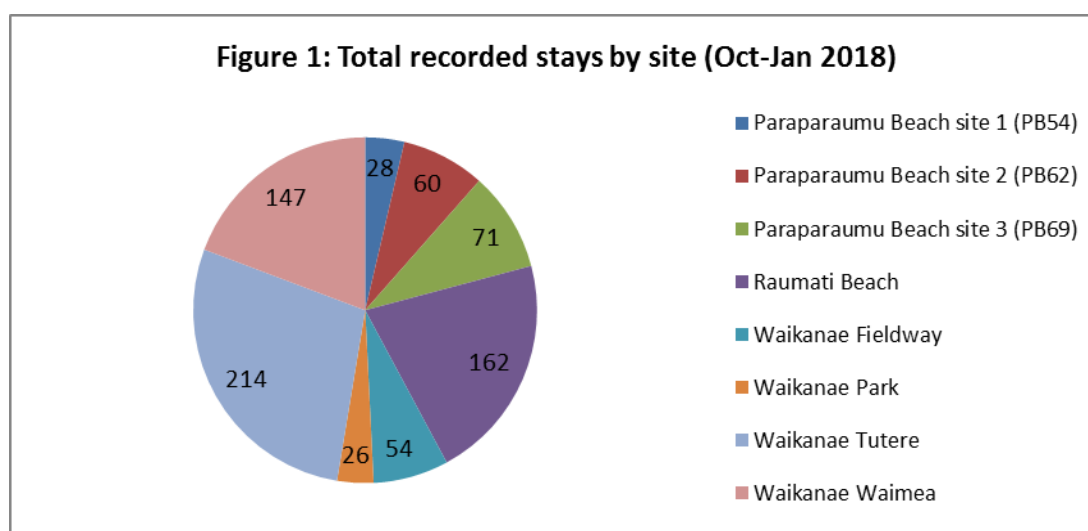
### **BACKGROUND**

- 3 Following discussion of the Public Places Bylaw in June 2017, the Strategy and Policy Committee requested *"staff to undertake a review of the current lack of a Freedom Camping Bylaw and provide advice to council on the preparation and potential adoption of such a Bylaw"*.
- 4 Nationally the issue and provision of freedom camping is a matter many councils are currently grappling with. Recent years have seen a marked increase in tourist numbers and growth in freedom camping. This includes both international visitors but also an increasingly large domestic contingent. National estimates of the annual number of international visitors who did some freedom camping in New Zealand has grown significantly from around 10,000 visitors in the early 2000s, to around 80,000 in more recent years. Domestically, New Zealand Motor Caravan Association membership has increased almost 20% between 2013 and 2017 to 71,500 members.

#### **What we know about freedom camping in Kāpiti**

- 5 Information from Council Service Requests and monitoring undertaken by the Environmental Standards Team provides a picture of some of the potential issues arising from freedom camping in the district.
- 6 Over the 12 month period (1 February 2017 – 31 January 2018) there have been 88 Service Requests relating to freedom camping. 11 of these requests related to enquiries for information and 77 notifications related to possible issues:
  - 42 were complaints relating to the nine freedom camping sites.

- 35 were complaints related to freedom camping outside of specific sites across the district; and
  - 10 of the above complaints were found to be non-freedom camping related activities.
- The dominant complaints relating to sites include numbers of campers exceeding allocated spaces, vehicles parking in the wrong place and use of sites by non-self-contained vehicles. The nature of complaints across the remaining district relate to freedom camping occurring in breach of the Policy.
  - The Environmental Standards Team captures information on freedom campers visiting eight of the nine council sites, daily Monday to Friday. Steps have recently been taken to start capturing information for the Ōtaki Beach site.
  - For the 1 October 2017 – 31 January 2018 period, site visits recorded a total of 763 vehicles freedom camping. Figure 1 identifies the number of recorded vehicles against the eight monitored sites. This identifies Tutere and Waimea Street sites in Waikanae and Matatua Street site in Raumati as the most popular sites, accounting for almost 70% of all recorded visits. Of the 763 recorded visits, 31 were found to be non-self-contained (less than 5 %).



- It is clear that tourist numbers and associated freedom camper numbers have risen across the district – increasing demand and pressure on the current sites. This can be seen locally where monitoring data shows an increase in the number of nights where sites are exceeding allocated numbers across the district. This demand is creating potential impacts on the amenity of residents and access and use by recreational users on popular multi-use sites, particularly during peak summer months.
- However, from analysis of service requests and monitoring data it appears the impact of freedom camping activities is relatively low, with the majority of breaches around the conditions for the use of sites (site numbers, parking and non-self-contained vehicles). In the majority of cases where campers are advised that they are in breach, they take steps voluntarily to comply with conditions i.e. parking correctly or moving on. Only a handful of requests relate to nuisances such as littering or inappropriate behaviour.

- 12 This increased use and congestion caused by both freedom campers and recreational users at popular sites and peak periods also has the potential to increase the perception of issues being caused by freedom camping. Freedom campers are easily identified and often associated with issues reported in the national media that are not an issue in Kāpiti. It is also common (as is shown in the 10 cases from the service request data) for freedom campers to be confused with other recreational users including day visitors and whitebaiters who use tents or caravans for shelter, and people in camper vans, who are only stopping in for a walk or lunch before moving on.
- 13 As shown at the Tutere Street site in Waikane Beach, improvements to signage assists to reduce ambiguity around where to park and the number of spaces available for both campers and enforcement officers. This self-management by freedom campers could improve compliance and perceptions of freedom camping across all the sites.

## Options

- 14 This report considers two options as part of managing freedom camping in Kāpiti, these include:
- Option one: maintain the current Freedom Camping Policy 2012
  - Option two: develop a Bylaw under the Freedom Camping Act 2011 (the Act).

### *Option one: Maintain the current Freedom Camping Policy 2012 (Preferred Option)*

- 15 Freedom Camping in Kāpiti is currently managed under the Freedom Camping Policy 2012 (The Policy). The definition of freedom camping in the Policy comes from the Act, which means: *“to camp (other than at a camping ground) within 200m of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using 1 or more of the following:*
- (a) a tent or other temporary structure; or,*
  - (b) a caravan; or,*
  - (c) a car, campervan, housetruck, or other motor vehicle.”*
- 16 The Policy provides for freedom camping across nine Council approved sites. Freedom camping is not otherwise permitted in a public place across the district. Conditions for use of approved sites include:
- only self-contained camping vehicles or caravans can use the sites
  - the number of sites available at each location
  - the maximum continuous freedom camping period in any one location
  - that all freedom campers must remove all rubbish, solid and liquid waste from the camping site at the end of their stay.
- 17 The Policy was originally introduced in 2010 ahead of the Act coming into effect in 2011. The Policy was subsequently reviewed and updated in 2012. At its last review in 2012, a draft bylaw was prepared and consulted on under the Freedom Camping Act 2011. At that time, Council decided not to adopt the Bylaw but

instead opted to “*retain the current Freedom Camping Policy and Public Places Bylaw. This approach enables Council to continue to manage freedom camping appropriately while not opening itself up to the risk of legal challenge. There is insufficient evidence at the present time to suggest freedom camping is such a problem in the District that a Bylaw is justified*”<sup>1</sup>. The risk of legal challenge related to the process Council used to develop the draft bylaw. This included carrying over the existing sites and conditions of the Policy without undertaking a wider assessment of potential sites across all Council owned land.

- 18 Council currently implements the policy by focussing on using information and engagement to help educate locals and visitors about acceptable freedom camping behaviour, and ensuring that freedom camping on our approved sites is in line with our policy.
- 19 While infringement fines are not currently available to officers to address minor breaches to the Policy, the Council does have means to address more serious issues around damage and illegal waste disposal. This includes a range of powers under the Local Government Act 2002 and the Act to impound vehicles, take court action or recover reasonable costs of clean-up. To date Council has not had to use these enforcement controls.
- 20 There is also a range of other complementary tools that could be used to help manage freedom camping activities and potential offences. This includes:

**Infringement fines for littering:** The Litter Act 1979 provides for fines to be used for those caught littering.

**Ticketing of inappropriately parked cars on sites:** under the Land Transport Act 1998 and Associated Regulations. To be able to use this legislative tool Council would need to pass a resolution identifying parking areas across the freedom camping sites.

**Managing activities on reserves:** Reserve management plans manage activities and use of reserves. A number of Council’s reserves don’t currently have a reserve management plan and many of those that do are out-of-date. A three year programme of work is planned to prepare, review and consult on the use of reserves across the district. This will enable the current needs and uses of reserves and facilities to be considered across the district, including the potential use for freedom camping.

*Option two: Develop a Bylaw under the Freedom Camping Act 2011*

- 21 The Act came into force on 30 August 2011. The Act defines what it means to freedom camp and also what it does not mean - such as temporary short term parking, resting or sleeping at the roadside to avoid driver fatigue, or recreational activities commonly known as day-trip excursions. The Act applies to all land that is controlled or managed by the local authority under any enactment. The presumption of the Act is that freedom camping will be widely permitted with restrictions only in certain circumstances.
- 22 This intent is emphasised by the fact that section 12 of the Act prevents local authorities from implementing blanket freedom camping bans. Further, section 11 of the Act limits local authorities to only making a bylaw if it is necessary for one or more of the following purposes:
  - to protect the area;

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<sup>1</sup> SP-12-663 – Managing Freedom Camping in Kāpiti

- to protect the health and safety of people who may visit the area; and
  - to protect access to the area.
- 23 The Act provides the ability to penalise a number of offences arising from freedom camping including damage or inappropriate deposit of waste. However, some additional enforcement tools are only enabled for local authorities through a bylaw, in particular, the ability to issue \$200 infringement offence fees for any person freedom camping in breach of prohibitions or restrictions described or mapped in a bylaw made under section 11 of the Act.
- 24 Developing a bylaw under the Act would provide enforcement officers with additional powers to issue infringement fines to freedom campers who breach the bylaw. In particular, this would enable fines to be issued where self-compliance and voluntary compliance fails to address issues around too many campers on a site, parking and use of non-self-contained vehicles.
- 25 Access to fines would provide an on the spot option for enforcement officers. However, in practice, having access to infringement fines does not mean that they will be used in all instances, as an officer will provide a camper the opportunity to make things right, as is consistent with Council's Enforcement Policy. Additionally, the nature of freedom camping means there are often difficulties in recovering fines as those who infringe often move on or leave New Zealand without paying. Nonetheless, infringement fines do provide a deterrent/disincentive that is not currently available.
- 26 A key requirement to developing a bylaw requires work to identify all council owned (and council managed) land and then to determine any areas that might require restrictions or prohibiting of freedom camping. It is estimated that it would take up to eight months to get a bylaw in place. This would include the assessment process and consultation, as the special consultative procedure is required when developing a bylaw under the Act. Additional resourcing will be required to support the site assessment process which is not provided for within current budget/work programmes.
- 27 Freedom camping is currently a hot topic nationally. Increasing numbers as well as on-going challenges around the implementation of the Act has resulted in a meeting on the 8 March 2018 between the Minister for Tourism with 22 Mayors from around the country to speak about some of the challenges they face. This may result in further legislative changes and clarity to the management of freedom camping. The intent of this nationally focused work is to identify and begin work towards solutions for the next summer season.

*Preferred option – Option One*

- 28 The issue of freedom camping is not going to go away. Across the country it is clear that freedom camping is becoming popular and both options of either retaining the policy or developing a bylaw will not resolve the apparent conflict between residents and freedom campers.
- 29 However, at present Council staff have been actively monitoring the existing freedom camping sites and the reporting clearly shows that demand is high, and with the limited number of campsites, popular sites at Raumati and Waikanae Beach regularly have more campers than there are sites. While peak demand across popular sites is high, it is important to note that the number, pressures and impacts experienced in Kāpiti are not to the same extent as that being

experienced in other areas such as Queenstown or New Plymouth, where there are upwards of 50 – 100 freedom camping vehicles per day at peak periods.

- 30 At this time, moving forward with the option of a bylaw would involve an assessment of Council land and opportunities for freedom camping across the district. Similarly, considering additional or alternative sites under the current Policy would also require some form of assessment. Both scenarios would require engagement with iwi, the local community and interested stakeholders.
- 31 With this in mind and considering the national discussion around freedom camping which the government has initiated, staff recommend Council maintains the current Policy for the short-term. Once national direction from central government is clear, staff will provide an update on options. Subject to legislative changes, staff hope to be in a position to provide an update in September 2018, ahead of next peak summer period.
- 32 In the meanwhile, staff will investigate the potential for further operational changes to support better use of existing sites. This includes improving the visibility of signage and marking of parking spaces for campers, similar to that recently undertaken in Tutere Street. Changes could help to further incentivise camper's compliance with sites conditions and compliance officer's discussions.
- 33 Continuing monitoring of sites will also help with on-going management but also provide better understanding of the drivers and preferences of freedom campers visiting the district, as well as potential impacts they are creating to inform future work.

## CONSIDERATIONS

### Policy considerations

- 34 By maintaining the current Policy as the means to manage freedom camping, the focus will continue to be on education and monitoring. If Council wishes to proceed with a bylaw under the Act it would need to follow the special consultative procedure. It would also require amending or revoking relevant policy and clause 15.2 of the Public Places Bylaw 2017. Any decision to review and make changes to the current Policy would also require consultation.

### Legal considerations

- 35 This paper has been discussed with in-house legal counsel and two legal considerations are noted below.
- 36 Before making a bylaw Council will need to be satisfied that it is necessary under Section 11 of the Act and that:
  - (a) it is necessary for one or more of the following purposes:
    - to protect the area:
    - to protect the health and safety of people who may visit the area:
    - to protect access to the area; and

(b) the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and

(c) the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

- 37 The Act enables camping unless restricted or prohibited. The current Policy restricts camping to a number of identified sites. The previous proposal to transfer the policy directly into a draft bylaw in 2012 resulted in a number of submitters opposing the bylaw on the basis that the approach did not reflect the intent of the Freedom Camping Act. This created risk around potential legal challenge to the bylaw. Undertaking an assessment of Council land as part of any process to prepare a potential bylaw would help minimise similar risks in the future.

### Financial considerations

- 38 Should Council choose to maintain the Policy, there are unlikely to be any financial implications. Any improvements to signs and on-going monitoring can be prioritised from within existing budgets. If Council chooses to review the existing Policy or develop a bylaw, there will be additional costs to support an assessment of council land across the district. Provision and cost of this work would need to be prioritised over other work identified in the policy work programme.

### Tāngata whenua considerations

- 39 A number of the current freedom camping sites are located in close proximity to waterways and the Waikanae estuary and are of significance to local iwi. Any decision to develop a bylaw or review the Policy will require early engagement with iwi relating to potential impacts around sites with potential interests and concerns relating to a number of matters, including waahi tapu, pollution of the environment and how its managed and mahinga kai.

## **SIGNIFICANCE AND ENGAGEMENT**

### Significance and engagement policy

- 40 If triggered, work to develop a bylaw or review the existing Policy has a moderate degree of significance under Council's Significance and Engagement Policy. However, the Act requires a special consultative procedure with full consultation.

### Consultation already undertaken

- 41 Minimal consultation has been undertaken at this stage.

### Publicity

- 42 If the Council agrees to wait until the outcome from central/local government discussions before considering options no additional publicity is required at this point. If Council decides to proceed with a bylaw or changes to the Policy, a communications and engagement plan will be developed with our communication team for engaging with iwi, community and interested stakeholders.

## RECOMMENDATIONS

- 43 That the Strategy and Policy Committee agrees to maintain the current Freedom Camping Policy in the short-term and consider longer-term options to manage freedom camping later in the year once outcomes and actions from central/local government discussions are clear.

**Report prepared by**      **Approved for submission**      **Approved for submission**

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