

Subject: Bridge Jumping: Review of Public Places Bylaw

Prepared by: Sarwan Kumar (Chief Environmental Health Officer)

Meeting Date: 14 July 2010

Report to ENVIRONMENT & POLICY Committee for decision

SUMMARY

A report on Bridge Jumping: Issues and Options (report number 10/197) was presented to this committee on 7 April 2010. At that meeting the committee resolved to:

1. alert jumpers to the risks and conduct a campaign with schools and Gisborne District Youth Councils to discourage this dangerous practice.
2. review the Public Places Bylaw with a view to prohibiting bridge jumping.
3. work with Ka Pai Kaiti and other community groups to promote the use of the Olympic Pool by people who are attracted to bridge jumping.

Further evaluation including a legal assessment of the bridge jumping problem has been undertaken and discussed in later in this report. Comments from NZ Police, Water Safety NZ and Whakatane District Council were also sought and considered.

This evaluation leads staff to believe, as they did previously, that it is not practical to stop young people jumping from bridges by way of council bylaws, and that having a bylaw in place which is likely to be flaunted is not in the best interest of council. The alternative action, to promote safe jumping through education and liaison with schools and Gisborne District Youth Council, is considered to be more appropriate.

Proposed educational material is also included.

RECOMMENDATIONS

That the Committee

1. receives the report
2. agrees that it is not practical to stop people from jumping off bridges by way of council bylaws, but that Council will alert jumpers to the risks and conduct a campaign to promote safer jumping involving advertising and liaison with schools and Gisborne District Youth Council.



Sarwan Kumar
Chief Environmental Health Officer



Hans van Kregten
Environment and Planning Manager

1. BACKGROUND

Jumping off the William Pettie Bridge during the summer period is an attraction for a lot of teenagers and council needs to consider how to manage this activity safely before someone gets hurt or worse.

Council Bylaws do not currently have any provision to prohibit bridge jumping.

2. DISCUSSION AND OPTIONS

A number of options were considered on how to manage this potentially hazardous activity including:

- ◆ Council providing a platform off the bridge specifically for jumping
- ◆ installing mirrors so that jumpers can spot rowers on the water before they jump
- ◆ designating separate areas (lanes) under the bridge between bridge piers for jumpers and rowers
- ◆ amending the Public Places Bylaw to prohibit jumping
- ◆ suggesting other bridges for jumping, e.g., the Railway bridge
- ◆ putting signs advising jumpers of the risks and initiating an educational programme
- ◆ do nothing

Previous advice received from a legal perspective suggested that the best approach is to positively discourage jumping and look at ways of minimising injury or damage to property should the jumping continue.

Amending the Public Places Bylaw to prohibit jumping is a valid option. However, this requires additional resources from police and council to enforce the bylaw; arguably for limited benefit. Gisborne Police have advised that enforcement of this activity will be a low priority and that a community based solution to this issue will be a more positive outcome. They have stated that they do not support "criminalising" bridge jumping (attached as appendix 1).

Similar sentiments have been expressed by Water Safety New Zealand and Waikato Regional Council.

Whakatane District Council has considered a bylaw prohibiting bridge jumping off the State Highway 3 bridge on the outskirts of Whakatane. However following community meetings there it was agreed that education rather than bylaw was the preferred option.

3. SIGNIFICANCE

This issue is not significant in terms of council's significance policy

4. CONSULTATION

Limited consultation has been undertaken. Wider community consultation is not considered necessary.

5. COMMUNITY OUTCOMES

Safe and Healthy Tairāwhiti outcomes may be positively affected by this review.

6. LEVELS OF SERVICE

No levels of service will be affected.

7. FINANCIAL

There are no financial implications.

8. LEGAL

The Council's bylaw making powers come from s.145 of the Local Government Act 2002 (LGA02) and the Bylaws Act 1910. Section 145 of the LGA02 allows bylaws to be made for one or more of the following purposes: protecting the public from nuisance; protecting, promoting, and maintaining public health and safety and minimising the potential for offensive behaviour in public places. The LGA02 limits fines imposed under bylaws made under part 8 of the Act to \$20,000 (s.242(4)). Offences are punishable on summary conviction (s.239(1)).

Infringement fines can be issued for breach of a bylaw where this is authorised by statute. Many activities undertaken by the Council have statutes authorising the issue of infringement fines for breach of related bylaws. They also set the amount of each fine in relation to the type of offence. Some examples are Dog Control, Parking and Traffic (Transport and Land Transport Acts), Litter and the Resource Management Act (for noise control). Some statutes authorise Councils to set the infringement fee in the bylaw within the restrictions placed in the statute (maximum fine and types of offences).

The LGA02 has provisions for regulations to be made which prescribe the breaches of bylaws that are infringement offences and the resulting infringement fee payable (s.259). No regulations have yet been made under this section and I understand that this is because Crown Law have taken the view that there is a drafting error with the section and that it should be amended before any regulations are passed. Local Government New Zealand are pushing for the amendment of this section in the latest changes to the LGA02.

The ability to issue infringement notices for bridge jumping is only available if there is a statute authorising it. Although the LGA02 authorises the creation of the bylaw, it has no provision for issuing infringement fine due to the absence of s.259 regulations. Accordingly, any offences for breach of a bylaw against bridge jumping would need to be enforced by prosecuted in court and not infringement notice.

A further complicating factor is that the bridge jumpers are in the most part children and young people. The Crimes Act prevents a person under 10 being charged with an offence (s.21). Children aged between 10 and 14 can be charged but it must be proved that the child knew either that the act was wrong or contrary to law (s.22). The Youth Court has jurisdiction over all children (under 14) and young people (under 17) charged with an offence. Prosecution for children and young people would accordingly need to be brought in the Youth Court. It might be possible to prosecute the guardians or parents of bridge jumping children, however there could be some issues with this and it would require further investigation.

It must be kept in mind that Bylaws may be overturned at judicial review if they are unreasonable. A local authority also has an obligation under s.155 before making a Bylaw to determine that a bylaw is the most appropriate way of addressing the perceived problem.

9. POLICY

No policy implications.

10. OTHER CONSIDERATIONS

No further considerations

11. APPENDICES

- I. Email from Gisborne Police
- II. Draft education pamphlet

Sarwan Kumar

Subject: FW: Bridge jumping

From: Maui.Aben@police.govt.nz [mailto:Maui.Aben@police.govt.nz]
Sent: Wednesday, 30 June 2010 11:10 a.m.
To: Sarwan Kumar
Subject: RE: Bridge jumping

I have discussed the bridge jumping issue with the Gisborne Police management team. We do not support 'criminalising' bridge jumping.

Maui

From: Maui.Aben@police.govt.nz [mailto:Maui.Aben@police.govt.nz]
Sent: Thursday, 24 June 2010 10:28 a.m.
To: Sarwan Kumar
Subject: Re: Bridge jumping

Hi Sarwan

I've discussed this with my Commander and he would like to have his management team consider the issue before making a response. Unfortunately that will not happen until next Monday. Are you able to wait until Monday 3pm -ish?

Maui

From: Sarwan Kumar <Sarwan@gdc.govt.nz>
To: "maui.aben@police.govt.nz" <maui.aben@police.govt.nz>
Date: 22/06/2010 13:20
Subject: Bridge jumping

Hi Maui

Further to our discussion last week can I please have some comments from the police perspective on the bridge jumping issue. I need to finish my report to council by Fri this week so any comments before then would be appreciated.

Thanks

Sarwan

30/06/2010

“They will not be responsible if you get hurt, or you hurt someone else.”

(picture of Joe with his leg through paddlers' stomach)

“If you still jump make sure you have a good look around first to make sure the river is clear.”

(picture of Joe looking into river and friend below giving thumbs up)

“And it is only deep water you are jumping into.”

APPENDIX II

For further information go to:



15 Fitzherbert Street, Gisborne
PHONE 06 867 2049 • FAX 06 867 8076
EMAIL service@gdc.govt.nz
www.gdc.govt.nz

Jumping from bridges



should I? shouldn't I?



"Jumping off Gisborne city bridges can be fun. It can also be dangerous."

(picture of Joe jumping having fun)

"Imagine jumping from the bridge and landing on a famous person! She might be a bit mad."

(picture of famous person really mad).

"Sometimes there are logs in the water (which are hard to see.)

Imagine landing on a log."

(picture of Joe straddling log in the water in pain)

"Lots of people use Gisborne city rivers.

Kayakers and waka ama paddlers train on our rivers. Some of them are super fast. World champions even."



"She also might get hurt and not be able to go to the worlds next year.

You also might get hurt and never be able to jump anywhere again."

(picture of Joe in a full body cast).

"Council has not made it illegal to jump from city bridges, but they have put signs up asking you not to."

(picture of Joe looking at the sign)