

MINUTES/DECISION



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MEMBERSHIP: Pat Seymour, Josh Wharehinga and Larry Foster

MINUTES of the HEARINGS Committee

Held in Te Ruma Kaunihera (Council Chambers), Awarua, Fitzherbert Street, Gisborne on Wednesday 16 June 2021 at 9:00AM.

PRESENT:

Chair Pat Seymour, Councillors Josh Wharehinga and Larry Foster.

IN ATTENDANCE:

Chief Acting Director Liveable Director De-Arne Sutherland, Environmental Services & Protection Helen Montgomery, Chief of Strategy & Science Joanna Noble, Senior Policy Advisor Chris Gilmore, Democracy & Support Services Manager Heather Kohn and Committee Secretary Coral Dunn.

The meeting commenced with a prayer.

1. Apologies

There were no apologies.

2. Declarations of Interest

No interests were declared.

3. Notices of Motion

There were no notices of motion.

SUBMITTERS

Don Putan

Ngahuia Bristowe

Tawhai David Bristowe

Amelia Williams

Toby Williams

Winton Ropiha

Daryl Keast

Tony Evans

Stu Blair

Rex Stuart

Leme de Wolf

Bruce Jefferd

Sarah Williams

Dan Cornfel

4. Reports of the Chief Executive and Staff for DECISION

4.1 21-113 Regulatory Hearing Panel: Draft Freedom Camping Bylaw 2021

Background

1. The draft Freedom Camping Bylaw 2021 (the draft bylaw) (**Attachment 1**) replaces summer camping (camping in registered camping grounds with a paid permit) with seasonal freedom camping. In addition, the draft bylaw further defines where Council prohibits and restricts freedom camping.
2. The draft bylaw establishes seasonal freedom camping from Labour weekend to 30 April, providing for the same multi-week camping in tents and vehicles currently undertaken at our summer camping areas. Seasonal freedom camping will require a permit, chemical toilet, and compliance with Council's camping conditions.
3. Council's current Freedom Camping Bylaw 2016 established a small number of permitted freedom camping areas (Marina car park, Kaiti Beach and Makorori car park). These areas have large capacity (20 to 30 vehicles each). The large number of campers has been identified as having a detrimental impact on adjacent public facilities, the environment and public access to those areas.
4. The draft bylaw seeks to better manage this through the establishment of five smaller restricted freedom camping areas in and around the city. The main changes to Council's current freedom camping offering in the city, as consulted on, are:
 - (1) The region would be restricted to self-contained vehicles only (except for the Seasonal Freedom Camping areas).
 - (2) Freedom camping on streets and in car parks in Gisborne urban area, Wainui, Okitu, Sponge Bay and Makorori would be limited to five small restricted self-contained vehicle only areas at Midway car park (6 max.), Kaiti Beach (8 max.), Bright Street car park (4 max.), the Pines (4 max.) and Makorori (8 max.)

APPEARANCES

Chief of Strategy and Science Joanna Noble and Policy Advisor Chris Gilmour

Mr Gilmour briefed the panel advising the draft bylaw:

- Replaced summer camping (camping in registered camping grounds with a paid permit).
- Set out rules for camping in Tairāwhiti including where freedom camping was prohibited and restricted.
- Included four recommended changes as outlined in the report summary.

Response to questions from the Panel:

- McIlroy Road, Waipiro Bay:
 - Freedom camping in this area had been complex for some time.
 - Due to severe road erosion and changes in land use in the area it was not really used for camping apart from at the far end on private property.
 - Some casual camping by locals occurred.
 - It was a summer camping area and as such enforcement was difficult.
- City freedom camping sites:
 - Numbers were based on site assessments that took into account providing sufficient space for other users.
 - The specific change for Kaiti Beach was a single well demarcated area for freedom camping.
 - The bylaw approach was to prevent areas being overrun with freedom campers.
 - Camping outside designated areas would no longer be accepted and enforcement would restrict freedom camping to designated areas.
 - The bylaw was to enforce freedom camping, not manage homelessness.
 - Council had to be very sensitive when dealing with other groups eg homeless people and the third tier of seasonal/itinerant workers.

Summary of Evidence Heard

Don Putan attended by Zoom and spoke to his written submission.

In response to questions staff advised:

- The draft bylaw did not limit, restrict or prohibit walkers, cyclists or tents.
- Tents could be used anywhere at freedom camping sites.
- Seasonal campers must camp near a public toilet if they did not have their own toilets.
- Seasonal camping areas were closed during winter to allow dune restoration.
- Year round freedom camping areas were available to cycling freedom campers.

Ngahuia Bristowe spoke to her written submission and her response to a question was that she did not want to camp anywhere else but Turihaua Point.

Tawhai David Bristowe spoke to his written submission and responded to questions:

- Wanted camping at Turihaua Point to remain open as did not want to camp anywhere else.
- Erosion remained the same.

Amelia Williams spoke to her submission.

- Appreciated that freedom camping has been a wholesome family activity in this region for decades.
- Has seen both the positive and negative effects of freedom camping on our whenua, our awa and our moana.
- Plastics, metal, wood and poison are all left behind poisoning our environment.
- Tracks are cut into the dunes with spades, feet and vehicles.
- Driftwood spears are anchored into our very vulnerable dunes and posts dug in to stabilize structures.
- Increasing occupancy of the dunes and beach increases the runoff from vehicles and surfaces and as the surface of the ground is covered by vehicles and tarpaulins the ground can no longer absorb the rainfall. This increases the runoff to the sea, it increases the erosion into our moana.
- Fires are lit on the beach and in the sand dunes when there is a restricted or total fire ban in place, and this puts freedom campers at risk along with the residents.
- Police are regularly called to mediate alcohol inflamed arguments and violence.
- Police and helicopter rescues occur seasonally when adults and children make dangerous swimming and kai collecting choices.
- Human remains of pre-european tangata whenua have been found at Turihaua and Pouawa. It is disrespectful for campers to be allowed to camp, sleep, cook or to play on top of these koiwi.
- Threats have been made to residents.
- Need to consider the entry onto our beach freedom camping areas which must consistently need to be maintained by NZTA, we need to think about the cost of disposing of rubbish left behind, we need to respect the Queen's Chain, we need to protect the safety of persons and property whether that be freedom campers or the local residents.
- Freedom camping is best done with the least environmental impacts on the land.
- Multiple vehicle gatherings for months at a time on beaches and sand dunes is appropriate.
- We must keep safe our future resources, look after our whenua, our wai and all of our nga tangata.

Toby Williams for Federated Farmers presented in regard to his submission and responded to questions:

- Being threatened by campers had necessitate police involvement.
- People defaecated on their property.
- Introduction of summer camping had stopped some issues.
- People came onto their property wanting water and to use the telephone.
- Contacted Council staff when compliance issues arose.
- None of the Turihaua residents had been contacted by Council staff.
- Due to significant stock thefts no longer put stock in laneways along state highway.

Winton Ropiha presented with regard to his written submission and responded to questions:

- Would like to see work done at Pouawa applied to the road north of Turihaua Point because if was nothing done in next two years there would be no space to camp.
- Previously camped at Pouawa but now camped at the end of Turihaua Point.
- Objected to Council signs about safety as common-sense prevailed and in 25 years not one person camping at Turihaua had come to harm.

Staff clarified the closure of Turihaua North was proposed under Section 11 2(a) (ii) to protect visitor health and safety as rapid erosion in the 2020-21 season saw large sways of the beach area disappear overnight hence the placement of signage.

The Chair advised that Council was obliged to protect the environment.

Secretarial Note:

MOVED by Cr Wharehinga, seconded by Cr Foster

That the Hearings Committee:

1. Allow Tony Evans to make a verbal submission.

CARRIED

Tony Evans verbal submission included:

- Health and safety came down to common sense when camping.
- Erosion at Turihaua Point had become worse as no maintenance work had been done.
- Would like to see the area stabilised and looked after.
- Camped for six months of the year and did not erect anything permanent.
- Thefts at campsites were an issue.
- Truck-loads of rubbish was dumped by others as campers took their rubbish away and looked after the camping area.
- When the dump site closed cars were also dumped at the beach.
- Camping was a lifestyle for some and as such should not be prohibited.
- Signs placed in the area were not needed as campers themselves promoted safety.

The Chair responded to comments by Mr Evans:

- Council did not make money out of freedom camping.
- Income from Freedom Camping did not cover the annual costs which had to be shared across the rate-paying base.
- The New Zealand Transport Agency (the Agency) was responsible for attending to roading erosion on state highways.

Secretarial Note: The meeting adjourned for morning tea at 10.12am and reconvened at 10.30am.

Daryl Keast for New Zealand Motor Caravan Association spoke on behalf James Imlach's New Zealand Motor Caravan Association's submission and responded to questions:

- He was not aware that the Association had been consulted about the bylaw.
- Did not have numbers comparing those staying at Midway, Kaiti or Makorori Beach.
- Other areas encouraged motor caravans visiting their areas by providing sealed areas for camping eg Kawerau and Wanganui.

In response to questions staff advised:

- The approach taken was not to amend the size of car parks at Midway, Kaiti or Makarori as there were larger spaces in seasonal camping areas.
- If Council was to consider changing the size of the parks this would be done by repainting the designated areas.
- Parking restrictions were not enforced at night if a vehicle protruded over into the next car park as freedom camping rules applied not parking rules.
- Discretion would be used in applying freedom camping rules with regard to numbers parking in designated areas.
- Conversations were held with James Imlach over the last 18 months in regard to Council reports on this matter.
- The Association's opposition to prohibition in the urban area occurred since September and the hearing process provided them opportunity to voice opposition.
- Would need to confer with the legal team but understood that the Panel decision could include expanding the size of existing parks, however public consultation would be required if new locations were added.

Stu Blair spoke to his written submission and in response to a question advised he did not see reason for proposed changes for the sake of two weeks of the year when the rest of the time there was plenty of room and wondered how RVs were going to turn around if the car park was full.

In response to questions staff advised:

- The area partitioned off under the bylaw allowed parking and turning for day trippers.
- A number of complaints were received about improving egress from the area in case of a tsunami warning.
- The prohibited camping area shown on page 34 was under trees near the toilet area.

Rex Stuart spoke to the local caravan club's written submission.

In response to questions staff advised:

- The main driver of the bylaw was to enable enforcement which was not possible under summer camping.
- Council had offered to help the Association find a site for the dump station but financing it lay with the Association as there was no money in the Long Term Plan for a public dump site.

Ieme de wolf presented in regard to his written submission and responded to questions:

- Part of the presentation had been in his written submission.
- Did not have examples of how other Councils managed homelessness.

Response to some comments made in the presentation:

- Bylaws could not and were not intended to manage homelessness.
- Enforcement officers were sensitive to homelessness situations.
- This was a review of an existing bylaw which already included prohibition of freedom camping in the city area.
- The Freedom Camping Bylaw provided for enforcement of environmental protection.

Bruce Jefferd spoke to his tabled submission and in response to a question advised erosion, degradation and cost to ratepayers were his main concerns.

In response to questions staff advised:

- Accurate figures for the last 12 months were not available however in the previous period income received was between \$39-45k and expenditure was between \$200-230k.

Sarah Williams presented in regard to her written submission and agreed to leave a copy of her presentation.

- In the last 5 years we have planted 15,000 trees along the riparian margin of the Turihaua Stream for water quality of the bay. It is enjoyed by day trippers, fishing, family gatherings. It has penguins, seals and a rich marine life that comes from the marine reserve.
- We value freedom camping in Turihaua Bay and recognize the families that have camped in this spot for generations and their right to be there.
- Wish the camping season to remain from Boxing Day to end of January and strongly oppose it being extended from October to April.
- Lack of faith in Council funding, enforcement and monitoring if the season is extended.
- The level of impact of camping on our operations and lives has been due to the 10% of campers that do not respect the freedom to camp and combined with this the monitoring and rubbish pick up has not been regular.
- Semi-permanent structures were present on the majority of the long term camp sites with people camping north of the bridge in tents without toilets and using our land as the toilet.
- The huge piles of rubbish in non-council bags that accumulate at the side of the Turihaua toilets are a disgrace to this beautiful spot.
- The bylaw has overlooked the value of freedom camping to local Gisborne people that love the bay.
- Would like to see a more structured permit system be used.
- There is a road safety issue with the logging trucks and our numerous driveways along Turihaua south because of the camping margin.
- Support Turihaua south being a restricted seasonal camping area with the status quo time of January and do not believe that the shorter period would create any inconvenience to Council streamlining having to monitor longer term campers for a lesser time.
- Believe the entire Turihaua north area be closed to restricted summer camping and become a prohibited area. This entire length of dune is experiencing severe erosion which is being exacerbated by the rock wall to the north and further worsened by campers traversing the area. Support being restored as a coastal reserve area.

Dan Cornfel spoke to his written submission.

In response to questions staff advised:

- The major drive of the bylaw was to enable enforcement.
- Council's enforcement officer was funded in part by Council and by the Ministry of Business and Employment (MBE).

Secretarial Note: The Hearing adjourned at 11.35am and reconvened at 11.50am to allow staff to formally respond to matters raised by the Panel.

Staff responses:

- Paragraph 45 on page 20 of the report stated that the draft bylaw was consistent with the Bill of Rights and did not give rise to any implications.
- The draft bylaw was compliant with the Freedom Camping Act.
- The wide variety of semi-permanent structures on the beach made definition impossible therefore the approach taken was to provide enforcement officers with latitude as per the Freedom Camping Act 2011 definition as reported in 5. 2 on page 27.
- At the height of the Loisel Beach camping season it was identified there was no turning space for vehicles or for day trippers. The small area marked out had been easy to delineate for this purpose.
- Freedom Camping and homelessness was outlined on page 8 of the report.
- MBE were considering changes to the Freedom Camping Act regarding homelessness but it was unknown how this would manifest.
- The Freedom Camping Bylaw was not the means to address homelessness.
- It was possible to amend the size of parks in freedom camping areas and enquiries of other Councils and NZTA would be made to confirm the correct size. Should it be decided to have six parks at Midway taking up nine existing car parks there would be less car parks for other activities.
- Would recommend one approach to all parking areas ie. delineating appropriate parking size rather than stipulating a number of freedom camping vehicles.
- Significant resources would be required to enforce designated timeframes during the day, therefore the three-day maximum would continue.
- Council had made no commitment to financially assist the NZ Motor Caravan Association with \$75k for a new public dump station. Commitment as given to assist identify a site.
- As dump sites cost approximately \$200k there were no free dump stations in the urban area.

Response to further questions from the Panel:

- Erection of a solid fixed non tent structure for a chemical toilet would be prohibited.
- A portaloos was not a tent.
- The semi-permanent structure definition (page 27) could be amended to include portaloos but there would be reluctance to include shed structures because of the damage to dunes.
- A decision to allow portaloos would have to be specifically stated in the definition.
- Windbreak structures were prohibited because they significantly damaged the dunes.
- Moving homeless on after three days was a separate issue and needed to remain a vague enforcement issue.

- Going from summer camping to freedom camping meant Council lost the ability to charge but gained the ability to enforce.
- Enforcement under the Freedom Camping Act could not occur if charges were applied to freedom camping areas.
- Expansion of sites in the urban area to provide more carparks could occur without further consultation, whereas adding new areas would require further public consultation.

5. Close of Meeting

There being no further business, the meeting adjourned at 12.14pm.

Secretarial Note: The Panel reconvened on Wednesday 23 June at 3.00pm and resolved to recommend to Council the decision.

MOVED by Cr Wharehinga, seconded by Cr Foster

That the Hearings Committee:

1. Recommends that Council:
 - a. Approves the revised Freedom Camping Bylaw 2021 noting the following changes to the draft (Attachment 1):
 - i. Council creates a seasonal freedom camping area in Waipiro Bay and by subsequent resolution closes that area pending further consultation with Iritekura Marae and other affected parties.
 - ii. Clause 9(1)(e) is amended to clarify enforcement officers do not have authority to enter private vehicles.
 - iii. Council deletes the Pines carpark, Okitu from Schedule 2.
 - iv. Council increases the number and size of carparks available for freedom camping as follows:
 - Midway from 6 carparks to 8.
 - Kaiti Beach from 8 carparks to 12.
 - Makorori south from 9 carparks to 14.
 - v. The panel recommend that the definition of semi-permanent structure is amended to allow for porta-loos.
 - vi. Council deletes clause 7(1)(b) restricting the hours of camping.

CARRIED

Reasons for the Decision

The Panel considered all material presented by submitters both verbally at the Hearing and in written form attached to the agenda. The Panel noted the responses of Council officers to the matters raised and seeks to highlight some points arising during the Hearing:

1. Prohibiting camping at Turihaua Point North; 60% of all consultation responses were in favour of prohibiting camping at Turihaua Point north due to safety concerns and the rapid erosion of the north point and the closeness of the State Highway to the actual camping sites. Degradation of the dunes has occurred where human activity and long term camp sites are in place. Four submitters spoke in favour of continued use based on historical long term use. Some submitters supported extending the area currently proposed to be prohibited. It is the view of the Panel that the proposed prohibition area should be applied with the recognition that the area may need to be extended in the future.
2. The bylaw is not inconsistent with the NZ Bill of Rights Act 1990 (The Bill of Rights). The proposed changes are considered to be reasonable and not overly restrictive.
3. A charging regime even if only for the collection of rubbish was supported by 21 written submitters and one oral submitter who did not wish to see the full cost of camping fall on the ratepayers. The Panel are advised that the Freedom Camping Act 2011 prohibits Councils charging a fee but does enable a monitoring regime to be put in place.
4. The Panel agreed with those submitters who expressed concerns at the structures that appear on beachfronts during the camping season and sought to make clearer the definition of semi-permanent structure.
5. A small number of submitters raised the issue of possible punitive action against homeless people sleeping in cars. The Freedom Camping Bylaw is not a suitable mechanism for managing the issue of homelessness, or of people temporarily camping in cars while seasonally working in the region. Note officers advise the staff will continue to be sensitive and will use discretion when engaging with homelessness.
6. **Minor Change:** Delete 9.f. from the draft bylaw as it is repetitive and is a drafting error.

7. Close of Meeting

There being no further business the meeting concluded at 3.15pm

Pat Seymour

CHAIR