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TO	Mayor and Councillors
AUTHOR	Charan Mischewski & Michelle Clive Strategic Planners
FILE REFERENCE	Document: 2781819 Appendix A: Draft Responsible Freedom Camping Bylaw Statement of Proposal - 2780942 Appendix B: Draft Responsible Freedom Camping Bylaw 2020- 2783478
PORTFOLIO HOLDER/S	Mayor Toby Adams Policy portfolio
MEETING DATE	15 July 2020
SUBJECT	<b>Draft Responsible Freedom Camping Bylaw and Statement of Proposal</b>

## SUMMARY | TE WHAKARĀPOPOTANGA

The Freedom Camping Act 2011 (the Act) enables council's to create bylaws for managing freedom camping within their district on council owned or controlled land. The Council's Freedom Camping Bylaw 2013 (the bylaw) is due for review.

Any restrictions or prohibitions on freedom camping must be considered against the criteria in the Act; to protect an area, to protect the health and safety of people who might visit the area, and to protect access to an area. After considering these matters, the Councillor working party recommends the following changes to the bylaw:

- The freedom camping sites in Paeroa and Ngatea are included in the bylaw so the Council has the ability to enforce breaches of the bylaw at these locations.
- Freedom camping is prohibited on the Wharekawa Coast, with the exception of Rays Rest and the Hauraki Rail Trail terminus.
- Two new locations for freedom camping are proposed in Waihi; the Council carpark off Mueller Street and Haszard Street, and the carpark at Morgan Park, Kenny Street.
- The inclusion of a restriction limiting freedom camping to one night stay per calendar month in the 50km/hr and 70km/hr zones in the district towns and townships – unless people are camping in a designated freedom camping location, then they can stay for two nights.

Staff believe the draft bylaw made under the Freedom Camping Act 2011 is the most appropriate way of managing the issues that can arise from freedom camping. The proposed bylaw does not have any implications under the Bill of Rights Act 1990.

There is a requirement to undertake the special consultative procedure when reviewing a freedom camping bylaw and this is recommended to run from 17 July to 17 August 2020, with a hearing and deliberations meeting on 9 September 2020.

Staff recommend consulting on the proposed statement of proposal and proposed bylaw as attached.

## RECOMMENDATION | TE WHAIKUPU

THAT the report be received, and

THAT in accordance with section 155(1) of the Local Government Act 2002 and section 11(2) of the Freedom Camping Act 2011 the proposed Responsible Freedom Camping Bylaw is the most appropriate way of addressing the perceived problems, and

THAT in accordance with section 155(2) of the Local Government Act 2002 the proposed Responsible Freedom Camping Bylaw is the most appropriate form of bylaw and does not have any implications under the New Zealand Bill of Rights Act 1990, and

THAT in accordance with section 145 and section 159 of the Local Government Act 2002 the Council approves the proposed Responsible Freedom Camping Bylaw [as attached/as amended] for public consultation, and

THAT the special consultative procedure is used for community engagement on the draft Responsible Freedom Camping Bylaw, and

THAT in accordance with sections 156(1)(a) and 86 of the Local Government Act 2002 the Council adopt the attached Statement of Proposal for the proposed Responsible Freedom Camping Bylaw.

### 1 PURPOSE | TE ARONGA

To present the statement of proposal and draft Responsible Freedom Camping Bylaw to the Council for approval and adoption prior to consultation with the community.

### 2 BACKGROUND | TE KŌRERO Ā MUA

The Council's current Freedom Camping Bylaw is due for review by 30 June 2021.<sup>1</sup> At its meeting on 12 February 2020 the Council resolved to review the bylaw and formed a Councillor working party to work on the review. The working party have met several times and considered the various issues that must be taken into account during the review.

#### 2.1 The Freedom Camping Act 2011

The Council may adopt a bylaw to manage freedom camping within the district on Council owned or controlled land. Freedom camping is defined in the Act, and includes tenting or sleeping in a vehicle.

A council cannot ban freedom camping across a district/city. When placing a prohibition or restriction on freedom camping the Council must be satisfied that the bylaw is necessary for one or more of the following reasons as outlined in the Act:

- To protect the area, e.g. the amenity value, indigenous flora or fauna, historic sites, the cultural value.
- To protect the health and safety of people who may visit the area, e.g. public toilet availability, site suitability, crime, littering.
- To protect access to the area e.g. protect public access to the beach, use of a boat ramp, to ensure fair use of the site if it is busy.

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<sup>1</sup> The bylaw was due for review by 1 October 2020, however following the Covid-19 pandemic's impacts on public consultation there was a temporary amendment made to the Local Government Act 2002. The result is all bylaws due for review during this time will not lapse until 30 June 2021.

A bylaw made under section 11 of the Freedom Camping Act allows a council to issue infringements for freedom camping in prohibited areas or restricted areas where the rules are not followed.

Other means of regulating freedom camping in local authority areas, apart from a bylaw made under section 11 of the Freedom Camping Act, include section 44 of the Reserves Act 1977 (where freedom camping is prohibited on reserves unless allowed for in the reserve management plan),<sup>2</sup> and rules in a district or regional plan made under the Resource Management Act 1991. The recent proposed District Plan Change will ensure the Hauraki District Plan is consistent with the Council’s draft bylaw.

## 2.2 The draft bylaw

During the review of the bylaw the Councillor working party considered service request data, community feedback received through engagement on the Hauraki Rail Trail terminus and Wharekawa Coast 2120 process, and survey data of freedom campers collated by the Council. Initial discussions have also taken place with some key stakeholders including the New Zealand Motor Caravan Association.

A total of 50 complaints were received by the Council about freedom camping from 2013-2019. When compared to other districts this is not a large number. However, there were some reoccurring issues such as campers staying more than the permitted number of nights, littering, and people camping on land they should not be on e.g. reserve land. The areas with the most reported issues were Kaiaua and Paeroa. The issues in Paeroa were predominantly about freedom campers staying longer than the two nights allowed. The issues in Kaiaua were mainly about people freedom camping in prohibited areas or not camping in approved sites.

### 2.2.1 Existing freedom camping sites in the 2013 bylaw

Currently the bylaw includes the following prohibitions and restrictions on freedom camping:

Area	Status	Reason for status
<b>South end of Rays Rest, Kaiaua</b>	Prohibited	Protection of wildlife in the area. The land sits between a DOC reserve and the Firth of Thames and is located in a RAMSAR site, which is a wetland of international importance. The area is particularly important for seabirds. The Council also wanted to maintain access to the narrow beach area.
<b>Rays Rest Reserve, Kaiaua</b>	Approved site with restrictions in place - limited to self-contained vehicles only, maximum of two night stay in any one calendar month.	This is a suitable location for freedom camping so the wider coastline can be preserved. There are no facilities on the site so self-containment is essential. The reserve is very popular with freedom campers and NZ Motor Caravan Association members and the Council wanted to maintain public access to the area, therefore the campers may stay for two nights.

The working party are not recommending any changes to the existing prohibited and restricted areas in the bylaw as the reasons for putting these in place are still valid.

<sup>2</sup> Changes made to the Reserves Act 1977 by the Conservation (Infringement System) Act 2018 mean infringements can be issued for occupying or using any land in a reserve for cultivation or any other purpose. The Council can also issue infringements if people camp on reserve land without permission, without having to list every single Council reserve in the Freedom Camping Bylaw.

## 2.2.2 Proposed sites for inclusion-Approved freedom camping areas with restrictions

The Council provides a freedom camping site in Ngatea and two in Paeroa. The working party is proposing these sites be included in the draft bylaw. This will give the Council the ability to infringe people if they choose, if the rules in the bylaw are broken. The Council does not currently provide a designated site for freedom camping in Waihi. The working party are proposing two sites in Waihi for consultation with the community. The table below outlines the proposed freedom camping sites for inclusion in the draft bylaw and the restrictions for each site.

Area	Restrictions	Reason for status
<b>Hauraki Rail Trail Terminus, Wharekawa Coast</b>	Open to all vehicles. Maximum of two-night stay in a calendar month. Must use designated parking areas.	Plans for the Terminus include day and overnight parking areas with natural landscaping, picnic areas and safety bollards. This project is aimed to be complete by October 2020. There will be a public toilet available so non self-contained vehicles and some tenting is permitted. The Coast is very popular with freedom campers and to maintain fair access to the area, the working party recommends a maximum two-night stay in a calendar month.
<b>Railway Reserve, Marshall Street, Paeroa</b>	Open to all vehicles. Must use designated parking area. Maximum of two-night stay in a calendar month.	There is a public toilet available so non self-contained vehicles and some tenting is permitted. The reserve is very popular with freedom campers and the Council wants to maintain public access to the area, therefore campers may stay for two nights.
<b>Hauraki District Council Office carpark, Marshall Street Paeroa</b>	Available for two-night stay, only between the hours of 6pm Friday evening and 7pm Sunday evening of the same week.	This is used as a staff carpark during Monday-Friday office hours. It provides overflow parking from Railway Reserve during peak periods and is still within a short distance of same facilities. Therefore, non self-contained vehicles are permitted.
<b>Hugh Hayward Domain, off Orchard West Rd, Ngatea</b>	All vehicles permitted, must use designated carparks. Two-night stay in a calendar month.	There is a public toilet so non self-contained vehicles are permitted. It is proposed freedom camping be permitted for a two-night stay in a calendar month to preserve access to the area for other campers.
<b>Kenny St carpark, Morgan Park, Waihi</b>	Only self-contained vehicles permitted, must use designated carparks. Two-night stay in a calendar month.	No public toilets are available so vehicles need to be self-contained. The site is walking distance to the town centre, with minimal impact of residential and commercial communities. It is a highly visible area so there will be passive surveillance increasing the safety of those staying there. Due to the carpark being in high demand there will only be a small number of carparks designated for freedom camping. Sport 'N' Action believe a small number of sites could be accommodated at the location.
<b>Council carpark off Mueller &amp; Hazard Streets, Waihi</b>	Two-night stay in a calendar month.	There are public toilets near the site so self-containment is not essential. The site is within the town centre, and will likely have minimal impact on residential or commercial communities as the designated area will be backing on to the fire station premises. The area is somewhat visible from the street.

Alternative sites were considered for freedom camping in Waihi at Rocket Park and the southern end of Victoria Street, by the dump station. However, these sites were not considered as appropriate as the two listed in the table above. The site at the southern end of Victoria Street is not flat and does not have good passive surveillance, making it not as safe as the other sites. The site at Victoria Park is further from the town centre than the other locations and freedom camping could have a bigger impact on the amenity value of the area as it is in the residential zone.

### 2.2.3 Proposed sites - Prohibited areas for freedom camping

The working party are proposing to prohibit freedom camping on the Wharekawa Coast, with the exception of Rays Rest and the Hauraki Rail Trail terminus. The Working Party are recommending the following amendments to the current bylaw:

Area	Reason for status
<p><b>Council land on and adjacent to East Coast Road, including the beach, from the northern part of Rays Rest Reserve to the Hauraki Rail Trail Terminus.</b></p>	<p>The land next to the Firth of Thames south of Kaiaua is located in a RAMSAR site, which is a wetland of international importance. The area is particularly important for seabirds. It is important we protect the wildlife in the area and their habitat.</p> <p>This prohibition means people will no longer be permitted to freedom camp at Tauwhare Koiora, Kaiaua (sometimes referred to as Swing Bridge reserve). This site is on the coast within the township of Kaiaua. It is not suitable for freedom camping because of the cultural value of the site for local iwi – it is wahi tapu or sacred. It is important to preserve access to the site for people wanting to visit for cultural reasons.</p> <p>The coastal area is very popular for freedom camping and the community have told us they want to preserve the amenity value of the area and access to the beach for residents and visitors alike. Community feedback included some concerns with the number of freedom campers on the Wharekawa Coast, and a desire to protect the natural environment.</p>
<p><b>Council land within the 50 km/hr speed limit area the Kaiaua township.</b></p>	<p>Due to the popularity of freedom camping on the Wharekawa Coast there is some concern freedom camping may spread past the designated sites onto road reserve and allow for a greater area of impact than anticipated. The streets in Kaiaua are narrow and not well placed to accommodate freedom camping. There is also the matter of allowing people to enjoy their views and use of their property without the impact of a lot of people freedom camping in the town. There is also wider risk to freedom campers if they are located around Kaiaua town and not in a designated area, as the area has experienced some flooding in the past from both the Huarahi Stream and also coastal inundation. If freedom campers are in one location it is easier to notify them if there is an incident.</p>
<p><b>Council land on and adjacent to East Coast Road, including the beach, from the Hauraki Rail Trail Terminus to the District boundary north of Waharau. Including Whakatiwai and Waharau.</b></p>	<p>This area is included as a prohibited area for the same rational noted above. The coastal area is very popular for freedom camping and the community have told us they want to preserve the amenity value of the area and access to the beach for residents and visitors alike. Community feedback included some concerns with the number of freedom campers on the Wharekawa Coast, and a desire to protect the natural environment and neighbourhood amenity.</p> <p>In addition the road reserve on this stretch of Coast is not suited to freedom camping with narrow shoulders and sharp turns.</p>

The working party also considered prohibiting freedom camping only on council land adjacent to East Coast Road and not include the townships of Kaiaua, Whakatiwai and Waharau.

However, this was not seen as a practical approach to managing freedom camping in the area. There are a lot of people that freedom camp on the Wharekawa Coast and if a designated area is at capacity this option means people could park on road reserve anywhere in those townships for an unlimited number of nights.

At past meetings of the Tauwhare Koiora Co-governance Committee it was noted that freedom camping should be prohibited at Tauwhare Koiora. At the time of writing this report a meeting will be held with the Tauwhare Koiora Co-governance Committee on Friday 10 July 2020. Any additional feedback will be reported back to the Council.

#### *2.2.4 Proposed Areas in the draft Bylaw – Restricted areas for freedom camping*

Previously the Council had a camping bylaw made under the Local Government Act 2002 that limited camping in the district to a one-night stay per calendar month in any town/area. Unless you were in an approved area where you were allowed to stay for two nights. With that bylaw now revoked the district wide restriction on camping is no longer in place.

Instead of a district wide restriction the working party is proposing to restrict freedom camping to a one overnight stay in a calendar month on Council land open to the public in several 50km/hr and 70 km/hr speed limit areas in the district – unless you are in an approved area. Please see the maps in the draft bylaw attached. This is to ensure freedom camping does not take place on road reserve adjacent to residential homes for extended periods of time. People deserve to enjoy the unimpeded view from their homes and a certain level of privacy. In Whiritoa there is also the matter of preserving access to the beach. This approach also encourages freedom campers to camp in approved sites, identified in conjunction with the community as being appropriate sites for this activity.

Other options considered by the working party included; having no restriction in place or limiting the one night stay restriction to Paeroa, Waihi and Ngatea. These approaches do not fit with the intention to proactively guide freedom campers into the approved areas within the community. It also leaves the Council with no tools to move on people if there is an issue with freedom camping in these areas. The Council has received complaints in the past about people freedom camping in front of residential properties for extended periods of time and we need the ability to move these people on to more appropriate locations. The working party wants to enable people to enjoy their property.

## 3 THE ISSUES | NGĀ TAKE

### 3.1 Is the bylaw appropriate and proportionate

A council can only make a bylaw under the Act if it is satisfied it is the most appropriate and proportionate way of addressing the perceived problem in relation to that area. The working party has considered the issues associated with freedom camping in various areas of the district and believes the draft bylaw is proportionate to those issues and community expectations. Where the working party is proposing to prohibit freedom camping there is clear rationale for this.

### 3.2 Implications under the New Zealand Bill of Rights

A bylaw that unreasonably interferes with the rights and freedoms in the New Zealand Bill of Rights Act 1990 will be held to be unreasonable and invalid by the Courts. However, a human right can be interfered with if the issue is critical and the bylaw to address the issue is proportionate and therefore reasonable. Rights likely affected by bylaws include freedom of expression, freedom of peaceful assembly, freedom of association and freedom of movement, and freedom from discrimination.

On review, staff believe the draft bylaw does not have any implications on the rights and freedoms contained in the Bill of Rights Act 1990. The draft bylaw does not restrict people’s movement, only where they can stay overnight. There are no bans or unjustified limitations on any of the rights and freedoms contained in the Act.

## 4 ENGAGING WITH OUR COMMUNITIES | KIA UIA TE HAPORI WHĀNUI

When reviewing a bylaw made under the Freedom Camping Act 2011 the special consultative procedure must be undertaken (i.e. two-way communication to obtain public feedback). The Council must:

- Prepare and adopt a statement of proposal,
- Provide at least 1 month for interested persons to provide their views to the Council,
- Provide persons interested in the proposal with an opportunity to present their views to the Council in a manner and format that is appropriate to the preferences and needs of those persons.

Suggested forms of engagement include:

- Information available on our website (including the option to submit online),
- Media releases, articles in print (Waihi Ward Reflections, Hauraki Herald, Whiritoa Tidings, Kaiaua Compass and the Valley Profile),
- Facebook, e-newsletter, mentioned in the Mayor’s radio spots,
- Hardcopy feedback forms.

## 5 OUR OPTIONS | NGĀ KŌWHIRINGA A MĀTOU

Staff have identified the following options for the Council to consider:

- Retaining the status quo, make no changes to the current bylaw.
- Approve the draft bylaw as attached and adopt the statement of proposal.
- Make further changes to the draft bylaw and amend and adopt the statement of proposal prior to consultation.

These options and their advantages and disadvantages are outlined below.

### 5.1 OPTION 1: Retain Status quo – Consult on the 2013 bylaw with no changes

<p><b>ABOUT THIS OPTION</b> The Council can choose to make no changes to the existing bylaw, however as part of the legislatively required review a special consultative procedure would still need to be undertaken.</p>	
<p><b>ADVANTAGES</b> The community is still provided with the opportunity to provide feedback.</p>	<p><b>DISADVANTAGES</b> This option does not incorporate feedback received from the community via other Council processes. This option does not reflect an analysis of the current environment and the issues reported to date with freedom camping. This option limits the Councils use of enforcement tools – it only allows the Council to infringe people for not following the rules for freedom camping areas on the Wharekawa Coast.</p>

<b>FINANCIAL COSTS</b>	
Whole of life costs	One off operating cost for consultation is approximately \$300-\$500.
Budget source	Policy Development
Changes to budgets	In order to accommodate these costs there will not be changes to budgets as will be funded through the Strategic Planning budget.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this is budgeted expenditure.

## 5.2 OPTION 2: Approve the bylaw and adopt the Statement of Proposal as attached

<b>ABOUT THIS OPTION</b> The Council can approve the attached bylaw for community consultation and adopt the Statement of Proposal.	
<b>ADVANTAGES</b> The draft bylaw encourages responsible camping within the district by providing suitable locations for freedom camping across the district. It provides the Council with the power to issue infringements when people do not adhere to the rules about where they can freedom camp and any rules for the site. Community feedback can be considered and reflected in the bylaw amendment where appropriate.	<b>DISADVANTAGES</b> There are no disadvantages identified.
<b>FINANCIAL COSTS ARE THE SAME AS OPTION ONE.</b>	

## 5.3 Option 3 - Make changes to the proposed bylaw and Statement of Proposal before consultation

<b>ABOUT THIS OPTION</b> The Council may make amendments to the proposed bylaw and statement of proposal before it is consulted on. The Council may wish to include some of the alternative approaches considered by the working party in the draft bylaw.	
<b>ADVANTAGES</b> This is to be determined in the Council meeting.	<b>DISADVANTAGES</b> May add a small delay in consultation to allow staff time to make changes to proposed bylaw amendment and statement of proposal for consultation.
<b>FINANCIAL COSTS ARE THE SAME AS OPTION ONE.</b>	

# 6 PREFERRED OPTION| TE KŌWHIRINGA MATUA

Staff recommend proceeding with option 2 – Approve the draft bylaw for community consultation and adopt the proposed Statement of Proposal as attached.



## 6.1 LINKAGES

STRATEGIC DIRECTION	The preferred option IS consistent with the <b>Council's strategic direction</b> , including community outcomes.	In particular this bylaw reflects <b>Lifestyle Hauraki</b> where we provide an environment that encourages vibrant communities and an enhanced quality of life.
LONG TERM PLAN / ANNUAL PLAN ALIGNMENT	The preferred option IS consistent with the <b>long term plan and/or annual plan programmes and budgets</b> .	This options meets our legal obligations and fits within existing programmes and budgets.
POLICIES, BYLAWS AND PLANS ALIGNMENT	The preferred option IS consistent with the Council's <b>other strategies, policies, bylaws and plans</b> .	This option does not contradict any other strategies, policies, bylaws or plans.
SIGNIFICANCE ASSESSMENT	The decision IS <b>considered significant</b> under the Council's Significance and Engagement Policy 2017.	This decision is significant as a review of a bylaw triggers the requirement for a special consultative procedure under the Local Government Act 2002.
IMPLICATIONS FOR MĀORI	The decision DOES involve a significant decision in relation to land or a body of water.	The Tauwhare Koiora Co-Governance Committee's position has been taken into account with the prohibition of freedom camping at Tauwhare Koiora.

## 6.2 ASSESSING THE RISKS

Staff have not identified any risks associated with the preferred option.

## 7 NEXT STEPS | TE ARA KI MUA

Timeframe	Action	Comments
<b>17 July – 17 August</b>	Written feedback period	
<b>9 September 2020</b>	Council hearing of written and verbal feedback and deliberations	
<b>1 November 2020</b>	Bylaw becomes effective	This provides time to put signs up and designate parking areas.

## 8 Approval

<b>Prepared by</b>	Charan Mischewski & Michelle Clive <b>Strategic Planners</b>
<b>Approved by</b>	Jolene Nelson <b>Strategic Planning Manager</b>