

13. FREEDOM CAMPING IN HAGLEY/FERRYMEAD WARD

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PURPOSE OF REPORT

1. To provide the Hagley/Ferrymead Community Board with options to address any freedom camping occurring in Cranmer Square, Sumner, Redcliffs and Taylors Mistake in response to the Hagley/Ferrymead Community Board's 6 December 2009 request to investigate making these Special Use Areas under the Public Places Bylaw 2008.

EXECUTIVE SUMMARY

2. At the Hagley/Ferrymead Community Board 6 December 2009 meeting, staff were requested to report on the issues of freedom camping in Cranmer Square, Sumner, Redcliffs and Taylors Mistake and consider if declaring these areas as Special Use Areas prohibiting freedom camping under the Public Places Bylaw 2008 was a viable option to address said issues.
3. There have been some complaints made about freedom camping at Sumner and Redcliffs, but none at Taylors Mistake.
4. The areas concerned are covered by the Parks and Reserves Bylaw 2008 that prohibits camping including residing in a caravan or campervan (but not other types of vehicles). However, currently there are no signs to indicate such an activity is prohibited.
5. To date enforcement activity has largely been one of educating those camping due to concerns that other enforcement, for instance injunctions or prosecutions, would likely move the activity to more problematic areas where public facilities are not adjacent.
6. The immediate options available include installing signage in the problematic areas advising the public of the prohibition of camping in reserve areas, and/or greater enforcement.
7. Currently, the long-term management plan for freedom camping is being developed. The initial research into the issues of nuisance and surveying of campers has been conducted, with a final research report due in mid-May. Staff attended the Freedom Camping Forum on 21 April 2010 and there are specific outcomes for Christchurch City Council to address. Key staff within various units have initiated discussions to identify options to consider as part of the long-term plan.

Current Bylaw Enforcement Options

8. To determine which enforcement option could be used regarding any specific area, it must be established if the area is a public place, a park or reserve, or a legal road as different bylaw regulations come into force for each. This requires careful investigation; for instance, areas that are tar-sealed for parking near a reserve may or may not be road reserve.

Public Places Bylaw 2008

9. There is no blanket regulation around freedom camping in public places within the Public Places Bylaw 2008. However, one option available to deal with freedom camping in specific areas is to declare them individually as Special Use Areas prohibiting a certain type of vehicle or activity. This bylaw is made under s145 of the Local Government Act 2002, which provides the Council with a limited range of enforcement options. It is important to note that these options are resource intensive for staffing, time and costs for the Council, and in the case of freedom campers who often are not in the area for extended lengths of time the enforcement options may be difficult to apply.

10. There is no power to issue infringement notices for breach of a s145 LGA02 Bylaw. Enforcement options are to **prosecute** under s239 or to **issue injunctions**¹ under s162. In both cases significant staff and other resources are required to collect the necessary evidence, there are considerations around whether the enforcement action is in the public good, is proportional to the offence being committed and a good use of court time. At a practical level, as those involved in freedom camping are often overseas visitors in the country for a relatively short period of time and there are difficulties being able to apply these enforcement tools rapidly enough.
11. Additionally, there is also s164 which provides the Council the authority for **seizure of property not on private land**. To exercise this power, the Council would always request Police involvement to actually seize the vehicle in question. In order to exercise the power to seize and impound property that is not on private land, the property must be materially involved in the commission of an offence - this can include an offence against the Act or a breach of a bylaw. It must also be reasonable in the circumstances to seize and impound the property. Before seizing and impounding the property, the enforcement officer must have;
 - (a) directed (orally or in writing) the person committing the offence to stop committing the offence; and
 - (b) advised (orally or in writing) the person committing the offence that, if he or she does not stop committing the offence, the enforcement officer has power to seize and impound the property; and
 - (c) provided the person with a reasonable opportunity to stop committing the offence.

Parks and Reserves Bylaw 2008

12. Any camping on parks or reserves is prohibited as the Parks and Reserves Bylaw 2008 states that "no person shall camp in any reserve except with the prior permission in writing from a Council-authorized officer, or in areas set aside specifically for the purpose of camping". "Camp" in the bylaw "means to reside in or sleep in a structure, tent, caravan, or campervan" and therefore applies to campervans, but not sleeping or residing in other types of vehicles.
13. If permission has been granted for people to camp on reserves, the person concerned must be able to produce on demand a letter signed by a Council-authorized officer granting permission to camp on the area they are found on.
14. Any person who uses that area in a way other than is prescribed has breached the bylaw. Like the Public Places Bylaw 2008, there is no power to issue infringement notices for breach of a s145 LGA02 Bylaw. Enforcement options again are to **prosecute** under s239, **issue injunctions** under s162 or to **seize property not on private land** under s164.

Traffic and Parking Bylaw 2008

15. The Council may impose parking restrictions to any Council-controlled legal roads. This could be used where freedom camping occurs, thereby allowing parking enforcement options to be utilised.
16. Enforcement is carried out by the Parking Enforcement team and consists of **issuing infringement notices** for any breach and orders the person to pay the fees as set out in Schedule 2 of the Transport Act 1962, or on summary conviction to a fine not exceeding \$500.

¹ Issuing an injunction means having a court order to legally require someone to refrain from doing a certain act.

Sumner

17. Since 1 July 2008, eight complaints have been received from Sumner residents of the number of vans parked in the car park across from Clifton Terrace. These can vary from eight to over twenty recorded daily over the past six weeks. The issues that residents have raised involve the visual amenity of seeing the number of vans in one location, using multiple car parks (ie parking the vehicle in one and picnicking in the one adjacent) and the use of public toilets by the campers to do things such as wash dishes or clothing. However, the Surf Lifesaving Club itself does not see the freedom campers as a problem and feel it enhances the safety aspect of having “eyes on the street” to prevent issues such as vandalism at the clubhouse.
18. The car park itself is classified as reserve area, and is covered by the Parks and Reserves Bylaw 2008 which prohibits camping (but not sleeping in a vehicle other than a caravan or campervan). The Coastal Care Ranger team prefers not to enforce this because doing so will relocate the freedom campers to other more problematic areas where there are no public toilet facilities, or where safety issues may be of concern.
19. Additionally, the Coastal Care Ranger has reported incidences of campers using soap and shampoo in the outside showers which have been provided to enable surfers or swimmers to rinse off sand. This creates issues for the storm water drainage system as these showers are not connected to the reticulated sewage drains and hence any runoff will go direct into rivers and the sea. This could be addressed through appropriate signage informing the public that no soaps are to be used in those showers.

Redcliffs

20. The number of complaints received in Redcliffs since the inception of the Public Places Bylaw 2008 is four, with these mainly pertaining to people sleeping in vehicles by Redcliffs Park. The road alongside the park is not reserve but is legal road, but the parking bay across from the park by the shoreline is reserve, where some of these complaints have pertained to.
21. No enforcement activity is currently operating and there is no signage indicating this prohibition at the parking bay.

Taylor's Mistake

22. No complaints have been received about any freedom camping in Taylor's Mistake, which is all reserve area and is therefore covered by the Parks and Reserves Bylaw 2008.
23. To date there is no evidence of nuisance at Taylor's Mistake. Surfers are known to freedom camp at Taylor's Mistake, but the Coastal Care Ranger reports this has been occurring for years and is not an issue due to the provision of toilets and the Surf Lifesaving Club being made available for the surfers to use.

Freedom Camping Management Plan

24. At the 11 February 2010 meeting, the Council agreed to the Hagley/Ferrymead Community Board's recommendation to commence the development of a long-term management plan to address freedom camping throughout Christchurch City and Banks Peninsula.
25. This is a national issue and a New Zealand Freedom Camping Forum (NZFCF) presentation was given at the 8 May 2008 Zone 5 meeting and a further presentation was delivered at Combined Zones 5 and 6 meeting on 9 May 2009 to address the issue at a national level, which elected members from the Council attended. The motion was passed that all Councils present at the 2009 Zones 5 and 6 meeting agreed to adopt the Freedom Camping General Principles. There are a number of outcomes from the Freedom Camping Forum designed to assist local authorities with communicating their unique regional information with freedom campers and other key stakeholders through the Camping Our Way website (www.camping.org.nz).

26. Other territorial authorities have attempted to address the issue of freedom camping through a variety of regulatory tactics and methods. These vary from regulating freedom camping in certain areas or having bylaws in place and issuing infringement notices (where the prohibitions are in place through traffic bylaws or legislation that can be enforced by using infringement notices) or by impounding vehicles. Other territorial authorities also face similar issues as the Council with limited enforcement options which are difficult to apply in regards to freedom camping. A few Councils have indicated they are starting to look at developing long-term strategies for their region and have expressed an interest in keeping communications open to share ideas and concepts.
27. The underlying principle of developing the long-term management plan for Christchurch and Banks Peninsula is to consider all regulatory and non-regulatory measures to address the various issues associated with freedom camping, as using regulation alone will most likely result in relocating the activity to other areas in the city and exacerbating the problems.
28. It is anticipated the drafting of the management plan will be occurring in May after attendance at the Freedom Camping Forum. A workshop for the Combined Community Boards is tentatively arranged for July, where Councillors and Community Board members will have an opportunity to provide input into the management plan.
29. Currently, data is being gathered via a research survey of freedom campers and an investigation into the associated issues throughout the area. This involves regular monitoring of the frequency and density of campervans at key areas identified throughout the city and Banks Peninsula.

Conclusion

30. As camping is already prohibited in the (mainly reserve) areas in Sumner, Redcliffs and Taylors Mistake where freedom camping is occurring, it is not necessary to impose additional restrictions such as declaring these Special Use Areas under the Public Places Bylaw 2008.
31. The options readily available to address the activity are around improved signage and enforcement activity. To enable enforcement to take place signage is required. In many cases conspicuous signage in its own right can be very effective in preventing freedom camping in the signed areas, however it largely has the effect of relocating the activity. As noted above the enforcement tools are limited and cumbersome. The threat of enforcement can be effective in moving freedom campers but again is likely only to result in its relocation.
32. Should the Council decide to enhance the enforcement under the Parks and Reserves Bylaw 2008 in these areas, it will be necessary to install the necessary signage and commit resources to increased enforcement in these areas.

FINANCIAL IMPLICATIONS

33. Any increased signage or enhanced enforcement will incur costs to the Council.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

34. Whilst parks signage is budgeted in the LTCCP it covers a wide range of different types of signs. Similarly enforcement is one role that Park Rangers play amongst many and more time spent on enforcement issues results in less time being spent on other activities. Budgets for the Freedom Camping Management Plan preparation are included in the City and Community Long-Term Policy and Planning Activity.

LEGAL CONSIDERATIONS

Reserves Act 1977

35. The areas identified at Sumner, Redcliffs and Taylors Mistake are all classified as reserves under the Reserves Act 1977. Freedom camping in these areas is already prohibited under section 44 of the Reserves Act 1977:

“Except with the consent of the Minister, no person shall use a reserve, or any building, vehicle, boat, caravan, tent, or structure situate thereon, for purposes of permanent or temporary personal accommodation.”

36. Furthermore, under the Parks and Reserves Bylaw 2008, freedom camping is prohibited on any reserve unless prior consent has been obtained from the Council; this is granted for special groups such as scouts, school groups etc., to provide a unique camping experience.
37. Breaches to the Parks and Reserves Bylaw 2008 could be enforced the same way as under the Public Places Bylaw 2008, in that either **prosecution, issuing injunctions or impounding vehicles** under the LGA02 are the only legal enforcement options available.

Have you considered the legal implications of the issue under consideration?

38. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

39. Page 126 of the LTCCP, level of service under parks, open spaces and waterways which states the Council will:

“Provide and manage regional parks to protect outstanding natural landscapes, preserve the social and cultural heritage of Christchurch and Banks Peninsula, and contribute to the Garden City image.”

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

39. As above.

ALIGNMENT WITH STRATEGIES

40. Not applicable.

Do the recommendations align with the Council’s strategies?

41. Not applicable.

CONSULTATION FULFILMENT

42. As part of the development of the long term management plan on freedom camping within Christchurch City, a process of consultation will occur in accordance with the decision making requirements of LGA02.

STAFF RECOMMENDATION

It is recommended that the Hagley/Ferrymead Community Board:

- (a) Consider whether it wishes to request the Council erect signage and/or enhance enforcement activity in the reserve areas at Sumner, Redcliffs and Taylors Mistake.
- (b) Contribute to the formation of the freedom camping management plan to be presented to the Council for consideration of options available to deal with freedom camping throughout the city.

CHAIRPERSON'S RECOMMENDATION

For discussion.