

12. FREEDOM CAMPING IN WINDSPORTS PARK

General Manager responsible:	General Manager Strategy and Planning, DDI 941 8281
Officer responsible:	Strong Communities Programme Manager
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PURPOSE OF REPORT

1. To report on the incidences of freedom camping occurring at Windsports Park (referred to as Wind Surf Reserve in the Community Board 19 May 2010 meeting minutes) and other key coastal areas in the Hagley/Ferrymead ward being monitored and to advise the results of any displacement occurring as a result of camping prohibitions in place in the Sumner Reserves car park.

EXECUTIVE SUMMARY

2. At the 19 May 2010 meeting, the Board requested:
 - (a) A report on freedom camping in the Wind Surf Reserve (legally titled as Windsports Park); and that;
 - (b) That staff monitor and advise the Board of any displacement of freedom camping into other areas.

Background Information

3. The Board has previously asked staff to investigate freedom camping issues occurring in places such as Cranmer Square, Sumner, Taylors' Mistake and Redcliffs, with a view of how to prohibit such activity through the Public Places Bylaw 2008.
4. Staff have advised the Board on the different options that could be used to address freedom camping with the various bylaws, depending on where the activity was occurring.
5. In reserves areas all camping is prohibited through the Parks and Reserves Bylaw 2008 unless that area is set aside for that purpose, or written authorisation from a Council officer has been granted. In order to enforce that prohibition, signage needs to be in place and resourcing allocated to night-time enforcement through contracting ADT Security. This has occurred at the Sumner Reserves car park adjacent to the public toilets by the Surf Life Saving Club.
6. In all other public places, this can happen by declaring those areas Special Use Areas prohibiting camping under the Public Places Bylaw 2008. Again, signage and resourcing for night time enforcement is needed to effectively implement this prohibition. This action was taken at Cranmer Square, which proved to be immediately effective at Cranmer Square itself, although the freedom camping activity was displaced to areas such as the Botanic Gardens car park and Gloucester Street.
7. The Council may impose parking restrictions on any Council-controlled legal roads through the Traffic and Parking Bylaw 2008. This potentially could be used where freedom camping occurs, thereby allowing parking enforcement options to be utilised. In addition, there are problems with night time enforcement because parking wardens do not work after hours and ADT Security officers are not warranted to issue infringement notices.

Current Situation

8. Wind Surf Reserve is officially titled as Windsports Park. Despite its name, the areas where anecdotal reports of freedom camping are occurring are titled as road reserve with parking spaces adjacent to a public toilet. This road surrounds a drainage canal and has freehold land titled to the Council immediately adjacent to the north side of the legal road, (**Attachment 1** shows the defined areas).

9. ADT Security has been contracted to monitor the freedom camping occurring along the foreshore areas in Hagley/Ferrymead and Burwood/Pegasus wards from 21 July until 31 August 2010. They also ask people found freedom camping in the prohibited areas (Sumner Reserves) and in locked Council car parks to move along and then monitor any displacement that occurs as a result.
10. From 21 July until 15 August, four different vehicles have been identified at Windsports Park. Two were privately owned and stayed for five nights, one was privately owned and stayed one night and one was a hire vehicle that stayed one night. No environmental damage or evidence of nuisance (litter or toileting waste) was recorded.
11. In the same time period, 63 different vehicles have been recorded in areas along the foreshore. Ten of these vehicles (16 per cent) were recorded as being hire vans from rental companies; all others were privately owned vehicles. A few of the vehicles identified, particularly in the New Brighton Pier car park, are homeless residents as opposed to tourists freedom camping.
12. As of 10 August, No Camping signs officially were in place in the Sumner Reserve car park adjacent to the public toilets and the Surf Life Saving Club. One vehicle was parked there on 11 August but was asked to move and has not been seen in the area since. No displacement has been noted, but due to the very low numbers at this time of year at the Sumner Reserves car park it cannot be determined if the signage has had much effect or if it will lead to displacement elsewhere in Sumner. The warmer summer months will be a better indication when freedom camping numbers are higher overall.
13. The draft Freedom Camping Management Plan is being presented to the Regulatory and Planning Committee workshop on 30 of August and to the meeting on 2 September. It will then be presented to the Council for adoption. As part of the draft plan, a monitoring component is included which will continue to report on the numbers and locations of freedom camping throughout the district. Once the Management Plan is in place and monitoring has commenced, these figures can be reported to the Community Board.
14. Due to the lack of evidence of any nuisance or current issues in either Windsports Park or Sumner, it is recommended that no further action be taken at this time, but to keep abreast of the situation throughout the ward through regular reporting from the monitoring proposed in the draft Freedom Camping Management Plan.

FINANCIAL IMPLICATIONS

15. There are no financial implications for the recommendation of Windsports Park at this stage. Ongoing monitoring costs are covered in the proposed Freedom Camping Management Plan to be presented to the Council meeting on 23 September 2010.

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

16. Not applicable.

LEGAL CONSIDERATIONS

Local Government Act 2002 Bylaws and Enforcement Options

Public Places Bylaw 2008

17. The Public Places Bylaw 2008 is made under section 145 of the Local Government Act 2002. There is no blanket regulation around freedom camping in public places in the bylaw. Council did not enact the provision banning staying overnight in public places that was proposed in the draft bylaw. The Council considered that clause 13 of the bylaw was a mechanism that could be used instead, to address any concerns in specific places if needed. Clause 13 gives Council the power to declare certain public places to be Special Use Areas where certain activities are either prohibited or allowed. This was the option chosen for Cranmer Square in February 2010; camping was prohibited and the appropriate signage and contracted evening enforcement was instituted successfully. However, this action served to move the campers to other areas, including the Botanic Gardens car parks, rather than stopping freedom camping in the area altogether.

Parks and Reserves Bylaw 2008

18. This bylaw is made under section 145 of the Local Government Act 2002 and the Reserves Act 1977. 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-authorised officer, or in areas set aside specifically for the purpose of camping”. If permission has been granted for people to camp on reserves, they will be issued a letter signed by a Council-authorised officer granting permission.

Traffic and Parking Bylaw 2008

19. This bylaw is made under the Local Government Act 2002 and the Transport Act 1962, which states the Council may impose parking restrictions on any Council-controlled legal roads. This potentially could be used where freedom camping occurs, thereby allowing parking enforcement options to be utilised. There are also problems with night time enforcement because parking wardens do not work afterhours and ADT Security officers are not warranted to issue infringement notices.
20. Enforcement 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.
21. Enforcement is an issue for all bylaws. General bylaw enforcement approaches start with people’s attention being drawn to the offence being committed and then being requested (often in writing) to stop committing the offence. Enforcement tools for bylaws made under the Local Government Act 2002 (Public Places, Parks and Reserves) are injunctions, prosecution and/or the seizure of property not on private land. All of these tools are costly, time consuming and may require Police involvement to enforce, which makes the use of them somewhat prohibitive in nature. At a practical level, as those involved in freedom camping are often overseas tourists in the country for a relatively short period of time, there are difficulties in being able to apply these enforcement tools rapidly enough.

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

22. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. Not applicable.

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

24. Not applicable.

ALIGNMENT WITH STRATEGIES

25. Not applicable.

Do the recommendations align with the Council's strategies?

26. Not applicable.

CONSULTATION FULFILMENT

27. Consultation on freedom camping has occurred with key stakeholder groups in the community, including residents' associations and community board members.

STAFF RECOMMENDATION

28. It is recommended that the Hagley/Ferrymead Community Board:

(a) Receive the report.

(b) Note that the draft Freedom Camping Management Plan will be presented to the Regulatory and Planning Committee and the Council in September and that monitoring and reporting will be undertaken as part of that process.