



## STAFF REPORT

**TO:** Environment & Planning Committee

**FROM:** Graham Caradus, Environmental Health Co-ordinator

**REFERENCE:** E402

**SUBJECT:** **SUPPLEMENTARY REPORT: TASMAN DISTRICT COUNCIL CONSOLIDATED BYLAW: CHAPTER 11: FREEDOM CAMPING 2011 - REPORT REP11-04-06A** - Report prepared for meeting of 21 April 2011

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### 1. EXECUTIVE SUMMARY

This report contains the results of the public consultation undertaken between 12 March 2011 and 12 April 2011 relating to the *Draft Tasman District Council Consolidated Bylaw: Chapter 11: Freedom Camping 2011* (the Draft Bylaw). It also contains details of reasoning behind proposed changes made to the Draft Bylaw, and includes an updated version of the Draft Bylaw for consideration of the E&P Committee.

### 2. BACKGROUND AND PROCESS

- 2.1 The E & P Committee adopted the Draft Bylaw for consultation at the meeting of 10 March 2011. The period for public consultation was 12 March 2011 to 12 April 2011. During that period, 122 submissions were received, with 41 generally supporting the Draft Bylaw, 75 generally opposing, and six being neutral.
- 2.2 Remaining steps in the process for the adoption of this Draft Bylaw if the Committee chooses to continue the process are:
- The E&P Committee agreeing to amendments to the Draft Bylaw at the meeting of 21 April 2011.
  - Adoption of the Draft Bylaw by Tasman District Council at the meeting of 19 May 2011.
  - The proposed Bylaw coming into force on 31 May 2011.
  - Advice to Department of Internal Affairs that the Bylaw has been adopted and a request being made for inclusion in infringement regulations.

2.3 In considering this report and submissions made to the draft Bylaw, the Committee is effectively discharging its responsibilities under section 155 of the local Government Act 2002. Given the number of submissions questioning the need for the bylaw, the Committee needs to ensure it is satisfied that the bylaw is an appropriate means of addressing the issues. Staff advice has been prepared in recognition of the obligations to consider the decision-making requirements of the Local Government Act. Proceeding with the bylaw as amended in this report is considered an appropriate response to the issues around freedom camping.

### **3. SUMMARY OF SUBMISSIONS RECEIVED**

3.1 A copy of all submissions has already been provided to Committee members, and for the record, should be considered as Appendix 1 to this report. It is appropriate to note that classification of submissions into the three categories (support, oppose and neutral) was somewhat arbitrary with some submissions supporting some aspects of the Draft Bylaw and opposing others. In such instances, those submissions have been counted in the opposed category. A statistical breakdown of submissions received is as follows.

Submissions supporting the Bylaw: 41 (34%)

Of those, 31 (76%) were from persons in Tasman District, and of those 20 (49%) from Golden Bay.

Submissions opposing the Bylaw: 75 (61%)

Of those, 42 (56%) were from persons in Tasman District and of those 39 (52%) from Golden Bay.

Neutral submissions: 6 (5%)

Of those 3 (50%) were from persons in Tasman District

3.2 There are recurring themes in submissions both supporting and opposing the Draft Bylaw. These can be summarised as follows:

#### **3.3 Submissions in Opposition**

- A number of submitters state they are opposed to the Bylaw without further comment.
- The Bylaw will discriminate against people that do not own expensive self contained campers.
- It challenges freedom, civil liberties, and human rights, and will cause prejudice and discrimination.
- It represents authoritarian society and government obsessed with control.
- Provide more facilities for travellers; get more toilets.
- Install composting/long drop toilets.

- Provide basic level campsites at minimal fee.
- More designated camping areas for free.
- Levy camper van hire companies.
- Fines are the wrong way to solve the problem.
- Campers/tourists should be welcomed as they provide revenue to local businesses.
- There should be a national solution.
- The fines are too high
- Self contained vehicles would not reduce pollution.
- There's no evidence of a problem that needs fixing.
- Allow New Zealanders to freedom camp, but make overseas tourists stay in camping grounds.
- Continue current policy moving people on.
- The cost of enforcement will be excessive.
- It will cost as much to patrol and enforce as putting in toilets and rubbish collection.

### **3.4 Submissions in support:**

- The fines are too low.
- Concern about how the bylaw can be effectively enforced.
- A number of submissions express concerns about specific locations or request that they be included as prohibited areas.
- Set fees for freedom campers.
- Concern with lack of enforcement of current policy.
- Offer more facilities.
- Provide better education for freedom campers; brochures; advice at entry borders for tourists.
- Need to send the message about zero tolerance to polluting our countryside.
- More/improved signage needed; nationally used symbol needed (banning freedom camping).

- Self contained campers do not contribute significantly to waste disposal problems.
- Get locals to help with enforcement.
- Higher fines for camper/sleeper van hire companies.
- Providers of camping grounds suffer a loss due to freeloaders.
- Will Bylaw impact on those who are resting to avoid driver fatigue during a journey?
- Prevent camping within 500 metres of camping grounds; increase the 500 metres exclusion various amounts up to 20km.
- Fines should be imposed on sleeper van hire companies.
- Provide maps to show where freedom camping is permitted.
- Allow portable chemical toilets in camper vans to be acceptable.

### **3.5 Submissions which include technical comment:**

3.5.1 The submission from the Department of Conservation is worthy of special comment. It notes the inability of the Department to include public conservation land in the Draft Bylaw, but indicates this is due to legal issues and not a lack of desire. On a positive note, it is understood that the move by this Council to provide a management tool for freedom camping on DOC land has contributed to the matter receiving consideration nationally. Despite the legal impediment preventing participation in the Draft Bylaw, the Department of Conservation has offered very specific and detailed comment on legal and editorial matters. I record my appreciation and thanks to the Department of Conservation for this additional very helpful input.

3.5.2 Submissions received formally and also informally have identified errors in locations of dump station facilities.

## **4. RESPONSE FROM COUNCILS LEGAL ADVISOR**

4.1 A legal opinion provided to another local authority that had been viewed by the writer suggested that the Bylaws Act 1910 could be used to establish an infringement fine regime to support the Draft Bylaw. Sufficient reservations about the validity of that legal opinion existed to ask Council's legal advisers to review the matter. They have confirmed that the provisions of the Bylaws Act 1910 cannot be relied on to provide a mechanism for imposing infringement fines. Department of Internal Affairs staff have also confirmed that Parliamentary Counsel Office had reached a similar view when reviewing the Draft Bylaw. The consequence of this is that all reference to infringement fines including the schedule of fines in the Draft Bylaw has been removed. It will be necessary to wait on the promulgation of supporting regulations for infringements, but this is expected prior to September this year.

4.2 The Freedom Camping Policy that the Draft Bylaw is based on contained an exclusion zone for freedom camping for a distance of 500 metres around registered camping grounds. This provision was not carried over into the Draft Bylaw due to concerns about legal validity. At the Environment and Planning Committee meeting of 10 March 2011, the matter was discussed, and clarity sought as it was intimated by Committee members that it would be a desirable provision to include in the Draft Bylaw if it could be achieved legally. Several submitters have also expressed the view that it is a desirable provision, with a number advocating an increase on the distance of 500 metres. The opinion from Council's legal adviser's states that the 500 metre exclusion could be subject to challenge and is consequently not recommended.

## **5. COMMENT RECEIVED FROM DEPARTMENT OF INTERNAL AFFAIRS**

Comment was received during a personal telephone conversation with Department of Internal Affairs staff on 13 April 2011. That conversation suggested that the Draft Bylaw met the requirements of the Parliamentary Counsel Office to allow supporting infringement regulations to be promulgated, with the exception of provisions relating to DOC controlled land and the infringement provisions associated with the Bylaws Act 1910 as detailed in 4.1 above. The current draft has had all such detail removed.

## **6. CHANGES MADE TO THE DRAFT BYLAW**

- 6.1 With two exceptions, the changes suggested by the Department of Conservation are taken up in their entirety. The exceptions are; Councils Draft Bylaw is retained rather than using the generic version produced by the Parliamentary Counsel Office; and the matter contained in 3(ii) of the DOC submission relating to the New Zealand Standard. The changes recommended in the "Statement of Submission by the Director-General of Conservation" as part of submission 622, with the exception of exclusion of DOC controlled land from the Draft Bylaw, are all of a technical or editorial nature, and clarify, but do not alter the intent of the Draft Bylaw.
- 6.2 Any reference to infringement provisions, including the schedule of fines is deleted from the Draft Bylaw.
- 6.3 Any reference to controlling freedom camping on DOC controlled land is deleted from the Draft Bylaw.
- 6.4 Amendments are made to the dump station list (Submission 587 from Tapawera Settle Motels and Campground and submission 593 from Richmond Motel & Top 10 Holiday Park as well as informal advice received from the operators of Murchison Motor Home Park and Greenwood Park Camping Ground).
- 6.5 Minor editorial amendment is made to improve clarity and readability.
- 6.6 The amended Draft Tasman District Council Consolidated Bylaw: Chapter 11: Freedom Camping 2011 is contained in Appendix 2 of this report.

## **7. RECOMMENDATIONS**

- 1. That having considered submissions and advice on the Draft Tasman District Council Consolidated Bylaw: Chapter 11: Freedom Camping 2011 as contained in report REP 11-04-06, the Environment & Planning Committee of Tasman District Council agrees to the amended Draft Bylaw as outlined in Appendix 2.**
- 2. That the Environment & Planning Committee of Tasman District Council recommends the Draft Tasman District Council Consolidated Bylaw: Chapter 11: Freedom Camping 2011 contained in Appendix 2 of report REP11-04-06 be adopted at the meeting of Tasman District Council to be held on 19 May 2011.**

Graham Caradus  
**Environmental Health Co-ordinator**

# **TASMAN DISTRICT COUNCIL CONSOLIDATED BYLAW:**

## **CHAPTER 11:**

### **FREEDOM CAMPING**

**May 2011**

**(Draft for consideration by Environment and  
Planning Committee meeting 21 April 2011)**

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## EXPLANATORY NOTE

The Local Government Act 2002 enables Council to produce Bylaws to protect the public from nuisance, for protecting, promoting, and maintaining public health and safety, and for minimising the potential for offensive behaviour in public places.

Tasman District Council encourages travellers and campers to use camping grounds and other accommodation facilities as much as possible. This Bylaw recognises that some visitors to our District are choosing informal overnight camping, avoiding registered camping grounds or commercial facilities, as their preferred accommodation. It also recognises that the economic and social benefit campers bring to our District needs to be balanced against the potential impact or nuisance caused on the community by people camping in public places. This Bylaw does not apply to persons camping at any authorised camping ground.

### 1. SHORT TITLE AND COMMENCEMENT

This Bylaw is made pursuant to the Local Government Act 2002, the Litter Act 1979, and the Bylaws Act 1910.

The Title of this Bylaw is the Tasman District Council Freedom Camping Bylaw 2011, being chapter 11 of the Tasman District Consolidated Bylaw.

This Bylaw comes into effect on 31 May 2011

### 2. PURPOSE

The purpose of this Bylaw is to

- (a) Protect, promote, and maintain public health through regulating freedom camping in the District,
- (b) Regulate wastewater and waste disposal and preventing the misuse of reserves, recreation grounds, and other land under the control of Tasman District Council that may otherwise result from unregulated camping,
- (c) Ensure that nuisance, public health risk, offensive behaviour or compromise of safety does not result from camping in public places under the control of Tasman District Council other than in accordance with the Bylaw or other statutory responsibility of Council,
- (d) Restrict freedom camping to certain public places in the District under strictly controlled circumstances.

### 3. DEFINITIONS

**Authorised Officer:** for the purposes of this Bylaw means a Police Constable, or any person appointed by the Council to carry out duties and exercise powers under this Bylaw.

**Bylaw:** for the purposes of this Bylaw, means the Tasman District Council Freedom Camping Bylaw 2011.

**Freedom Camping:** means camping overnight or camping with the intention of staying overnight in any public place that is on land within the territory of Tasman District Council that is not an authorised camping ground. **Freedom Camp** and **Freedom Campers** have similar meanings.

**Public Place:**

For the purposes of this Bylaw:

- (a) means a place that is under the control of Tasman District Council and that is open to, or being used by, the public (whether or not there is a charge for admission); and
- (b) includes any part of a public place; and
- (c) includes a road (whether under the control of the Council or otherwise).

**Reserve:** has the meaning given to it by section 2 of the Reserves Act 1977.

**Self Contained Vehicle:** means a vehicle including a Motor Caravan or Caravan which can be used as a place of abode and contains facilities for cooking, eating, sleeping and washing, and is capable of meeting the ablutionary and sanitary needs of the occupants for a minimum of three days without requiring any external services or discharging any waste. Such vehicle must also display evidence of a current self containment certificate issued pursuant to *NZS 5465:2001 Self Containment of Motor Caravans and Caravans*.

#### **4. WHO MAY TAKE PART IN FREEDOM CAMPING**

Freedom camping may only be undertaken by one or more persons in a self contained vehicle that is displaying evidence of a current self containment certificate for at least that number of persons, issued pursuant to *NZS 5465:2001 Self Containment of Motor Caravans and Caravans*.

#### **5. WHERE FREEDOM CAMPING IS PERMITTED**

Freedom camping in a self-contained vehicle may be undertaken on any public place except any prohibited land detailed in Schedule 1 of this Bylaw.

#### **6. MAXIMUM PERIOD FREEDOM CAMPING IS PERMITTED**

- 6.1 Freedom camping in self-contained vehicles is permitted at any single location that complies with clause 5 of this Bylaw, for a maximum period of two nights in any calendar month or consecutive four week period.
- 6.2 For the purposes of clause 6.1 of this Bylaw, no person shall freedom camp within 1 kilometre of any location in which that person has undertaken freedom camping for two nights within the last calendar month or consecutive four week period. For clarity, this provision requires any person freedom camping to move at least 1 kilometre if they are freedom camping more than two nights.

#### **7. DISCHARGES ARE PROHIBITED**

- 7.1 Discharges of sewage or toilet waste or grey water are prohibited other than into a Council approved dump point, as listed in Schedule 2 of this Bylaw.

7.2 Leaving or depositing litter is prohibited. Solid waste must be appropriately disposed of in an approved refuse collection bag and put out for collection on the appropriate day or dropped off at any Tasman District Council Resource Recovery Station.

## **8. FREEDOM CAMPING AREAS TO BE LEFT CLEAN AND TIDY**

Any area used for Freedom Camping must be left in a clean and tidy state by users.

## **9. FREEDOM CAMPERS TO MOVE ON IF DIRECTED**

Any direction made by an Authorised Officer to move on must be complied with.

## **10. AMENDMENTS TO SCHEDULES**

From time to time by resolution, the Council may amend, remove and/or replace any of the Schedules to this Bylaw.

## **11. ANY PERSON CAMPING ON COUNCIL CONTROLLED LAND TO PROVIDE DETAILS**

If an Authorised Officer believes on reasonable grounds that a person is committing or has committed an offence against this Bylaw, the Authorised Officer may direct the person to give:

- (a) his or her name and address; and
- (b) the name and address and whereabouts of any other person connected in any way with the alleged offence.

## **12. PENALTIES AND OFFENCES**

12.1 Every person commits a breach of this Bylaw who:

- (a) Commits, or causes to be committed, any act contrary to this Bylaw; or
- (b) Omits, or knowingly permits to remain undone, any act required by this Bylaw; or
- (c) Refuses, or neglects to comply with, any notice, request or direction, or any condition in any such notice, request or direction, given by an Authorised Officer pursuant to this Bylaw; or
- (d) Obstructs or hinders any officer of the Council or an Authorised Officer in the performance of any power or duty conferred upon him or her by this Bylaw.

12.2 Every person who breaches this Bylaw commits an offence under section 239 of the local Government Act 2002, and is liable on summary conviction to the penalty set out in section 242(4) of that Act (being a fine not exceeding \$20,000).

## **SCHEDULE 1**

### **TASMAN DISTRICT COUNCIL CONTROLLED LAND ON WHICH FREEDOM CAMPING IS PROHIBITED**

Freedom Camping is prohibited on the following public places:

1. Within 500 metres of any “no camping” signs on Council controlled land;
2. Kaiteriteri Beach area from Tapu Bay to Breaker Bay;
3. Any Tasman District Council reserve (apart from road reserve) in any area, except for:
  - (a) Edward Baigent Reserve;
  - (b) Wakefield Reserve ;
  - (c) Motueka Beach Reserve;
  - (d) East Quay, Motueka.
4. Marahau from the start of the residential area to the end of the Marahau-Sandy Bay Road;
5. The river side of any stop bank except that area in the vicinity of the State Highway Bridge at Waitapu, Golden Bay.
6. Any formed roadway.
7. Any location where the activity of freedom camping may cause an obstruction or hazard to traffic.

## **SCHEDULE 2:**

### **SELFCONTAINED VEHICLES WASTE DUMPING LOCATIONS**

The following locations in the Tasman District are available for dumping self contained vehicle waste.

#### **Sewage/wastewater disposal points available to patrons staying at each camping ground are available at:**

- Pohara Beach Top 10 Holiday Park
- Abel Tasman Marahau Beach Camp
- Kaiteriteri Beach Motor Camp
- Bethany Park Christian Camp
- Motueka Top 10 Holiday Park
- Mapua Leisure Park Holiday Resort
- Greenwood Park Camping Ground Appleby
- Club Waimea
- Richmond Motel and Top 10 Holiday Park
- Quinney's Bush Camp and Caravan Park
- Tapawera Settle Motels and Campground
- Murchison Motor Home Park
- Kiwi Park Motels and Holiday Park, Murchison

#### **Sewage/wastewater disposal points on payment of a fee are available at:**

- Greenwood Park Camping Ground Appleby
- Motor Caravan Association dump-station, Main Road Tapawera

#### **Sewage/wastewater disposal points are also available at:**

- Entrance to camping ground, Collingwood
- Abel Tasman National Park Toilets at Totaranui
- Mobil Takaka
- Golden Bay i-Site Visitor Centre
- Uruwhenua Bridge, Upper Takaka
- Hickmott Car Park, adjacent to New World Supermarket, Motueka
- Jubilee Park, Gladstone Road, Richmond
- Nelson Lakes National Park Kerr Bay Camping Ground
- Mobil Murchison