

28 August 2013

Memo To: His Worship the Mayor and Councillors

Memo From: Administration Advisers

**Subject: COUNCIL – TO DELIBERATE ON SUBMISSIONS TO THE  
CAMPING BYLAW REVOCATION – 29 AUGUST 2013  
LATE ITEM**

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## 1. Public late items

Two late items are attached to be considered as major late items at this meeting:

- Minutes of the meeting to hear submissions to the Camping Bylaw Revocation – 27 August 2013 (document number 1584266)
- Revocation of Camping Bylaw 2011 (220) – Deliberations (document number 1580906)

These reports were listed as items 2 and 3 on the public agenda for the Council – to deliberate on submissions to the Camping Bylaw Revocation meeting on 29 August 2013 to ensure elected members were aware that it would be presented to this meeting.

Section 46A(1)-(6) of the Local Government Official Information and Meetings Act 1987 and Standing Order 2.15.8 require that agendas are distributed with the associated reports. As these reports were not distributed with the agenda for this meeting, they must be treated as major late items to be considered at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 3.7.5, a procedural resolution is required before major items that are not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the items were not on the agenda is because they came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of these items cannot be delayed until a subsequent meeting is to enable the Council's deliberations on submissions to the Camping Bylaw Revocation to comply with the decision-making principles as outlined in section 79 of the Local Government Act 2002.

Recommendation

***THAT the items regarding Minutes of the meeting to hear submissions to the Camping Bylaw Revocation – 27 August 2013, and Revocation of Camping Bylaw 2011 (220) – Deliberations be considered at this meeting as major items not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable the Council’s deliberations on submissions to the Camping Bylaw Revocation to comply with the decision-making principles as outlined in section 79 of the Local Government Act 2002.***

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**Minutes of a meeting of the Nelson City Council to hear submissions to the Camping Bylaw Revocation**

**Held in the Council Chamber, Civic House, Trafalgar Street, Nelson**

**On Tuesday 27 August 2013, commencing at 9.05am**

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Present: His Worship the Mayor A Miccio (Chairperson), Councillors A Boswijk, I Barker, G Collingwood, R Copeland, K Fulton, P Matheson, R Reese, D Shaw, and M Ward

In Attendance: Chief Executive (C Hadley), Executive Manager Strategy and Planning (M Schruer), Executive Manager Network Services (A Louverdis), Acting Chief Financial Officer (T Hughes), Manager Administration (P Langley), Manager Strategic Response (C Ward), Policy Adviser (S Yarrow), and Administration Adviser (L Laird)

Apologies: Councillor J Rackley, P Rainey, and Councillor E Davy

**1. Apologies**

Resolved

***THAT apologies be received and accepted from Councillors J Rackley, P Rainey and E Davy.***

Boswijk/His Worship the Mayor

Carried

**2. Interests**

There were no updates to the Interests Register and no interests with items on the agenda were noted.

**3. Confirmation of Order of Business**

His Worship the Mayor advised that additional submitters would speak at the meeting and an updated hearing schedule had been tabled with the additional documents (1583863).

**4. Submissions to the Camping Bylaw Revocation**

4.1 Peter Patullo, Tasman Bay Backpackers

Mr Patullo spoke about the proposal to revoke the Camping Bylaw, and said he disagreed with some of the Council initiatives.

He said that freedom campers are generally people with limited spending. He added that local accommodation providers would lose revenue should freedom camping be allowed in the city, as would Council owned campgrounds. He said ratepayers would be left to subsidise services for freedom campers.

Mr Patullo said his backpacker hostel was located close to Neale Park and often freedom campers staying in the Park used his facilities without paying.

In response to a question, Mr Patullo recognised that should the Council further restrict freedom camping different rules would need to apply to self-contained campers.

#### 4.2 Cynthia McConville

Ms McConville endorsed the comments made by the previous presenter, Mr Patullo. She said she inferred from the proposal that the Council sought to push freedom campers into town.

In response to question, Ms McConville said in her opinion the number of freedom campers in Nelson had increased, particularly with the growing number of camper van hire companies.

In response to a further question, Ms McConville said freedom camping should be limited to areas that have adequate facilities, particularly toilets. She added that the environmental issues associated with freedom camping should form the basis of any change to the Nelson Resource Management Plan.

#### 4.3 James Imlach, NZ Motor Caravan Association

Mr Imlach could not attend the hearing yet requested his presentation be tabled (1584262).

It was requested that at the meeting to deliberate on the submissions, information as to whether the bylaw was promoting inner city car parks as an option be provided.

There being no further business the meeting ended at 9.28am.

Confirmed as a correct record of proceedings:

\_\_\_\_\_ Chairperson \_\_\_\_\_ Date

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## **Revocation of Camping Bylaw 2011 (220) - Deliberations**

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### **1. Purpose of Report**

- 1.1 To provide information to support the consideration of submissions on the Statement of Proposal to Revoke the Camping Bylaw 2011(220).

### **2. Recommendations**

***THAT the report Revocation of Camping Bylaw 2011 (220) – Deliberations (1572408) and its attachments (1531790, 1080757, 1581115 and 1572635) be received;***

***AND THAT the Council consider, deliberate and make decisions on submissions to the Statement of Proposal to Revoke the Camping Bylaw 2011 (220).***

### **3. Background**

- 3.1 At its meeting on 18 July 2013 Council resolved to consult on a proposal to revoke the Camping Bylaw 2011 (220). The Statement of Proposal was publicly notified on 19 July 2013, and is provided in Attachment 1. The Camping Bylaw is included in Attachment 2.
- 3.2 Written submissions on the proposal closed on 20 August 2013, with 15 submissions received. Two submitters made verbal presentations to a hearing on 27 August 2013. A summary of all submissions, together with officer comment, is provided in Attachment 3.
- 3.3 The intent of the Freedom Camping Act 2011(FCA) is to allow freedom camping in New Zealand. The FCA has a permissive presumption of freedom camping – it is permitted everywhere in a local authority area unless a bylaw is made under the FCA or rules/regulations under other statutes apply to control freedom camping.

### **4. Discussion**

#### **Submissions**

- 4.1 Eleven of the submissions received are in full support of the proposal to revoke the Camping Bylaw. Four submissions were not in support.

## **Submissions seeking changes outside the scope of the proposal**

- 4.2 Several submitters made comments and suggestions that are outside the scope of the Statement of Proposal to revoke the Camping Bylaw. Additional issues raised by these submitters, along with officer comment, are included for information in the summary of submissions in Attachment 3.

## **Providing Information about Freedom Camping in Nelson**

- 4.3 Council currently uses a range of methods to keep visitors informed about freedom camping in Nelson. This information will be reviewed and updated in line with the decisions made by the Council on the proposal to revoke the Camping Bylaw.
- 4.4 Interim information provided to the public has shown where freedom camping will be permitted if the bylaw is revoked. This includes Millers Acre, Montgomery Square and Buxton Square in the city and Strawbridge Square in Stoke. These have been identified as they are in areas where freedom camping is permitted and they have 24 hour public toilet facilities. Campers using these areas will still be required to comply with all other regulations including parking time limits.

## **5. Conclusion**

- 5.1 A Statement of Proposal was publicly notified on 19 July 2013 and seeks to revoke the Camping Bylaw 2011 (220). Submissions closed on 20 August 2013, with 15 submissions received and two submitters presenting to a hearing on 27 August 2013.
- 5.2 Information is provided by officers to support the consideration of submissions.

Sarah Yarrow  
**Policy Adviser**

## **Attachments**

- Attachment 1: Statement of Proposal to Revoke Camping Bylaw (220) [1531790](#)
- Attachment 2: Camping Bylaw 2011 (220) [1080757](#)
- Attachment 3: Summary of submissions and officer comments [1581115](#)

## Supporting Information

### 1. Fit with Purpose of Local Government

Consideration of Council's current Camping Bylaw in light of new legislation fits the purpose of Council performing its regulatory functions.

### 2. Fit with Community Outcomes and Council Priorities

Appropriately providing for and managing freedom camping helps achieve the following Community Outcomes:

- Healthy land, sea, air and water (by protecting the city from environmental degradation caused by uncontrolled camping).
- People friendly places (by ensuring freedom camping does not cause a nuisance in public places).

### 3. Fit with Strategic Documents

The proposal is consistent with the Nelson Resource Management Plan, Reserves Act 1977 and Council's various Reserves Management Plans.

### 4. Sustainability

The proposal allows Council to mitigate the amenity effects of freedom camping and to ensure unavoidable waste is disposed of safely, avoiding soil and water pollution.

### 5. Consistency with other Council policies

The proposal does not raise any known consequential inconsistencies with any other Council policies.

### 6. Long Term Plan/Annual Plan reference and financial impact

The proposed approach does not result in any financial impact – freedom camping will continue to be managed and enforced within current budgets.

### 7. Decision-making significance

This is not a significant decision in terms of the Council's Significance Policy.

### 8. Consultation

The special consultative procedure has provided the opportunity for public participation in the Bylaw revocation process

### 9. Inclusion of Māori in the decision making process

Consultation with Māori has not been specifically included during the review of this Bylaw, but was provided through the special consultative procedure.

### 10. Delegation register reference

This is a decision of Council.







## **Statement of Proposal to Revoke Nelson City Council Camping Bylaw (Bylaw 220)**

**July 2013**

**This document constitutes the Statement of Proposal and the Summary of the  
Statement of Proposal for the purposes of Section 83(1)(a) of the Local  
Government Act 2002**

## 1. Introduction

- 1.1. Nelson City Council (the Council) introduced a Camping Bylaw (Bylaw 220) in April 2011.
- 1.2. Due to the introduction of the Freedom Camping Act 2011 Council undertook a review of the Camping Bylaw. The outcome of this review is that Council is proposing to revoke the Camping Bylaw and rely on other methods to provide for and manage freedom camping in the Nelson area.

## 2. Proposal

- 2.1. Council proposes to revoke the Nelson City Council Bylaw (Bylaw 220).
- 2.2. In accordance with section 86 (2) of the Local Government Act 2002 the Council, when revoking a bylaw, is required to include in the Statement of Proposal the following:
  - a) A statement that the bylaw is to be revoked;
  - b) The reasons for the proposal; and
  - c) A report of any relevant determinations by Council under section 155 of the Local Government Act 2002.

## 3. Reasons for the Proposal

- 3.1. Under the Freedom Camping Act 2011, councils cannot make bylaws that prohibit freedom camping in all areas of their district (a 'blanket ban').
- 3.2. Nelson City Council's Camping Bylaw prohibits camping in any public place in the Nelson City area except at a licensed camping ground or on a reserve where camping has been authorised by a permit issued by Council. This effectively constitutes a 'blanket ban' on freedom camping in the Nelson City area.
- 3.3. For this reason Council's Camping Bylaw could be considered repugnant to the general laws of New Zealand and not reasonable. In order to fulfil its regulatory responsibilities Council has determined that the Camping Bylaw should be revoked.

## 4. Options

- 4.1. In proposing to revoke the Camping Bylaw Council considered options for managing freedom camping in Nelson.

Options	What does this mean?
Use other methods - existing statutes and regulations	<p>The Freedom Camping Act 2011 does not limit or affect the powers of councils under the Local Government Act 2002 or any other enactment that confers powers on a local authority.</p> <p>Two key enactments that give councils powers in respect of freedom camping are the Resource Management Act 1991 and the Reserves Act 1977.</p>

Options	What does this mean?
	<p>Freedom camping would be permitted everywhere in Nelson except in areas where it is not permitted by the Nelson Resource Management Plan or the Reserves Act 1977.</p> <p>With this option Council can also use the provisions of the Freedom Camping Act 2011 to manage the effects of freedom camping and can issue instant fines of \$200 for some offences under the Act such as causing damage to an area or its flora or fauna, depositing waste or failing to leave an area when requested to do so by an enforcement officer.</p>
<p>Make a new bylaw under the Freedom Camping Act 2011</p>	<p>Council would be able to prohibit and/or restrict where freedom camping can occur over and above the areas where camping is not permitted by other enactments and can issue instant fines of \$200 for breaches of the bylaw.</p> <p>The reasons for prohibiting or restricting freedom camping must meet the purposes of the Freedom Camping Act 2011.</p>

- 4.2. Council considered additional areas where it might want to prohibit and/or restrict camping and tested those against the purposes of the Freedom Camping Act 2011. Council also took into account the Government's intent through the introduction of the Freedom Camping Act 2011 to be more permissive of freedom camping within a district.
- 4.3. Council has determined through this review that existing statutory and regulatory controls adequately provide for the management of freedom camping in Nelson without the need for a new bylaw and does not propose to make any new bylaw to replace the bylaw it proposes to revoke.

## 5. Relevant Determinations under Section 155 of the Local Government Act 2002

- 5.1. As this proposal is to revoke the current Camping Bylaw and not make any new bylaw there are no relevant determinations to be made under Section 155 of the Local Government Act 2002.

## 6. New Approach to Freedom Camping in Nelson

- 6.1. To find out how Nelson City Council will now provide for and manage freedom camping in Nelson please visit the Council website [www.nelsoncitycouncil.co.nz](http://www.nelsoncitycouncil.co.nz) (search phrase = freedom camping).
- 6.2. This information is available free of charge from Civic house on request.

## **7. Submissions**

- 7.1. Any person or body interested is welcome to make submissions or comments on this Statement of Proposal to revoke the Nelson City Council Camping Bylaw (Bylaw 220). Council in making its decision will be taking account of all submissions made.
- 7.2. Submissions must be received by Council no later than 4.00pm on Tuesday 20 August 2013.
- 7.3. A submission form is available on the Nelson Council website [www.nelsoncitycouncil.co.nz](http://www.nelsoncitycouncil.co.nz) or can be obtained from the Nelson City Council.
- 7.4. Submissions can also be sent in letter or email form and should be:

Posted to:           Camping Bylaw Consultation  
                          Nelson City Council  
                          PO Box 645  
                          Nelson 7040

Or emailed to:     [submissions@ncc.govt.nz](mailto:submissions@ncc.govt.nz)

Please state in your submission whether or not you wish to be heard.

- 7.5. Submitters should note that their submission will be copied and made available to the public after the submission period closes.
- 7.6. Council will contact all submitters in writing to advise the confirmed time, date and venue of the Hearing.
- 7.7. All enquiries should be directed to Sarah Yarrow, Policy Adviser, on telephone 545 8742 or email [sarah.yarrow@ncc.govt.nz](mailto:sarah.yarrow@ncc.govt.nz).

## **8. Related Documents**

- 8.1. The Nelson City Council Camping Bylaw (Bylaw 220) is available to view or download from the Nelson City Council website [www.nelsoncitycouncil.co.nz](http://www.nelsoncitycouncil.co.nz) (search phrase = camping bylaw)
- 8.2. Copies of the Nelson City Council Camping Bylaw (Bylaw 220) are available free of charge from Civic House on request.



**Nelson City Council**

te kaunihera o whakatū

**NELSON CITY COUNCIL  
CAMPING BYLAW  
20/5/2011**

**(No 220)**

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## **1. INTRODUCTION**

- 1.1. This Bylaw shall be known as the "Nelson City Council Camping Bylaw No.220".
- 1.2. This Bylaw is made under the authority of sections 145 and 146 of the Local Government Act 2002.
- 1.3. This Bylaw was made at the Ordinary Meeting of the Nelson City Council held on 19 May 2011 and shall come into force on the 20th day of May 2011, and shall apply to the whole of the Nelson City Council District.
- 1.4. The purpose of this Bylaw is to protect the public from nuisance, and to protect, promote and maintain public health and safety by providing for the management, regulation and restriction of camping within the Nelson City Council District.

## **2. REPEALS**

- 2.1. The following Bylaws are hereby repealed:
  - (a) The Nelson City Bylaw 211/2006 – Reserves Bylaw – section 13.
  - (b) The Nelson City Bylaw 207/2004 – Parking and Vehicle Control Bylaws – section 11.0.

## **3. DEFINITIONS**

**Camp or Camping** - Means any overnight camping at any public place:

- in a building, tent, or other structure; or
- in a boat, or a car, campervan, caravan, or other vehicle; or
- sleeping or staying overnight outdoors.

**Council** - Means the Nelson City Council.

**Licensed camping ground** - Means a camping ground that is the subject of a current certificate of registration under the Camping Ground Regulations 1985.

**Litter** - Shall have the same meaning as defined in the Litter Act, 1979.

**Enforcement Officer or Officer** - Shall mean an Enforcement Officer appointed pursuant to Section 177 of the Local Government Act, 2002.

**Overnight camping** - Means camping between the hours of 8pm and 9am.

**Public place** - Means any place that is under the control of Nelson City Council and that is open to, or being used by, the public (whether or not there is a charge for admission); and

- includes any part of a public place; and
- includes a legal road, formed or unformed, which is under the control of Nelson City Council

#### **4. PROHIBITION OF CAMPING**

- 4.1. A person must not camp in any public place, except as provided for in Clause 4.2 of this Bylaw.
- 4.2. Clause 4.1 does not apply if the person is camping:
  - (a) at a licensed camping ground; or
  - (b) on a reserve where camping has been authorised by a permit issued by the Council.
- 4.3. Every person camping as permitted by Clause 4.2 of this Bylaw shall ensure that the area on which that person camps or upon which that person's camper vehicle is situated remains clean and tidy and free of all litter or waste of any kind.

#### **5. COUNCIL MAY REVOKE PERMITTED CAMPING**

- 5.1. Any Enforcement Officer of the Council may direct a person camping in accordance with permission granted under clause 4.2 to leave the area at which he or she is camping if the officer believes on reasonable grounds that the person:
  - (a) has acted in a manner likely to be a nuisance to, offend or annoy other people; or
  - (b) is causing reasonable public health and safety concerns; or
  - (c) has damaged or is likely to cause damage to the area or any property on the site, whether that property belongs to Council or any other person; or
  - (d) has stayed at the site, or within the permitted area for longer than permitted by this Bylaw.
- 5.2. If a person is given a direction under clause 5.1, his or her permission to camp is revoked as from the date and time that the direction is given, and that person shall leave the site upon which they are camping immediately, and shall be prohibited from returning to that area for such period as the officer deems fit.
- 5.3. A person ordered to leave any area pursuant to Clause 5.2 of this Bylaw shall remain liable for any breach of this Bylaw.



## **6. OFFENDERS REQUIRED TO GIVE NAMES**

- 6.1. Any Enforcement Officer may require any person who commits a breach of this Bylaw to give their full name and address.
- 6.2. Any person commits a breach of this Bylaw who:
  - (a) Does or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
  - (b) Refuses or neglects to comply with any notice, instruction or direction given to him / her under this Bylaw; or
  - (c) Fails to give their full name and address as required by Clause 6.1 of this Bylaw or otherwise obstructs or hinders any officer in the performance of any duty to be discharged by that officer under or in exercise of any power conferred upon them by this Bylaw or the enabling enactments.

## **7. PENALTIES**

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



## Camping Bylaw Revocation - Summary of Submissions

\* Submitters who wish to be heard

No	Submitter	Support	Main issues	Officer Comment
1	Andrew Garrett	No	Wishes to retain making it difficult for freedom campers	Blanket bans are not permitted under the Freedom Camping Act 2011 (FCA). Freedom camping will continue to be monitored and managed in Nelson if the bylaw is revoked. Campers will be expected to behave responsibly and information on appropriate sites for camping will be provided. Enforcement options are available under existing legislation to deal with irresponsible campers
2	Chris Roff	Yes	Fully supports	Supports revoking bylaw
3	Jeff Rawlings	Yes	Supports self contained freedom camping	Supports revoking bylaw
4	David Remnant	Yes	Fully supports	Supports revoking bylaw
5	Angela Sargeant	Yes	Fully supports	Supports revoking bylaw
6	Andy Swanson	Yes	Supports self contained freedom camping. Restrict non self contained campers to specific sites	Supports revoking bylaw
7	Brendon Turner	Yes	Fully supports	Supports revoking bylaw
8	Verena Greve	Yes	Fully supports. Would like camping to extend to parks and reserves	Camping in parks and reserves will be reviewed as Reserve Management Plans are reviewed/written and when the Open Space and Recreation Zone provisions of the Nelson Resource Management Plan are reviewed
9*	Peter Pattullo Tasman Bay Backpackers	Yes	Acknowledges the current bylaw must be revoked. Provides information on issues experienced with freedom campers	The reasons for not allowing freedom camping in a local authority area are now much narrower under the FCA, however other statutes cover the issues raised in this submission. Officers will continue to monitor freedom camping activity in Nelson and the approach is to encourage responsible freedom camping through advice and information

## Camping Bylaw Revocation - Summary of Submissions

\* Submitters who wish to be heard

No	Submitter	Support	Main issues	Officer Comment
10	Mark Howard NZ Motorhome and Caravan Forum	Yes	Fully supports. Would like review of reserve management plans with a view to freeing up more parks and reserves for freedom camping. Take another look at the circumstances that allows Council to employ the FCA infringement regime	Council understands its responsibilities and that it cannot use the infringement provisions of the FCA unless an offence has occurred. An enforcement officer cannot ask someone to leave an area unless they believe they have committed an offence under the FCA. Camping in parks and reserves will be reviewed as Reserve Management Plans are reviewed/written and when the Open Space and Recreation Zone provisions of the Nelson Resource Management Plan are reviewed
11	Queenie Balance Nelson National Council of Women	Not stated	Central carparks will need careful monitoring. Proposes Tahunanui as a good place for freedom camping	Changes to the NRMP or a new bylaw would be required to prohibit or restrict camping in the CBD. Regular patrols of camping hotspots will continue. The Tahuanui Reserve Management Plan prohibits camping except for in the licenced campground
12	Ken and Carol Redwood	Yes	Fully supports	Supports revoking bylaw
13*	Cynthia McConville	No	Objects to relying solely on existing regulations. Council needs to consult with the community and identify a suitable area for freedom campers who are without facilities	A bylaw is not required to specify where people can camp. Information will be provided through a range of channels to ensure that non-self contained campers are aware of sites in Nelson with appropriate facilities for camping. Advice will include encouraging campers to use licensed campgrounds which are set up to provide for non-self contained campers

## Camping Bylaw Revocation - Summary of Submissions

\* Submitters who wish to be heard

No	Submitter	Support	Main issues	Officer Comment
14*	James Imlach NZ Motor Caravan Association	Yes	Recommends reviewing the NRMP and Reserve Management Plans that prohibit freedom camping to create a consistent regime for freedom camping in Nelson	Camping in parks and reserves will be reviewed as Reserve Management Plans are reviewed/written and when the Open Space and Recreation Zone provisions of the Nelson Resource Management Plan are reviewed
15*	Dot Kettle Nelson Tasman Chamber of Commerce	Not stated	Do not support encouragement of vehicle based camping overnight in the city carparks	Changes to the NRMP or a new bylaw would be required to prohibit or restrict camping in the CBD. Regular patrols of camping hotspots will continue

