

STATEMENT OF PROPOSAL



Draft Waitaki District Responsible Freedom Camping Bylaw 2016 Review

June 2021

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Executive summary

The Waitaki District Council is reviewing the "Waitaki District Responsible Freedom Camping Bylaw 2016". The bylaw enables Council to effectively deal with issues caused by freedom camping through identifying district-wide standards for freedom camping, and specific locations within the Waitaki District where freedom camping is prohibited or restricted on Council managed land.

Council must follow the special consultative procedure when considering a bylaw review. This Statement of Proposal has been prepared in accordance with the Local Government Act 2002, and includes:

- the reasons for the proposal
- the Waitaki District Responsible Freedom Camping Bylaw 2016.

This document includes further information on the proposal, including the reasons for the current district wide standards and general conditions, and site-specific restrictions and prohibitions, a copy of the current bylaw. A copy of the submission form may be found within the Summary of Information document.

Before making any final decisions, we'd like to know your views. If you would like to make a submission, please visit www.waitaki.govt.nz, email consult@waitaki.govt.nz or phone 03 433 0300.

Submissions close **5pm, Monday 2 August 2021**.

- posting it to: Waitaki District Council, Private Bag 50068, Oamaru 9444
- emailing it to: consult@waitaki.govt.nz
- delivering it to the Council Office and/or service centers in Oamaru or Palmerston.

If you have any queries regarding this proposal or about how to make a submission, please contact A Bardsley on (03) 433 0300 or email abardsley@waitaki.govt.nz

Submissions to the Bylaw Review will be heard at a hearing in the council chambers in Oamaru on **Monday 16th August 2021**. If you wish to be heard, you will need to keep your presentation to 5 minutes maximum for individuals and 10 minutes for organisations/groups. Councillors will have read your written submission prior to the meeting.

Process to date

The Council has worked through a process to consider the review of the Responsible Freedom Camping 2016 Bylaw in accordance with the requirements of the Local Government Act 2002.

This process has included:

- review of current Council practice and relevant bylaws and policies with respect to freedom camping management
- review of other territorial authority freedom camping management approaches across New Zealand
- consideration of the New Zealand Bill of Rights Act 1990

Statutory requirements

Section 155(2) requires that, if determined a bylaw is the most appropriate way of addressing a perceived problem, it must be determined that the proposed bylaw is the most appropriate form of bylaw. Section 155(3) requires that no bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 5 of the Act. Section 158(1) of the Local Government Act 2002 requires, a local authority must review a new bylaw, no later than 5 years after the bylaw was made.

Sections 145 and 146(c) of the Local Government Act 2002 enables Waitaki District Council to make a bylaw relating to managing freedom camping in the Waitaki District, for any of the following purposes:

- To protect the public from nuisance (s 145);
- To protect, promote and maintain public health and safety (s 145);
- To minimise the potential for offensive behaviour in public places (s 145).

In addition, the section 11 (2) of the Freedom Camping Act 2011 allows territorial authorities and the Department of Conservation to make bylaws for the following purposes:

1. To protect the area; and/or
2. To protect the health and safety of people who may visit the area; and/or
3. To protect access to the area.

Key issues and outcomes

The Council enacted the 2016 Responsible Freedom Camping Bylaw, in recognition that visitor numbers to the District were on the increase, and Council anticipated that the existing issues with non-responsible freedom camping were likely to continue or escalate.

The coastal corridor of the District sees the most demand for freedom camping. The inland areas of the District are well serviced with affordable low-cost camping options, with less evidence of freedom camping associated issues.

Council identified the following “hot spot” freedom camping locations on Council managed land:

- Campbell's Bay, Kakanui
- Kakanui Esplanade
- All Day Bay, Waianakarua
- Oamaru Harbour
- Lookout Point, Oamaru
- Katiki lighthouse carpark
- Moeraki village
- Moeraki Boulders access road
- Hampden Beach foreshore

Council identified a number of issues associated with freedom camping at hot spot locations in the District. These included:

- Intensification of freedom camper numbers
- Limited provision of infrastructure (toilets, rubbish bins, potable water, signage, lighting etc) – and pressures on the existing infrastructure
- Health and safety concerns with litter and waste, no washing up facilities for non-self-contained campers
- Access issues to popular coastal spots for non-freedom campers
- Issues with Freedom camping on non-Council land – Campbell's Bay (KRAIS part), Kurow Island, Ahuriri Bridge, Cobblestone Road - Kakanui River Mouth, Katiki Strait
- Concern any enforcement may not be effective – who will cover the period 10pm-5am?
- No ability to adopt a “users pays” approach to freedom camping under the Act – should council be in the business of subsidising
- Need to tap into other tourist infrastructure - information
- A need to be consistent with adjacent authorities.

The following **outcomes** have been achieved through the adoption of the 2016 Responsible Freedom Camping bylaw; a review of the bylaw is sought to ensure the achieved outcomes continue:

- Maintain the community mandate for managing freedom camping

- Maintain a cost-effective management solution to freedom camping for ratepayers of the district
- Maintain a variety of camping choices available to visitors
- The adverse effects of freedom camping continue to be managed at “hot spot” locations
- Access for other users is maintained
- Waitaki District Council promotes “responsible” camping
- Maintain an integrated approach to the management of freedom camping across agencies – DoC, LINZ, Iwi, NZTA, and neighbouring TA’s
- Waitaki continues to promote a consistent freedom camping message across the Canterbury and Otago regions
- Continued monitoring to reflect the dynamic nature of freedom camping issues

Assessment of reasonably practical options

Council has considered two options for reviewing the responsible freedom camping 2016 bylaw.

The **options** considered to facilitate the review are:

Option 1 – **(preferred option)** – Review the Responsible Freedom Camping 2016 Bylaw, with community consultation

Option 2 – Review the Responsible Freedom Camping 2016 Bylaw without community consultation

Option 1 to **Review the Responsible Freedom Camping 2016 Bylaw, with community consultation** is the preferred option as it will continue to provide appropriate levels of protection while providing clear and transparent information about where visitors and locals are able to freedom camp in the District. A bylaw review provides Council with the continued ability to set district-wide expectations around freedom camping and provide a greater certainty around the level of controls on freedom camping at defined “hot spot” locations. It also allows enforcement to take place with Council having the ability to collect revenue from infringement fines. In addition to a regulatory response, under this option, Council would provide non-regulatory support to the bylaw and maintain the ability to issue infringement notices, which supports increased compliance with the rules of the bylaw, supporting the overall objective of the current bylaw.

Relevant bylaw determinations

Waitaki District Council has considered the most appropriate way of addressing freedom camping issues by undertaking an assessment of possible options (see Table 1 below).

Waitaki District Council has made the following determinations:

- That a bylaw review is the most appropriate way to continue to ensure the 2016 bylaw is adequate for dealing with freedom camping in the Waitaki District: and
- That the Bylaw review is the most appropriate means to ensuring we have an effective form of bylaw; and
- The reviewed Bylaw is consistent with the New Zealand Bill of Rights Act 1990 as the controls are reasonable and justifiable in the circumstances as allowed for in section 5 of the Act.

TABLE 1: OPTIONS REVIEWING RESPONSIBLE FREEDOM CAMPING IN THE WAITAKI DISTRICT

	Description	Advantages	Disadvantages
<u>Option 1 – PREFERRED OPTION</u> <u>Review the Responsible Freedom Camping 2016 Bylaw with community consultation</u>	<p>Through the review process and community consultation, we have continued regulation in a district-wide bylaw made under the Freedom Camping Act 2011 plus the use of non-regulatory measures e.g. working across agencies in the Otago and Canterbury regions, provision of signage, educating users and the community around what is “responsible” freedom camping, encourage self-monitoring of issues</p>	<ul style="list-style-type: none"> • Council has the ability to set district-wide expectations around freedom camping • Maintains a level of certainty around the level of controls on freedom camping at defined “hot spot” locations • Provides the community with a forum to raise issues • Allows enforcement to take place • Revenue generation opportunity through the collection of infringement fines • Supporting non-regulatory options will support the bylaw in place e.g. education via freedom camping apps, brochures, Council website, signage, working with other agencies, promoting responsible camping options and other camping choices 	<ul style="list-style-type: none"> • Cannot make a “blanket ban” for freedom camping • Infringement notices may not be paid within 28 days specified under law • Cost and resourcing implications for monitoring / enforcement, rubbish collection, servicing of toilets, administration costs for infringement data entry, public information
<u>Option 2</u> <u>Review Responsible Freedom Camping 2016 Bylaw without community consultation</u>	<p>Elected members make decision on the Bylaw review based only on officer recommendations. Provides a streamlined process and expedites the review implementation.</p>	<ul style="list-style-type: none"> • Council has the ability to set district-wide expectations around freedom camping • Maintains a level of certainty around the level of controls on freedom camping at defined “hot spot” locations 	<ul style="list-style-type: none"> • Does not meet the legislative obligations under Sec 83 of the LGA 2002 • Cannot make a “blanket ban” for freedom camping • Infringement notices may not be paid within 28 days specified under law

		<ul style="list-style-type: none"> • Faster process • Allows enforcement to take place • Revenue generation opportunity through the collection of infringement fines • Supporting non-regulatory options will support the bylaw in place e.g. education via freedom camping apps, brochures, Council website, signage, working with other agencies, promoting responsible camping options and other camping choices 	<p>Cost and resourcing implications for monitoring / enforcement, rubbish collection, servicing of toilets, administration costs for infringement data entry, public information</p>
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Reason for proposal

This Statement of Proposal is prepared pursuant to sections 83, 86, 155 and 156 of the Local Government Act 2002 (LGA). This is a proposal to review the Responsible Freedom Camping 2016 Bylaw under the Freedom Camping Act 2011.

The Council recognises that freedom camping is regulated by the Freedom Camping Act 2011. Under this Act, freedom camping is permitted on all public land controlled or managed by it unless the Council prohibits or restricts freedom camping at specific locations through a bylaw, for one or more of the following purposes:

- to protect the area
- to protect the health and safety of people who may visit the area
- to protect access to the area.

Restrictions cannot be imposed for any reason other than those outlined above. It is recognised that the Council may not make a bylaw that has the effect of prohibiting freedom camping on all of its land in the District.

Council has carefully considered that the current bylaw is necessary and proposes that current regulatory approaches are maintained in particular areas of the District. Council is proposing to maintain the areas where freedom camping is restricted and prohibited and continue to apply restrictions on freedom camping in some areas.

Council is proposing to maintain the following district-wide standards:

- Certified self-contained freedom camping only (meeting the “endorsed” NZS 5465:2001 for self-containment)
- Max three (3) nights in a four-week consecutive period at any location.

The purpose of a district-wide standard for self-contained freedom camping is to manage the health and safety and environmental effects of freedom camping. Council considers that a mix of rules for self-contained and non-self-contained camping may cause confusion and could result in freedom camping activities occurring in areas that are not suitable for non-self-contained freedom camping. Council has the ability to work with other agencies to promote alternative camping choices e.g. commercial camping grounds, Department of Conservation sites, other Council managed campgrounds or private camp sites.

The purpose of a maximum three-night stay in any calendar month is to ensure equitable access to freedom camping sites for freedom campers and other users, and to manage the potential environmental and health and safety effects of freedom camping (maximum three-night capacity for greywater and wastewater in certified self-contained vehicles meeting the endorsed NZS for self-containment). Council is supportive of NZMCA’s proposal to require a higher standard of self-containment (ensuring that on-board toilet facilities are accessible at all times) than is currently required by the NZS 5465:2001 – and has referenced and endorsed the standard in its bylaw.

In addition, Council is proposing to maintain the following district-wide conditions:

- All effluent be disposed of at Council-approved facilities
- All solid waste is disposed of at Council-approved facilities
- Campsites must be kept clean and tidy
- Vehicles must be legally parked
- Freedom camping activity does not prevent others from undertaking legitimate activities in the area
- Freedom camping does not restrict public access to public areas
- The safety of other users is not compromised.
- No washing of dishes or washing and drying of clothes in public facilities except for those facilities designated for that purpose

- Enforcement officers must be able to inspect any camp site and freedom campers must comply with any reasonable directions from an enforcement officer including the request to view self-containment certificates and /or warrants.

The purpose of the general conditions is to support the intent of the Freedom Camping Act 2011 to protect the environment, manage public health and safety and access to freedom camping areas, to send a clear message of Council' expectations for freedom campers within the District, and to make enforcement of the bylaw a practical option.

Council is proposing to continue prohibiting freedom camping in locations: as per Schedule 2 of the Responsible Freedom Camping 2016 Bylaw

Council is proposing to continue restricting freedom camping in locations: as per Schedule 1 of the Responsible Freedom Camping 2016 Bylaw

- Within Residential and Township zones (as defined in the Operative Waitaki District Plan) in a 50km/hour zone, freedom camping prohibited directly outside a residential dwelling

See Attachments 1 and 2 for an analysis of the proposed prohibited and restricted freedom camping areas as required under Section 11 (2) (a) and (b) of the Freedom Camping Act 2011.

The Responsible Freedom Camping 2016 Bylaw is only one of the tools that will be used to manage freedom camping within the District.

Other non-regulatory tools which were implemented to complement the bylaw include:

- Developing a brochure to clarify prohibited and restricted freedom camping areas, and to identify all camping locations and dump stations in the Waitaki District
- Providing signage to educate where there are freedom camping restrictions in place
- Updating camping app sites with any new restrictions, promote "responsible" freedom camping
- Ongoing liaison with adjoining Councils, other Central government land management agencies e.g. LINZ, NZTA, Department of Conservation and the NZMCA to aim for consistent messaging, enforcement, and possibly high-level management approach
- Participation in regional freedom camping forums to promote a consistent approach to freedom camping management, consistent messaging around freedom camping e.g. responsible camping, and to share lessons learnt
- Encouraging self-monitoring of any restriction that has been put in place
- Ongoing monitoring of freedom camping hot-spots, issues, and identification of new locations

ATTACHMENT 1: PROHIBITED FREEDOM CAMPING LOCATIONS

The areas where freedom camping is **Prohibited** are as follows:

Prohibited freedom camping area	Summary of problem	Reason for prohibition (Freedom Camping Act 2011 – section 11 analysis)			Proposed solution to manage site specific issues
		Protection of area (section 11 (2) (a) (i))	Health and safety (section 11 (2) (a) (ii))	Access to Area (section 11 (2) (a) (iii))	
Extended Oamaru Harbour area – including reclamation area, old freezer building and eastern end of Test Street	<ul style="list-style-type: none"> High public interest area High numbers of visitors Commercial camp operator close-by – use of facilities by freedom campers 	<ul style="list-style-type: none"> Environmental impacts – penguins, waste, litter 	<ul style="list-style-type: none"> Pressure on limited infrastructure Conflicts of use with existing public toilet facilities – used for washing and drying 	<ul style="list-style-type: none"> Parking conflicts of use – day users, gym, cafe 	Prohibit all freedom camping to manage environmental impacts, public health and safety and access to the area
Lookout Point, Oamaru	<ul style="list-style-type: none"> High public interest area High numbers of visitors Area gets locked at night 	<ul style="list-style-type: none"> Environmental impacts – waste, litter 	<ul style="list-style-type: none"> Conflicts of use with other day users 	<ul style="list-style-type: none"> High profile public area Conflicts of use – day users 	Prohibit all freedom camping to manage environmental impacts, public health and safety and access to the area
Humber Street car parks, Oamaru	<ul style="list-style-type: none"> High use public car parks No time restrictions in place 			<ul style="list-style-type: none"> High public usage Conflicts of use with commuter car-parking 	Prohibit all freedom camping to manage access to the area
Bushy Beach car park	<ul style="list-style-type: none"> High public interest area High numbers of visitors 	<ul style="list-style-type: none"> Environmental impacts – penguins, waste, litter 	<ul style="list-style-type: none"> Conflicts of use with other day users 	<ul style="list-style-type: none"> High profile public area Conflicts of use – day users Access and turnaround area limited 	Prohibit all freedom camping to manage environmental impacts, public health and safety and access to the area

Campbell's Bay, Kakanui Esplanade and Road Reserve	<ul style="list-style-type: none"> • Most publicised freedom camping location in the district • Mix of private land and Council road reserve land • High community interest • High numbers of campers – 2015/16 – average 40 vehicles per night at peak summertime • 60-70% vehicles privately owned • High proportion of non-self-contained campers • Road reserve around esplanade has the potential for spill over of freedom campers 	<ul style="list-style-type: none"> • Environmental impacts – wildlife, waste, litter 	<ul style="list-style-type: none"> • Council public toilet capacity stretched • Pressure on water supply • No food preparation area / area to wash dishes • No lighting 	<ul style="list-style-type: none"> • Parking on road-sides – traffic hazard / road safety • Loss of available parking for residents and other users • Access issue conflicts – residents and day users often “displaced” by large numbers of campers • Conflict of use with other day users and beach users, residents 	Prohibit all freedom camping on Council land to manage environmental impacts, public health and safety and access to the area
Hampden Beach foreshore	<ul style="list-style-type: none"> • Mix of land status – reserve and non-reserve • Commercial camp operator close-by – use of facilities by freedom campers • Some land is leased 	<ul style="list-style-type: none"> • Environmental impacts – wildlife, waste, litter 	<ul style="list-style-type: none"> • Pressure on rubbish bins • Conflicts of use with existing public toilet facilities 	<ul style="list-style-type: none"> • Parking conflicts of use • Conflict of use with other day users and beach users, residents 	Prohibit all freedom camping to manage environmental impacts, public health and safety and access to the area
Katiki Lighthouse carpark (Moeraki)	<ul style="list-style-type: none"> • Council managed carpark area – other land managers adjacent 	<ul style="list-style-type: none"> • Environmental impacts –penguins and seals, waste, and litter 	<ul style="list-style-type: none"> • No infrastructure 	<ul style="list-style-type: none"> • Conflicts of use with day users 	Prohibit all freedom camping to manage environmental impacts, public health and safety and access to the area

	<ul style="list-style-type: none"> • Potential for increasing numbers of freedom campers • No lighting • Only one long-drop toilet on non-Council land 				
Moeraki village – seaward side of main access road	<ul style="list-style-type: none"> • Limited parking and narrow road access • Council managed carpark areas • Increasing numbers of freedom campers 	<ul style="list-style-type: none"> • Environmental impacts – wildlife, waste, litter 	<ul style="list-style-type: none"> • Limited facilities are available 	<ul style="list-style-type: none"> • Conflicts of use with day users – limited parking space 	Prohibit all freedom camping to manage environmental impacts, health and safety and access to the area
Moeraki Boulder access road	<ul style="list-style-type: none"> • Council managed access road, Department of Conservation carpark where freedom camping is prohibited • High number of visitors 			<ul style="list-style-type: none"> • Conflicts of use with day users – high number of visitors, limited parking space at peak times 	Prohibit all freedom camping to ensure consistent approach with Department of Conservation and to manage access to the area
All Day Bay, Waianakarua (north and south end of camping area)	<ul style="list-style-type: none"> • Well established freedom camping area for generations • Gaining popularity with tourists • Increasing numbers of campers 	<ul style="list-style-type: none"> • Environmental impacts – waste, litter 	<ul style="list-style-type: none"> • Limited toilet capacity – limitations on expansion due to environmental constraints • No water available 	<ul style="list-style-type: none"> • Parking conflicts of use with day users • Maintain public access to beach 	Prohibit freedom camping in designated areas at northern and southern ends of main camping area to manage environmental impacts, health and safety and access to the area
Omarama Community Centre carpark	<ul style="list-style-type: none"> • Multi use community facility – events, playcentre, new library • Use of facility day and night 	<ul style="list-style-type: none"> • Environmental impacts – waste, litter 		<ul style="list-style-type: none"> • Parking conflicts of use with day users • Maintain public access to carparking for hall, library, and 	Prohibit all freedom camping to manage environmental impacts, and manage public access

				playground at all times	
Omarama Public toilet carpark	<ul style="list-style-type: none"> • Use of facility day and night • No time restrictions in place 			<ul style="list-style-type: none"> • Potential parking conflicts 	Prohibit all freedom camping to manage public access
Otematata Great Lakes Centre and shopping carpark	<ul style="list-style-type: none"> • Use of facility day and night • No time restrictions in place 			<ul style="list-style-type: none"> • Potential parking conflicts 	Prohibit all freedom camping to manage public access
Waihemo Service Centre carpark, Palmerston	<ul style="list-style-type: none"> • Multi use community facility • Use of facility day and night 	<ul style="list-style-type: none"> • Environmental impacts – waste, litter 		<ul style="list-style-type: none"> • Parking conflicts of use with day users • Maintain public access to carparking at all times 	Prohibit all freedom camping to manage environmental impacts, and manage public access
Kurow Railway Reserve (Hydro Place carpark)	<ul style="list-style-type: none"> • High public use • Public toilets for all users 	<ul style="list-style-type: none"> • Environmental impacts – waste, litter 		<ul style="list-style-type: none"> • Parking conflicts of use with day users 	Prohibit all freedom camping to manage environmental impacts, and manage public access
All other Parks and reserves managed under the Waitaki Reserves Management Plan 2014 (RMP) not designated as camping grounds	<ul style="list-style-type: none"> • All non-designated camping areas are a “restricted” activity under the RMP, requiring a permit from Council’s Recreation unit 	<ul style="list-style-type: none"> • Environmental impacts – waste, litter 	<ul style="list-style-type: none"> • Pressure on existing facilities which are predominantly used by day users 	<ul style="list-style-type: none"> • Most parks and reserves are not accessible for vehicles • Conflicts with other uses e.g. sports, other events 	Prohibit all freedom camping on non-designated camping areas of Council managed parks and reserves (unless permit has been obtained from Council’s Recreation unit) to manage environmental impacts, health and safety and access for other users (visitors and residents) and to align with the Waitaki Reserves Management Plan 2014

All Council managed Cemeteries	<ul style="list-style-type: none"> Culturally sensitive, need respect in these areas 	<ul style="list-style-type: none"> Environmental impacts – waste, litter 	<ul style="list-style-type: none"> Culturally sensitive locations 	<ul style="list-style-type: none"> Conflicts of use - other users, parking 	<p>Prohibit all freedom camping in all Council-managed Cemeteries</p> <p>To protect environmental, health and safety, access and cultural sensitivity</p>
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ATTACHMENT 2: RESTRICTED FREEDOM CAMPING LOCATIONS

The areas where freedom camping is **Restricted** are as follows:

Restricted freedom camping area	Summary of problem	Reason for restriction (Freedom Camping Act 2011 – section 11 analysis)			Proposed solution to manage site specific issues
		Protection of area (section 11 (2) (a) (i))	Health and safety (section 11 (2) (a) (ii))	Access to Area (section 11 (2) (a) (iii))	
All Residential* and Township* zoned areas within 50km/hr –	<ul style="list-style-type: none"> Camping directly in front of residential dwellings can reduce amenity, block views and result in conflicts of use with other uses e.g. parking (when there are no controls in place) 	<ul style="list-style-type: none"> Environmental impacts – waste, litter, amenity 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Parking conflicts of use with residential properties 	<p>Restrict freedom camping within Residential* and Township* zoned areas in 50km/hr zone - no freedom camping directly in front of a residential dwelling</p> <p><i>*zones as per the Operative Waitaki District Plan</i></p>