

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 10 OCTOBER 2018

Report for Agenda Item No 3

Prepared by - Di and Phil Rossiter
- Policy Advisors

Reviewed by - Rachel Townrow
- Group Manager Community and Environment

BYLAW REVIEW – FREEDOM CAMPING CONTROL

Report Summary

A review of the Buller District Council *Freedom Camping Control Bylaw 2012* (the FCCB) has been initiated and changes are proposed to better protect certain areas within the district, access to these areas, and/or the health and safety of people who visit these areas. The need for change has been identified from community engagement and feedback and Council Enforcement Officer observations.

The key changes include the addition of five (5) specific areas to Schedule A of the Bylaw, in doing so, prohibiting Freedom Camping from these areas. Other lesser changes are proposed to achieve greater clarity and/or consistency (including with other West Coast districts) and to provide Council with the ability to impose temporary Freedom Camping prohibitions or restrictions where necessary and appropriate.

The Bylaw must also be periodically reviewed in accordance with section 13 of the Freedom Camping Act 2011 (the FCA). Under this requirement, the FCCB (2012) must be reviewed by August 2019 (five years + two years after enactment, as described in the subsequent 'Issues and Discussion' section of this report). The current review will serve to satisfy this requirement.

A consultation process will have to be undertaken for the FCCB review. A Statement of Proposal has been prepared (refer attached), as well as a copy of the current FCCB (2012) with 'tracked-changes' to clearly identify proposed changes.

The Risk and Policy Committee has been consulted on this matter and the accompanying documents reflect their guidance and also attend to matters raised by the Committee.

Draft Recommendation

1. Make the determinations required under section 11(2) of the Freedom Camping Act 2011 as per the attached Freedom Camping Bylaw (2018) Statement of Proposal; and
2. Adopt the Freedom Camping Bylaw (2018) Statement of Proposal to support public consultation; and
3. Adopt the Draft Amended Buller District Council Freedom Camping Bylaw 2012 for public consultation; and
4. Undertake the special consultative procedure, as per section 83 of the Local Government Act 2002, for the proposal to adopt amendments to the Buller District Council Freedom Camping Bylaw 2012.

Issues and Discussion

Section 13 of the FCA requires councils to review bylaws made under that Act five years after the bylaw was made, with a further review at least every 10 years. Section 13(6) says, “*A bylaw that is not reviewed as required by this section, if not earlier revoked by the local authority concerned, is revoked on the day that is 2 years after the last date on which the bylaw should have been reviewed under this section.*”

Section 13 of the FCA outlines the procedure for this review. It states that, “*A local authority must review a bylaw to which subsection (1) or (2) applies by making the determinations required by section 11(2).*” Following the review, council must carry out consultation on the bylaw regardless of whether the outcome of the review is that the bylaw be retained unchanged, amended, revoked or replaced.

Section 11(2) of the FCA is reproduced below in its entirety:

Freedom camping bylaws

- (2) A local authority may make a bylaw under subsection (1) only if it is satisfied that—*
- (a) the bylaw is necessary for 1 or more of the following purposes:*
 - (i) to protect the area:*
 - (ii) to protect the health and safety of people who may visit the area:*
 - (iii) to protect access to the area; and*
 - (b) the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and*
 - (c) the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.*

Freedom Camping Control Bylaw (2012)

The FCCB came into force on 30 August 2012. Its review was signalled in September 2018 to Council's Risk and Policy Committee and must now be completed by 30 August 2019 to avoid automatic revocation under section 13(6) of the FCA. The review is timely in that key changes are sought before the 2018/19 'visitor high season' (i.e. by December 2018) in order to better manage outcomes and effects posed by Freedom Camping in the district. Subject to consultation outcomes, the timeline mapped out for this review can achieve this timeline.

The review has identified the inclusion of five (5) additional areas to the prohibited list of sites included in Schedule A of the Bylaw. A description of these sites and the rationale for their inclusion in the list of prohibited sites is included in the attached Statement of Proposal. The review has also identified other lesser changes necessary to improve the clarity and consistency of the Bylaw (including with the two other West Coast districts) and to enable Council to make temporary prohibitions and/or restrictions where an appropriate need arises. These changes are also described in the attached Statement of Proposal and are evident in the accompanying draft FCCB (2018) via 'change tracking'.

Engagement has already occurred with community members in the affected areas, key agencies such as DOC and NZTA, and with the NZMCA (being a key interest group). Council's Enforcement Officer has also informed the review. Consultation will ensure all interested parties have an opportunity to have their say on the proposed changes.

Considerations

1. Strategic Impact

Council must ensure that its bylaws are necessary, fit for purpose and can achieve their desired outcomes. The FCCB (2012) has been in place for six (6) years with a general view that other than the changes proposed in the current review, it has been working effectively and achieving beneficial outcomes.

2. Significance Assessment

The changes proposed are considered to be of low significance proportionate to the benefits they will bring.

3. Values

The Buller District Council values are: One Team, Community Driven, We Care, Integrity and Future Focussed. This process and review directly support a number of these values.

Community Driven: bylaws are put in place to address issues that can impact on our community. They also place restrictions on what members of the community can do. The consultation process allows the community an opportunity to contribute to bylaw review and development. Some of the changes proposed have been driven by community members.

We Care: Protecting the environment, access, and the safety and health of our community lies at the heart of the changes proposed.

Integrity: Maintaining the integrity of our district's special places and acting with fairness, transparency and regard for our Freedom Camping visitors is of utmost importance and is upheld by the proposed changes.

Future Focussed: It is important that the FCCB remains relevant and fit-for-purpose. It is also important that it addresses challenges that affect the sustainability of Freedom Camping in our district. The proposed changes do this.

4. Policy/Legal Considerations

Council must ensure that it is meeting its legislative requirements in relation to bylaws. This review is part of meeting this requirement. It also ensures that the bylaw remains necessary and fit for purpose, and that it can continue to achieve the desired outcomes. The processes outlined in the FCA and the Local Government Act 2002 (the LGA), as discussed above and below, must be followed.

Sections 13(4) and 11(5) of the FCA outline the consultation requirements for this review, stating that the special consultative procedure outlined in the LGA must be used because it is proposed to amend the Bylaw.

5. Tangata Whenua Considerations

No specific considerations have been identified. Tangata whenua will have the opportunity to provide comment through the consultation process.

6. Views of Those Affected

The consultation process outlined above will provide people with an opportunity to make their views known to Council. Community and stakeholder engagement, including with key interest groups such as the New Zealand Motor Caravan Association (NZMCA) has already occurred in relation to the proposed Bylaw changes.

7. Costs

There are costs involved with the Bylaw review and consultation process, however Council has been funded by MBIE for a broad package of work to better manage the impacts of visitors to our district. The work involved in this Bylaw review and consultation process is included in the MBIE funding package.

8. Benefits

The proposed changes to the FCCB will deliver broad environmental, social, amenity and safety benefits.

9. Risk Analysis

Risks exist in any bylaw review, especially where changes are proposed. The main risks anticipated in this review process include:

- Ensuring that the review and proposed changes meet relevant legislative and consultation requirements and do not infringe on rights such as the New Zealand Bill of Rights (1990); and
- The potential for unforeseen issues and feedback during the consultation phase that require re-work and delay enactment of the Bylaw.

An assessment of the impact of the proposed changes on relevant legislation (including the New Zealand Bill of Rights, 1990) has been undertaken to ensure conformity, and discussions with key community members and stakeholders has been undertaken to shape, within reasonable limits, what are considered to be appropriate and supported changes.

10. Media/Publicity

It is considered likely that there will be public interest in this matter, given the general interest in Freedom Camping.

The required advertising and consultation process will help raise public awareness of the Bylaw.