



COVERSHEET

Minister	Hon Stuart Nash	Portfolio	Tourism
Title of Cabinet paper	Supporting Sustainable Freedom Camping in Aotearoa New Zealand Proposals for Regulatory Change	Date to be published	3 December 2021

List of documents that have been proactively released

Date	Title	Author
October 2021	Supporting Sustainable Freedom Camping in Aotearoa New Zealand Proposals for Regulatory Change	Office of the Minister of Tourism
27 October 2021	Cabinet Economic Development Committee Minute of Decision: Supporting Sustainable Freedom Camping in Aotearoa New Zealand Proposals for Regulatory Change DEV-21-MIN-0219	Cabinet Office
14 October 2021	Impact Statement: Reducing negative impacts of freedom campers	MBIE

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidential advice to Government.

In Confidence

Office of the Minister of Tourism

Chair, Cabinet Economic Development Committee

Supporting Sustainable Freedom Camping in Aotearoa New Zealand – Proposals for Regulatory Change

Proposal

- 1 I am seeking Cabinet agreement to new policy proposals to address some of the negative environmental and community impacts of vehicle-based freedom camping, and to enable a more sustainable freedom camping system.

Executive Summary

Relation to government priorities

- 2 Improving the freedom camping system relates to the Government's priorities as set out in the Speech from the Throne to support our tourism sector in its transition to a sustainable, low carbon, high skill and high wage industry. It also aligns with the Government's direction for tourism – in particular, rebuilding tourism on a sustainable model, mitigating the negative impacts associated with tourism, and elevating Brand New Zealand.

Issue identification

- 3 Formal and informal feedback indicates that those who camp in vehicles that are not properly self-contained, and therefore cannot dispose of their waste appropriately when staying in areas without proper infrastructure or facilities, have impacted the social licence for tourism in a number of communities. This behaviour is also putting at risk New Zealand's reputation as a destination that delivers a sustainable, high quality visitor experience.
- 4 There is also a lack of trust in the implementation of the voluntary standard for self-contained vehicles – a key tool currently relied on by enforcement authorities to manage freedom camping. The standard is implemented inconsistently or inappropriately; self-containment stickers can be counterfeited; and there is no national register of self-contained vehicles to support enforcement.
- 5 Vehicle-based freedom camping has been a point of friction between the tourism industry and local communities for over a decade. Previous reforms have focused on giving communities a say over where it occurs, and providing investment to reduce the costs of managing freedom camping that fall on ratepayers.
- 6 It is now clear that to realise our ambition to transform tourism to be higher value and lower impact we need to tighten up freedom camping rules, and to

ensure that those who choose to freedom camp in a vehicle meet more of the costs of this activity.

- 7 I consider that now is the time for system change in freedom camping, to align with the Government's new direction for tourism. As we begin to reopen New Zealand to the world, we need to make sure that we build back better. We have an opportunity to rebuild tourism on a sustainable model and to ensure New Zealand is seen as one of the most aspirational global travel destinations in the world. We cannot have a tourism offering that undermines local communities' enjoyment of the natural environment; the negative impacts associated with tourism must be mitigated.

My proposed changes

- 8 I propose making the following changes to the freedom camping system:
- 8.1 Introduce a national requirement for freedom campers staying in a vehicle on land managed by a local authority¹ to use a certified self-contained vehicle, unless staying at a site designated by the local authority as suitable for freedom camping in non-self-contained vehicles;
 - 8.2 Establish a regulatory system for self-containment of vehicles;
 - 8.3 Require self-contained vehicles to have a fixed toilet; and
 - 8.4 Strengthen the infringement regime and extend it to other Crown land.
- 9 I also propose a transitional period of two years following enactment of legislation giving effect to these changes. After this, self-contained vehicles used for freedom camping will require a warrant of self-containment issued under the new regulatory system.
- 10 To be clear, these changes are not intended to punish those who already freedom camp responsibly in self-contained vehicles. Rather, they are about sending a strong signal; lifting minimum expectations; and strengthening the controls to minimise the incidence of people camping irresponsibly, which negatively impacts the natural environment and communities.
- 11 Further, it is not intended that the changes proposed will affect camping in tents, as camping in tents is not the cause of the problems observed and is already prohibited at many freedom camping sites. A tent, for the purpose of exclusion from these proposed reforms, should be defined as any temporary structure not attached to a motor vehicle or caravan.

¹ This new requirement would not apply to public conservation lands (managed by the Department of Conservation), for reasons outlined in this paper.

Background

- 12 Freedom camping² is a small but highly visible part of both domestic and international tourism. Freedom campers travel widely, spending money in our communities, and some contribute in other ways, such as participating in the seasonal workforce and volunteering. In 2019, international visitors who freedom camped at some point during their trip spent an estimated \$645 million here. That year, an estimated 245,000 people freedom camped, 63 per cent of whom were international visitors.
- 13 The Freedom Camping Act 2011 (the Act) provides local authorities and the Department of Conservation (DOC) with the ability to manage freedom camping through local bylaws and notices. About half of New Zealand's territorial authorities have made a freedom camping bylaw.
- 14 Steadily increasing numbers of freedom campers over recent years have generated concern from some communities about freedom campers' cumulative impact on the environment, and the cost of hosting them. The government has responded by providing financial support to communities to provide more camper education, enforcement, maintenance of facilities, and new infrastructure. However, these interventions cannot resolve the problems entirely, and concerns remain about the subset of freedom campers who stay in cars, or vans with sleeping platforms, that are not self-contained.
- 15 In addition, there is a lack of public trust in the implementation of the voluntary New Zealand Standard for self-containment of motor caravans and caravans, NZS 5465:2001 (the Standard). Many freedom camping bylaws and notices require campers to stay in a vehicle certified to the Standard, as this is the best available way for enforcement authorities to ensure that vehicles will meet minimum sanitary requirements. However, the lack of oversight by a regulator has led to inconsistent and inappropriate certification of vehicles. The blue self-containment stickers are also being counterfeited and, as there is no register of certified vehicles, it is difficult for enforcement authorities to verify a vehicle is certified.
- 16 In addition, the current infringement regime could be improved. The infringement fee is set at \$200 irrespective of the severity of the offence committed. Rental companies are also not required to pass on infringements they receive as the registered owner of a vehicle to the hirer, which leads to higher costs for enforcement authorities and lower collection rates because rental companies are not liable for payment if the hirer fails to pay.
- 17 I consider that a package of regulatory initiatives is required to address these problems and build trust in the freedom camping system. As a first step, Cabinet agreed to public consultation on a discussion document setting out four proposals to support sustainable freedom camping in Aotearoa New Zealand [DEV-21-MIN-0054 refers]:

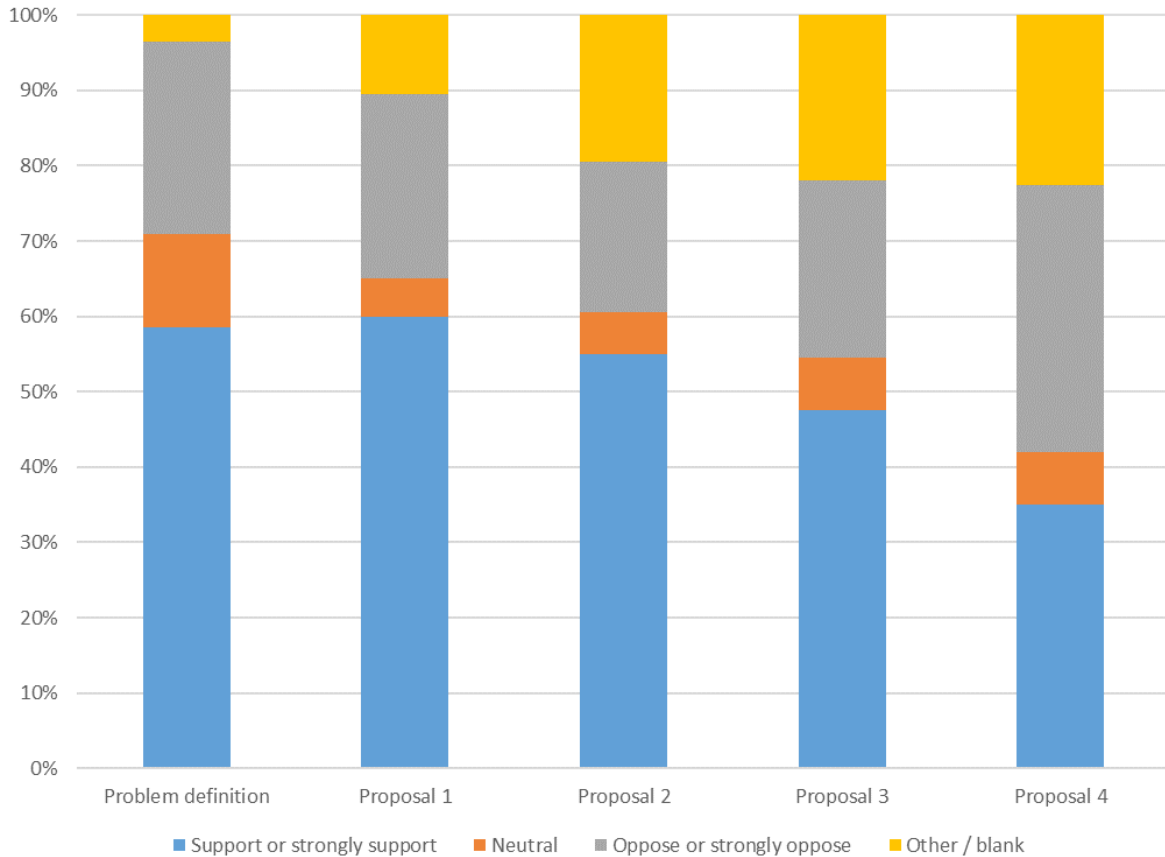
² The Freedom Camping Act 2011 defines freedom camping as staying for free in a vehicle or tent, within 200 metres of where you can drive, the coast or a Great Walks Track.

I N C O N F I D E N C E

- 17.1 Proposal 1: Make it mandatory for freedom camping in a vehicle to be done in a certified self-contained vehicle;
- Or
- 17.2 Proposal 2: Make it mandatory for freedom campers to stay in a vehicle that is certified self-contained, unless they are staying at a site with toilets (except on DOC-managed land or in regional parks);
- 17.3 Proposal 3: Improve the regulatory tools for government land managers (through establishing a regulatory system for the certification of self-contained vehicles, and strengthening the infringement system);
- 17.4 Proposal 4: Strengthen the requirements for self-contained vehicles.
- 18 Consultation has now been completed, and this paper presents my final proposals for regulatory change.

Submissions show broad support for regulatory change

- 19 The Ministry of Business Innovation and Employment (MBIE) received 5,136 submissions in response to the public consultation, including 40 from local government and 9 from camping organisations. A high-level summary of feedback on the discussion document is attached as Appendix 1.
- 20 The public and local authorities generally agree that certain types of vehicle-based freedom camping are a problem. The top three problems identified are campers staying in uncertified vehicles (either not self-contained, or not certified to the New Zealand Standard), campers littering, and campers depositing human waste.
- 21 In general, there were clear differences between local authorities, the public and camping organisations in levels of support for the proposals:
- 21.1 Local authorities' support was strongest for new regulatory tools and strengthening the requirements for self-contained vehicles.
- 21.2 The public was most supportive of introducing a new requirement relating to use of self-contained vehicles. But many submitters supported both alternatives proposed, suggesting they want stronger rules but were not as focused on the specific proposal.
- 21.3 Camping organisations were most supportive of new regulatory tools, and were strongly opposed to strengthening the requirements for self-contained vehicles or introducing stronger rules for freedom camping.
- 22 The following graph illustrates overall levels of support and opposition to the proposals.



Proposals

23 There is clear support for higher standards to be required of the vehicles freedom campers use, and for stronger penalties for infringements by freedom campers. My objectives for changes to the regulatory system are to:

23.1 incentivise freedom campers to dispose of waste and litter appropriately;

23.2 reduce the management costs of freedom camping placed on communities;

23.3 improve social licence for tourism;

23.4 enhance Brand New Zealand.

24 It is also important to ensure the changes support other related objectives, in particular, DOC's statutory obligation to foster recreation and ensure New Zealanders have equitable access to public conservation land.

25 I am proposing a package of four key changes to the freedom camping regulatory system to achieve these objectives, discussed further below:

25.1 Introduce a new rule for freedom camping in a vehicle on land managed by local authorities;

25.2 Establish a regulatory system for the self-containment of vehicles;

- 25.3 Require self-contained vehicles to be fitted with a fixed toilet; and
- 25.4 Strengthen the infringement regime and extend it to other Crown land.
- 26 I seek Cabinet approval to issue drafting instructions to Parliamentary Counsel Office to give effect to the recommendations in this Cabinet paper.

New rule for freedom camping in a vehicle on land managed by local authorities

- 27 I recommend the introduction of a new rule for freedom camping on land managed by local authorities. The proposed rule is to require freedom campers staying in a vehicle on land managed by a local authority to use a certified self-contained vehicle, unless staying at a site designated by the local authority as suitable for freedom camping in non-self-contained vehicles. Local authorities would designate such sites in their freedom camping bylaw.
- 28 Offences for infringements against the new rule would be introduced and enforceable by enforcement officers appointed under the Act. Offences would include freedom camping, or preparing to freedom camp, in breach of the rule. Offences would also be developed for infringements relating to the vehicle's self-containment certification, such as displaying an altered or fraudulent warrant, and having more campers staying in the vehicle than it is certified for.
- 29 The rule will establish a baseline expectation that freedom campers who are staying on land managed on behalf of ratepayers will stay in certified self-contained vehicles, in that they will have facilities in the vehicle enabling them to be self-supporting for several days.
- 30 However, it also provides flexibility for freedom camping in non-self-contained vehicles to occur where the local authority has identified in its freedom camping bylaw sites with suitable infrastructure to host them. This is consistent with local determination of how tourism is managed, and may be of particular benefit in districts that are seeking to attract a broader market or reduce seasonality.
- 31 I expect that introducing the proposed rule would result in a range of outcomes, including:
 - 31.1 a reduction in inappropriate disposal of waste by freedom campers given requirements to have access to facilities, and reduced clean-up costs for local authorities;
 - 31.2 higher confidence in the community that freedom campers have access to the necessary facilities to support their stay;
 - 31.3 an increase in costs for freedom campers who use a non-self-contained vehicle to upgrade their (owned or rented) vehicle to be certified self-contained;

- 31.4 potential increased use of paid accommodation by travellers who do not wish, or are unable, to upgrade their vehicle to be certified self-contained;
- 31.5 a reduction in price-sensitive international freedom campers visiting New Zealand.
- 32 Based on feedback from the public consultation, I expect that such a rule would have a large degree of support from the public, and most key stakeholders. It also broadly aligns with the recommendation of the Responsible Camping Working Group's 2018 report for greater national consistency, while still permitting local authorities to designate areas as suitable for non-self-contained vehicles.

Freedom camping on public conservation land

- 33 I have discussed my proposals with the Minister of Conservation. As part of the feedback on these proposals, the Department of Conservation (DOC) advised that visitors' ability to access public conservation lands for activities such as tramping, hunting and fishing could be impacted if the requirement for use of self-contained vehicles was extended to freedom camping on land managed by DOC. The sheer size of public conservation lands would make it prohibitively resource-intensive for DOC to assess and assign which areas are suitable for freedom camping, rather than deal with it as issues arise as they currently do.
- 34 DOC's preference, therefore, is that the new national rule not apply to public conservation lands. Instead, freedom campers will need to comply with any notices applying to defined areas which restrict or prohibit freedom camping. DOC considers it is able to use these notice-making powers under the Freedom Camping Act 2011 and Conservation Act 1987 to adequately control freedom camping where it becomes an issue.
- 35 Although having different requirements applying to local authority and DOC land risks causing some confusion for freedom campers, this can be addressed with information provided by local authorities, DOC, rental companies, camping organisations, through mobile applications and with signage.
- 36 DOC has advised that if this decision results in campers moving from existing freedom camping sites to public conservation land, it would manage this by introducing new notices. However, in many instances public conservation land is not a natural substitute for freedom camping in an urban or suburban setting. People who wish to freedom camp in a non-self-contained vehicle will have other alternatives besides public conservation land, such as commercial camping grounds and sites where the local authority has designated it appropriate for non-self-contained vehicles. The maps provided by DOC, attached as Annex two, demonstrate that freedom camping is already prohibited on some DOC-sites, particularly where conservation land is adjacent to the road.

Regulatory system for self-containment of vehicles

- 37 I recommend establishing a regulatory system for self-contained vehicles, including establishment of a register of certified self-contained vehicles. The regulatory system should be relatively light touch to be proportionate to the potential level of harm. The purpose of the system is primarily to ensure sanitary plumbing requirements have been met for people to be self-contained when camping in a vehicle. This contrasts, for example, with regulatory systems that seek to prevent injury or death.
- 38 The model I propose is based on the existing Standard, but introduces additional checks to provide assurance that warrants of self-containment are being issued appropriately. Key aspects include:
- 38.1 Establishment of a regulator for the self-containment of vehicles.
 - 38.2 The regulator will approve organisations and individuals seeking to provide a service to vehicle owners as a 'certification authority', based on criteria (to be specified in regulations).
 - 38.3 Certification authorities will appoint or recognise vehicle inspectors based on competency requirements (to be specified in regulations). Vehicle inspectors will check vehicles have met minimum mandatory requirements for self-containment (to be specified in regulations).
 - 38.4 The regulator will establish and maintain a register of self-contained vehicles. Parts of the register will be accessible by enforcement authorities and the public to confirm if a vehicle is certified as self-contained. Enforcement authorities will also have the option of noting any interactions with a specific vehicle. The regulator will also be entitled to obtain, upon request, current ownership and contact information in relation to a specific vehicle as recorded on the Motor Vehicle Register (maintained by Waka Kotahi NZ Transport Agency) for auditing and compliance purposes.
 - 38.5 Certification authorities will issue four-year warrant cards and certificates of self-containment for vehicles that pass checks and will maintain records, including entering the details of the warrant in the register. The existing generic blue stickers would become invalid over time.
 - 38.6 The regulator will undertake monitoring of certification authorities to ensure proper interpretation of self-containment requirements and maintenance of records.
 - 38.7 There will be associated offences and penalties enforceable by the regulator.
- 39 I consider that the Plumbers, Gasfitters and Drainlayers Board (the PGDB, a statutory board with regulatory functions empowered under the Plumbers, Gasfitters, and Drainlayers Act 2006) is best placed to be the regulator. Self-contained vehicle certification involves assessing whether critical minimum

plumbing-related requirements around matters such as toilets, waste management, and drinking water management have been met. The PGDB's current functions align well with the proposed new regulatory role.

- 40 The PGDB will require additional functions and powers for this role, in line with those held by regulators providing similar oversight of a certification process.³ Functions will include monitoring certification authorities, managing complaints, taking any necessary investigative or compliance actions, maintaining the register of self-contained vehicles, and providing information and guidance on self-containment certification. Offences and penalties for certification authorities will be aligned with the relevant disciplinary and other offences set out in the Plumbers, Gasfitters, and Drainlayers Act 2006.
- 41 New regulation-making powers will also be required to give effect to the new regime, including to:
- 41.1 specify the criteria that must be met in order for an organisation or individual to be approved as a certification authority;
 - 41.2 prescribe the fee for approval as a certification authority;
 - 41.3 specify the criteria that must be met in order for a person to be appointed or recognised by a certification authority as a vehicle inspector;
 - 41.4 prescribe the format and details for the self-containment certificate, and the warrant card;
 - 41.5 specify ongoing requirements that must be met in order for a certification authority to continue to be approved;
 - 41.6 specify the technical requirements that must be met in order for a motor vehicle to be certified as self-contained;
 - 41.7 prescribe the monitoring levy to be paid at the time of certification;
 - 41.8 provide for refunds or waiving of all or some fees/levy;
 - 41.9 provide for any exemptions from some or all requirements; and
 - 41.10 prescribe a fee (if any) for a search of the register of self-contained motor vehicles.
- 42 The proposed regulatory system will enable the PGDB to provide robust national oversight without imposing excessive costs on freedom camping participants. Once self-contained vehicles used for freedom camping have transitioned from the unregulated warrant to the regulated system, there will be greater consistency in certification, increased public trust in the system, and certainty for enforcement officers verifying vehicles are certified.

³ Such as Waka Kotahi (approval of warrant of fitness issuing authorities), PGDB (approval of gasfitting employer licences), and Electrical Workers Registration Board (approval of electrical safety employer licences).

Requiring self-contained vehicles to have a fixed toilet

- 43 I propose that the regulatory requirements for self-contained vehicles are strengthened from what is permitted in the voluntary Standard so that vehicles cannot be certified or recertified as self-contained if they have a portable toilet. Under this proposal, self-contained vehicles will require a toilet that is fixed within the vehicle. Fixed toilets may have either a removable or a permanent black water tank.
- 44 Submissions indicate that portable toilets are popular and widely installed in self-contained vehicles as they are space savers and relatively inexpensive. However, research published by MBIE in 2020 suggests that portable toilets are far less likely to be used than fixed toilets. A portable toilet may also be removed from a vehicle at any time.
- 45 Requiring certified self-contained vehicles to have a fixed toilet would build public confidence that, if a vehicle is certified, it is equipped with a toilet on board that is more likely to be used (which will contribute to reducing the costs borne by communities).
- 46 Prohibiting portable toilets will come at a cost for some vehicle owners (including rental companies) if they intend to continue freedom camping in a certified self-contained vehicle. Some vehicles may be able to be upgraded to have a fixed toilet installed while some may not, for example if they are too small. Where an upgrade is possible, average costs estimated by submitters ranged from \$1,600 for a basic upgrade (such as a fixed toilet with removable cassette) to \$6,700 for a higher end upgrade (such as a permanent black water tank).
- 47 I expect that there is likely to be mixed levels of support for this proposal, with campers, camping organisations and some rental companies opposed, and local government and the general public more in support. I consider this change is necessary to lift the standard of certified self-contained vehicles, encourage increased usage of toilets on board vehicles, and to build public confidence in the regulatory system.

Strengthening the infringement regime and extending it to other Crown land

- 48 To enhance enforcement, I propose several improvements to the current freedom camping infringement framework:
- 48.1 Introducing tiered infringement fees;
 - 48.2 Making rental companies, as the registered owners of vehicles, liable for infringement fees incurred by hirers;
 - 48.3 Establishing an accelerated process for the serving, and payment, of freedom camping infringements; and
 - 48.4 Extending the Freedom Camping Act 2011 to land administered by Waka Kotahi and Toitū Te Whenua (Land Information New Zealand – LINZ).

Introducing tiered infringement fees

- 49 Offences under the Act are enforced by local authority and DOC enforcement officers, who are able to issue infringement notices as appropriate. Currently, all infringement fees are \$200, but the Act provides for Regulations to be made setting higher fees, up to \$1,000.
- 50 A blanket \$200 infringement fee does not reflect the relative seriousness of different offences. To enhance deterrence and make enforcement more effective, I propose moving to a tiered system for infringement fees, with tiers of \$200, \$400, \$600, \$800 and \$1,000.
- 51 The relevant tiers for individual offences will be the subject of consultation as part of the development of regulations, but I expect that offences which could result in greater harm but with a low likelihood of being detected would have a significantly higher infringement fee than others. For example, inappropriate disposal of a noxious substance would likely attract a higher fee than preparing to camp in breach of a freedom camping bylaw or notice. I will also be looking to achieve alignment between freedom camping and conservation-related infringement fee levels.

Making rental companies liable for infringement fees incurred by hirers

- 52 Rental companies may have freedom camping infringement notices issued to them as the registered owner of a rental vehicle. This often occurs if the hirer was away from the vehicle when the infringement was issued. Under the Act, rental companies may either:
- 52.1 Recover the fee from hirers (plus an additional administration fee) – typically through a pre-authorisation placed on a hirer's credit card when they hire a vehicle – and pass the fee to the enforcement authority; or
 - 52.2 Make a statutory declaration to the enforcement authority to transfer liability to the hirer, whereby the enforcement authority must issue a new infringement notice.
- 53 Rental companies prefer the latter option, as they advise they can have difficulties charging hirers due to the time involved to receive the infringement notice. However, this results in many infringements not being proceeded with due to the costs and processes of recovering unpaid fees from overseas visitors. This in turn leads to a lack of confidence in freedom camping enforcement.
- 54 I propose to require rental companies to pay freedom camping infringements issued to them as the registered vehicle owner, removing their ability to transfer liability to the hirer. The rental company will be able to debit the hirer's credit card after first sending them a copy of the infringement notice. The hirer's right will be preserved to challenge the issuing of the infringement notice with the enforcement authority, continuing their access to natural justice. A successful challenge would result in a refund.

- 55 This proposal will reduce costs for enforcement authorities, improve infringement collection rates, provide a greater incentive for rental companies to make hirers aware of freedom camping requirements and the consequences of failing to comply, and increase confidence in the enforcement regime. It will largely transfer administrative costs to rental companies, which may be recovered through administration fees. Rental companies would likely also need to hold a hirer's bond for longer in case of infringements received after return of the vehicle, and may require a higher bond.

Establishing an accelerated process for freedom camping infringements

- 56 Rental companies and enforcement authorities have raised the issue of the length of time offenders have to pay an infringement fee, noting that the 28-day payment period and subsequent 28-day reminder notice period give sufficient time for many international visitors to depart New Zealand without either being aware that they had committed an offence and/or paying the infringement fee. They asked that these periods be reduced.
- 57 I therefore propose two changes to speed up notification, and payment, of infringements:
- 57.1 Providing for enforcement authorities to be able to email infringement notices in order to reduce the time between the infringement notice being issued and it being received.
- 57.2 Reducing the payment and reminder periods for infringements from 28 days each to 14 days each. These timeframes are used for infringement regimes which deal in large part with international visitors, such as biosecurity, trade in endangered species, and civil aviation. While it would reduce the amount of time available to appeal an infringement, it would nevertheless still enable access to justice.

Extending the Freedom Camping Act 2011 to land administered by Waka Kotahi and LINZ

- 58 Over recent years there has been an increase in people freedom camping on Crown land administered by either Waka Kotahi or LINZ, particularly in popular areas in the South Island (for example at Waitapu Bridge in Golden Bay, and Lake Dunstan in Central Otago). The agencies have flexibility within their own legislation to put in place management arrangements, but do not have access to an offences and penalties regime to incentivise compliance with any requirements they have put in place. They currently rely on issuing and enforcing trespass orders where campers' behaviour is problematic.
- 59 I recommend that the Freedom Camping Act 2011 be extended to enable regulation of freedom camping on land administered by Waka Kotahi or LINZ.
- 60 I am proposing slightly different regulatory models in respect of the land managed by the two agencies, as the way the land is used is different. In the case of Waka Kotahi, the land is used for the road corridor. General land

transport restrictions prevent camping along the road corridor, but freedom camping occurs in rest areas and similar locations adjacent to the road. LINZ-administered land is used for miscellaneous purposes (such as farming, electricity generation), and is in many places the subject of private lease arrangements.

61 I recommend that:

61.1 For Waka Kotahi-administered land: the relevant local authority will be empowered to define, in its freedom camping bylaw, areas of the land that are deemed as local authority areas for the purpose of the Act. This will be enabled through a small amendment to the Act. Any inclusion will be subject to the consent of Waka Kotahi and provided it is not inconsistent with the use of the land. As is the case for all local authority areas, the rule requiring freedom campers staying in a vehicle to use a certified self-contained vehicle will then apply. The bylaw may also put in place prohibitions or restrictions on freedom camping, and existing offences under the Act or the bylaw will apply.

61.2 For LINZ-administered land: Freedom Camping will be prohibited, except where the relevant decision-maker (either the Minister for Land Information, Chief Executive or Commissioner of Crown Lands or the Chief Executive, depending on the type of land) has made a notice to define an area where freedom camping may occur. All freedom campers staying in a vehicle will be required to use a certified self-contained vehicle, unless the notice permits the use of non-self-contained vehicles. The notice may also prescribe restrictions that apply to freedom camping in the area. New offences and penalties, aligned with those existing in the Act, will be required for enforcement of these new provisions. As with local authorities and DOC, LINZ will also have the ability to appoint enforcement officers to enforce the rules on its land.

62 Extending the Act to other Crown land in this way will provide additional management tools through the ability to prescribe restrictions on freedom camping, as well as access to the offences and penalties regime. It will be a decision for local authorities whether they wish to extend their freedom camping enforcement effort to include sites on land administered by Waka Kotahi or LINZ. There may be increased costs from expanding their management activities, but this is only likely to occur where freedom camping is causing problems.

Transitional Arrangements

63 The new rule requiring use of certified self-contained vehicles on land managed by local authorities discussed above will come into effect as soon as legislation is passed. It is important for building confidence in the freedom camping system to transition from unregulated certification to the new regulated system as quickly as possible. The transition will require:

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- 63.1 The PGDB to establish its new regulatory function and to build the IT system for the register of self-contained vehicles;
- 63.2 A number of regulations to be made, including to set out the criteria and process for approval of certification authorities, and the technical requirements for a warrant of self-containment to be issued under the new regulatory system (“green warrants”);
- 63.3 Certification and registration of self-contained vehicles in line with the new technical requirements – if the owner wishes to use the vehicle for freedom camping in an area where a certified self-contained vehicle is required.
- 64 There are no accurate figures about how many self-contained vehicles exist in New Zealand. According to information obtained by MBIE in early 2021, there are at least 68,000. This includes at least 5,000 rental vehicles.
- 65 Enforcement authorities are strongly supportive of determining a point in time at which self-contained vehicles used for freedom camping would need to meet the new regulatory requirements. I propose to set this date at two years after enactment of the Bill for private vehicles and 18 months after enactment for rental vehicles. I believe the rental vehicle industry should be exemplars of the new regulatory requirements.
- 66 After each of these dates, a warrant issued under the voluntary Standard (a “blue warrant”) will not be accepted as evidence of the vehicle being self-contained for the purpose of freedom camping, irrespective of expiry date.
- 67 Prior to these dates, vehicles with either a blue warrant or a green warrant will be accepted as being certified self-contained for the purposes of the new rule discussed earlier or a freedom camping notice. However, in order to further incentivise the transition I propose that, from six months after the regulations have been made, any blue warrants issued after that date will not meet the requirements of certified self-containment under the legislation. This will encourage vehicle owners to obtain a green warrant before it becomes mandatory.
- 68 I also want to promote faster removal of portable toilets as an option that meets the requirements of certified self-containment under the Act. I therefore propose that, as soon as the Bill is enacted, a blue warrant may no longer be issued for a vehicle with a portable toilet – a fixed toilet will be required for a blue warrant to be issued after enactment (noting that green warrants will not be able to be issued until regulations have been made). While I appreciate that this may be challenging to enforce during the transition period, it is an important signal to send about needing to raise the threshold for what constitutes self-containment going forward.
- 69 I propose that we retain flexibility to extend transition dates by Order-in-Council if any part of the transition is not proceeding smoothly.

70 The following table summarises the proposed transitional stages (a “blue warrant” signifies a warrant of self-containment issued under the voluntary Standard; a “green warrant” signifies a warrant issued under the new regulatory system).

Milestone	Transitional stages
Enactment of the Bill	New rule requiring use of certified self-contained vehicles comes into force Blue warrants may continue to be issued but only for self-contained vehicles with a fixed toilet Vehicles with a blue warrant are accepted as certified self-contained for freedom camping
Regulations in effect	Certification authorities may apply to become approved Approved certification authorities begin issuing green warrants Vehicles with a green warrant are recorded in the register of self-contained vehicles Vehicles with a blue warrant are still accepted as certified self-contained for freedom camping
6 months after Regulations in effect	Vehicles with a blue warrant issued <i>after</i> this date will not be accepted as certified self-contained for freedom camping Vehicles with a blue warrant issued <i>before</i> this date are still accepted as certified self-contained for freedom camping
18 months after enactment of the Bill	Rental vehicles must have a green warrant to be accepted as certified self-contained for freedom camping
24 months after enactment of the Bill	Private vehicles must have a green warrant to be accepted as certified self-contained for freedom camping

Financial Implications

71 Although the proposals will have benefits for local authorities through more effective management of freedom camping in their districts, there will be some transitional and on-going costs, such as for the establishment or amendment of freedom camping bylaws to give effect to the new self-containment policies; and enforcement of the new proposals on both Council and Crown land (where councils decide to do so).

72 To ensure a smooth transition from the old regime to the new, I propose to establish a time-limited contestable fund of \$10 million to cover the two summers 2022/23 and 2023/24, ahead of the new rules taking effect, after which time councils will be in a position to manage this from baselines. The funding will be available for councils to undertake activities relating to the transition, including the use of ‘camping ambassadors’ to explain changes on the ground, which have proven useful in the past, as well as to develop new bylaws and educate the public on the new regime.

- 73 I have explored opportunities within the Tourism portfolio to reprioritise funds for this purpose. Tourism New Zealand has returned some of its operating costs in the 2021/22 financial year as a result of its diminished offshore promotion activities due to Covid-19, and I have assessed all the reforms needed in the tourism system and decided that allocating these funds to support the transition to the new freedom camping regime is the best use. I therefore propose that the \$10 million be funded from a one-off reprioritisation from Tourism New Zealand (TNZ) 2021/22 funds and transferred to the Tourism Facilities Department Grants category in the Tourism Facilities multi-category appropriation to establish the fund. I am confident that this will not impact on TNZ's ability to surge its promotional activity as borders reopen.
- 74 The ongoing costs of PGDB's additional regulatory functions will be recovered from regulated parties through fees and levies, as follows:
- 74.1 A fee for one-off processing of applications for approval as a certification authority, to be set on a full cost recovery basis and prescribed in regulations, payable by the applicant at the time of application.
- 74.2 A levy paid by vehicle owners when a self-containment warrant is issued, to fully recover the costs of PGDB's other functions to regulate self-containment of vehicles (including depreciation charges for the register). Levy monies, the level of which will be prescribed in regulations, would be collected by certification authorities and paid to the PGDB.
- 75 Officials will work with the PGDB to provide detailed costings on the level of the proposed fee and levy, and consult stakeholders as part of developing regulations. The recommended levels will be included in the cost recovery impact statement to accompany the regulations. However, officials expect that the estimate of a \$125 levy (advised during public consultation) can be substantially reduced, to an estimated range of \$40 to \$60, based on 15,000 to 20,000 warrants being issued annually.⁴
- 76 Establishment funding will also be needed to enable PGDB to build the new register of self-contained vehicles and set up approval and auditing processes. Work is currently underway to refine the exact costings and timeframes, but at this point cost is estimated to be \$1 million, and the build is expected to take up to a year. The Ministers of Tourism, Conservation and Finance have agreed that these establishment costs will be funded from the International Visitor Conservation and Tourism Levy (IVL).

Legislative Implications

- 77 An omnibus bill and regulations are needed to implement the proposals recommended in this paper. The Bill will amend the Freedom Camping Act 2011 and the Plumbers, Gasfitters, and Drainlayers Act 2006.

⁴ If some vehicle owners choose not to have their vehicle certified under the new regime, this will result in a higher levy. For example if only 10,000 warrants are issued annually, it is estimated that a levy of \$80 to 85 would be required to fully recover costs.

78 The Self Contained Vehicles Bill has category three priority on the 2021 Legislation Programme (to be passed in the year, if possible). To allow adequate time for drafting and select committee examination, I propose that the Bill be changed to category five priority (instructions to be provided to PCO in the year). The following table sets out proposed timing for the legislation.

Proposed timing for legislation	Dates
Drafting of the Bill	December 2021 – March 2022
Development of content for regulations and consultation	December 2021 – May 2022
Introduction of the Bill	May 2022
Royal Assent	November 2022
Drafting of the Regulations	November 2022 – February 2023
Regulations come into force	May 2023

79 The Freedom Camping Act 2011 does not currently bind the Crown. I see no reason why it should not bind the Crown and as such I propose that as part of the amendments to the Act a clause be added stating that the Act does bind the Crown.

80 In line with the Freedom Camping Act’s Ministerial responsibilities, I have agreed with the Minister of Local Government and Minister of Conservation that I will proceed with these amendments to the Act while keeping those Ministers closely informed.

Impact Analysis

Regulatory Impact Statement

81 MBIE’s Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The Panel considers that the Impact Statement partially meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

82 The ‘partially meets’ rating is due to limited evidence of the degree of harm from vehicle-based freedom-camping compared to other possible causes. The Impact Statement notes that some issues which might also be contributing to perceptions of the problem (overcrowding, infrastructure, loss of visual amenity) are out of scope of the analysis. This limits certainty that the recommended policy option will achieve the expected benefits. The consultation was expected to address the gaps in evidence, but it has not been able to do so.

Climate Implications of Policy Assessment

- 83 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

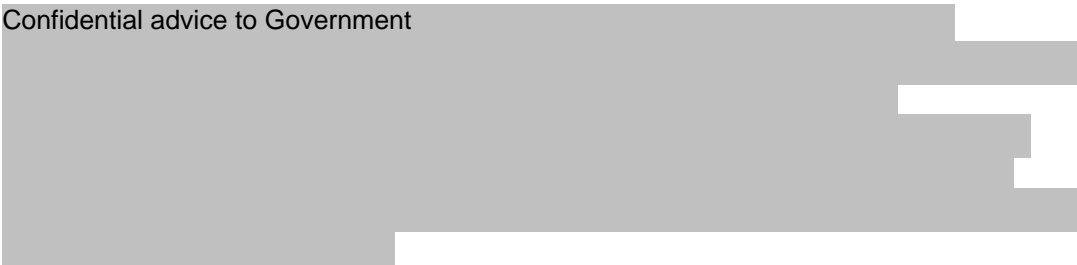
Population Implications

Low-income families

- 84 MBIE advises that lower income families may be impacted by the proposals as they will reduce the options available to freedom camp at no or low cost in a vehicle. Higher costs will arise from the new requirement for use of certified self-contained vehicles on land managed by local authorities, or from paying for alternative accommodation. There will, however, continue to be opportunities for free or very low cost camping in tents, and on public conservation land, where permitted.

Those experiencing homelessness

- 85 It is not my intention for these changes to impact negatively on those experiencing homelessness. As it stands, the Act's definition of freedom camping covers the living conditions of those experiencing homelessness. Currently enforcement authorities use their discretion to avoid infringing people experiencing homelessness who may be in breach of freedom camping bylaws or notices, as recommended by Local Government New Zealand (LGNZ). There is no evidence to suggest people experiencing homelessness are being adversely impacted by this approach.

- 86 Confidential advice to Government
- 

- 87 As such, the pragmatic solution, which agencies accept, is to continue supporting enforcement authorities in applying their discretion. This will include reviewing and reinforcing existing tools such as guidance and referral pathways, and providing commentary in the Bill's General Policy Statement. This should also support efforts to ensure those experiencing homelessness are engaged with appropriately by enforcement officers and have access to general information on the available supports and services.

Human Rights

- 88 The proposals do not present any inconsistencies with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

- 89 The following departments and organisations have been consulted in preparation of this paper: Department of Conservation, Department of Internal Affairs, Kāinga Ora, Land Information NZ, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Social Development, Ministry of Transport, Parliamentary Counsel Office, the Plumbers, Gasfitters and Drainlayers Board, Responsible Camping Working Group, the Treasury and Waka Kotahi. The Department of the Prime Minister and Cabinet has been informed.
- 90 The Leader of the House has been consulted about the proposed change in priority category for the Self Contained Vehicles Bill.

Communications

- 91 I intend to make a press release announcing Cabinet's decisions.

Proactive Release

- 92 I intend to proactively release this paper and the Cabinet minute at the same time as I announce Cabinet's decisions.

Recommendations

The Minister for Tourism recommends that the Committee:

- 1 note that consultation on the Government's proposals to support sustainable vehicle-based freedom camping in Aotearoa New Zealand has concluded, and there was broad support for regulatory change [DEV-21-MIN-0054 refers];

New rule for freedom camping on land managed by local authorities

- 2 agree to require freedom campers staying in a vehicle on land managed by a local authority to use a certified self-contained vehicle, unless staying at a site designated by the local authority in a freedom camping bylaw as suitable for freedom camping in non-self-contained vehicles;
- 3 agree to establish offences for infringements against the new rule, enforceable by enforcement officers appointed under the Freedom Camping Act 2011, including freedom camping, or preparing to freedom camp, in breach of the rule, displaying an altered or fraudulent warrant of self-containment, and having more campers staying in the vehicle than it is certified for;
- 4 affirm the Government's intent that people experiencing homelessness not be further disadvantaged by the introduction of the new freedom camping rule;
- 5 direct the Ministry of Business, Innovation and Employment and Ministry of Housing and Urban Development to ensure there is appropriate guidance to support freedom camping enforcement authorities to continue applying

discretion to avoid infringing people experiencing homelessness and to provide information on suitable supports;

Regulatory system for self-containment of vehicles

- 6 agree to establish a light-touch regulatory system for self-containment of vehicles;
- 7 agree that the Plumbers, Gasfitters and Drainlayers Board become the regulator and be provided with appropriate additional powers and functions to provide oversight of the self-containment of vehicles;
- 8 agree that the regulator will approve certification authorities based on criteria to be specified in regulations;
- 9 agree that certification authorities will appoint or recognise vehicle inspectors based on competency requirements to be specified in regulations;
- 10 agree that vehicle inspectors will check vehicles have met minimum mandatory requirements for self-containment to be specified in regulations;
- 11 agree that the regulator will establish and maintain a register of self-contained vehicles;
- 12 agree that the regulator be entitled to obtain, upon request, information from the Motor Vehicle Register about the name and contact details of the current owner of a specific motor vehicle to enable it to carry out auditing and compliance functions;
- 13 agree that certification authorities will issue four-year warrant cards and certificates of self-containment for vehicles that pass checks and will maintain records, including entering the certification details in the register;
- 14 agree to establish associated offences and penalties for certification authorities which will be aligned with the relevant disciplinary and other offences set out in the Plumbers, Gasfitters, and Drainlayers Act 2006;
- 15 agree that the costs of the regulatory functions will be fully recovered from regulated parties through:
 - 15.1 a fee for one-off processing of applications for approval as a certification authority; and
 - 15.2 a levy paid by vehicle owners at the time a new self-containment warrant is issued, collected by certification authorities and paid to the regulator;
- 16 agree to create regulation-making powers to prescribe criteria, processes, forms, fees, levies and related matters to give effect to the new regime;

Requiring self-contained vehicles to have a fixed toilet

- 17 agree that the regulatory requirements for a vehicle to be certified self-contained exclude portable toilets and require the toilet to be fixed within the vehicle;

Strengthening the infringement regime and extending it to other Crown land

- 18 agree to the introduction of a tiered system for freedom camping infringement fees, with tiers of \$200, \$400, \$600, \$800 and \$1,000;
- 19 note that the relevant tiers for offences will be determined as part of developing regulations;
- 20 agree that rental companies be liable for payment of infringements issued to them as the registered vehicle owner, by removing their ability to transfer liability for freedom camping infringements to hirers but retaining their ability to debit the hirer's credit card after first sending them a copy of the infringement notice;
- 21 note that hirers' right to challenge the issuing of the infringement notice with the enforcement authority will be preserved;
- 22 agree that enforcement authorities be enabled to email freedom camping infringement notices;
- 23 agree that the payment and reminder periods for freedom camping infringements be reduced from 28 days each to 14 days each;
- 24 agree that regulation of camping on land administered by Waka Kotahi and Land Information NZ be enabled under the Freedom Camping Act 2011;
- 25 agree that the relevant local authority will be empowered to define, in its freedom camping bylaw, areas of land administered by Waka Kotahi which are deemed as local authority areas for the purposes of the Freedom Camping Act 2011, subject to Waka Kotahi giving consent and provided it is not inconsistent with the use of the land;
- 26 note that areas of Waka Kotahi land deemed local authority areas will be subject to the new rule described in recommendation 2, prohibitions or restrictions specified in a bylaw, and offences under the Act or the bylaw.
- 27 agree that freedom camping be prohibited on land administered by Land Information NZ, except where the statutory decision-maker in respect of the land has made a notice that defines an area where freedom camping may occur and which may also prescribe restrictions on freedom camping;
- 28 agree to require freedom campers staying in a vehicle on land administered Land Information NZ to use a certified self-contained vehicle, unless staying at a site designated in the notice as suitable for freedom camping in non-self-contained vehicles;

I N C O N F I D E N C E

- 29 agree to establish associated offences and penalties in relation to breaches of the new freedom camping provisions on land administered by Land Information NZ which are aligned with existing offences in the Freedom Camping Act 2011;
- 30 agree that local authorities be empowered to enforce freedom camping offences on land administered by Waka Kotahi and retain any associated revenue;
- 31 agree that Land Information NZ be empowered to appoint enforcement officers under the Freedom Camping Act 2011;

Transitional Arrangements

- 32 agree that the new rule described at recommendation 2 will come into effect as soon as the Bill is enacted;
- 33 agree that, from 18 months after enactment of the Bill, rented self-contained vehicles used for freedom camping must meet the new regulatory requirements and display a warrant issued by a certification authority;
- 34 agree that, from two years after enactment of the Bill, privately owned self-contained vehicles used for freedom camping must meet the new regulatory requirements and display a warrant issued by a certification authority;
- 35 agree that, during the period between enactment of the Bill and the new requirements becoming mandatory, evidence the vehicle is self-contained for the purpose of the new rule described in recommendation 2 or a Department of Conservation freedom camping notice will be provided by either of:
 - 35.1 a warrant issued under the New Zealand Standard for the self containment of motor caravans and caravans (NZS 5465:2001), provided the date of issue is no later than six months after regulations have been made prescribing requirements for a certification authority to issue a warrant; or
 - 35.2 a warrant issued by a certification authority;
- 36 agree that, as soon as the Bill is enacted, a vehicle may not be certified self-contained under NZS 5465:2001 if it has a portable toilet;
- 37 agree to enable the transition dates to be extended by Order-in-Council;

Financial Recommendations

- 38 agree to provide \$10 million to support activities that will ensure a smoother transition from the existing freedom camping system to the new rules and regulations;
- 39 agree that the \$10 million be funded from a one-off reprioritisation from Tourism New Zealand 2021/22 funds;

IN CONFIDENCE

- 40 approve, subject to agreement to recommendation 38 and 39, the following changes to appropriations, with the corresponding impact on the operating balance:

Vote Business, Science and Innovation Minister of Tourism	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Non-Departmental Output Expense: Tourism: Marketing New Zealand as a Visitor Destination <i>(funded by revenue Crown)</i>	(10.000)	-	-	-	-
Multi-Category Expenses and Capital Expenditure: Tourism Facilities MCA Non-Departmental Other Expense: Tourism Facilities Department Grants <i>(funded by revenue Crown)</i>	-	5.000	5.000	-	-
Total	(10.000)	5.000	5.000		

- 41 agree that the proposed changes to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.

Approve drafting of legislation

- 42 note that the policy decisions in this paper will be given effect through the Self Contained Vehicles Bill, which holds a category three priority on the 2021 Legislation Programme (to be passed this year, if possible);
- 43 agree that the priority category of the Self Contained Vehicles Bill be changed to a category five priority (instructions to be provided to PCO in the year);
- 44 agree that the Self Contained Vehicles Bill will be an omnibus Bill, amending the Freedom Camping Act 2011 and the Plumbers, Gasfitters, and Drainlayers Act 2006;
- 45 agree that the Bill include a provision stating that the Freedom Camping Act 2011 will bind the Crown;
- 46 invite the Minister of Tourism to issue drafting instructions to Parliamentary Counsel Office giving effect to the policy decisions, in consultation with the Minister of Local Government and the Minister of Conservation;
- 47 authorise the Minister of Tourism to make decisions, consistent with the policy decisions in this paper, on any issues that arise during the drafting process.

Authorised for lodgement

IN CONFIDENCE

Hon Stuart Nash
Minister of Tourism

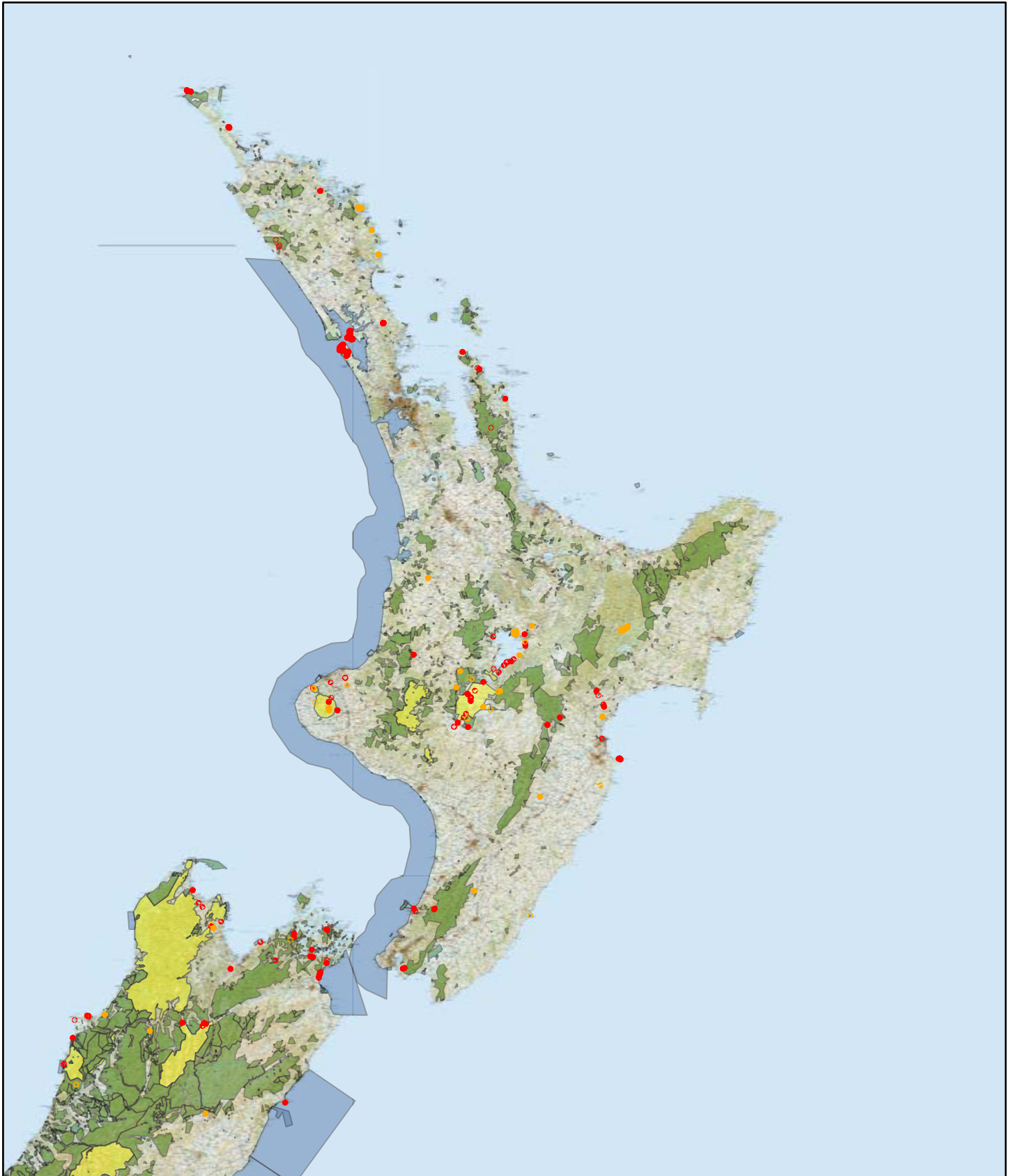
IN CONFIDENCE

Annex 1: High level summary of feedback on discussion document

The table below summarises support for the four proposals. It breaks this support down by stakeholder group: local authorities, industry, camping organisations and the public.

Proposals		Support			
		Local authorities	Industry	Camping orgs	Individuals
Problem definition: vehicle-based freedom camping is a problem		✓	✓	??	✓
1.	Make it mandatory for freedom camping in a vehicle to be done in a certified self-contained vehicle	✓	✓	XX	✓
2.	Make it mandatory for freedom campers to stay in a vehicle that is certified self-contained, unless they are staying at a site with toilet facilities	✓	✓	??	✓
3.	Improve the regulatory tools for government land managers	✓✓	✓✓	✓	✓
3a	regulatory regime for self-contained vehicles, including a national register	✓✓	✓✓	✓	✓
3b	higher fines	✓	✓	??	??
3c	require rental vehicle companies to collect customers' fines	✓✓	X	✓	✓
3d	broader grounds for vehicle confiscation	X	X	X	X
4.	Strengthen the requirements for self-contained vehicles	✓	??	X	??
4a	Require fixed toilets	✓	??	??	??
4b	Require permanent black water tanks	??	X	XX	XX
	Review Freedom Camping Act	✓	NA	✓	NA
	More infrastructure/funding	✓✓	✓✓	✓✓	✓✓

Key					
XX – Strong oppose	X – Moderate oppose	?? – Mixed	✓ - Moderate support	✓✓ - Strong support	NA – No view stated



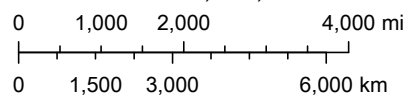
October 20, 2021

Freedom camping restrictions

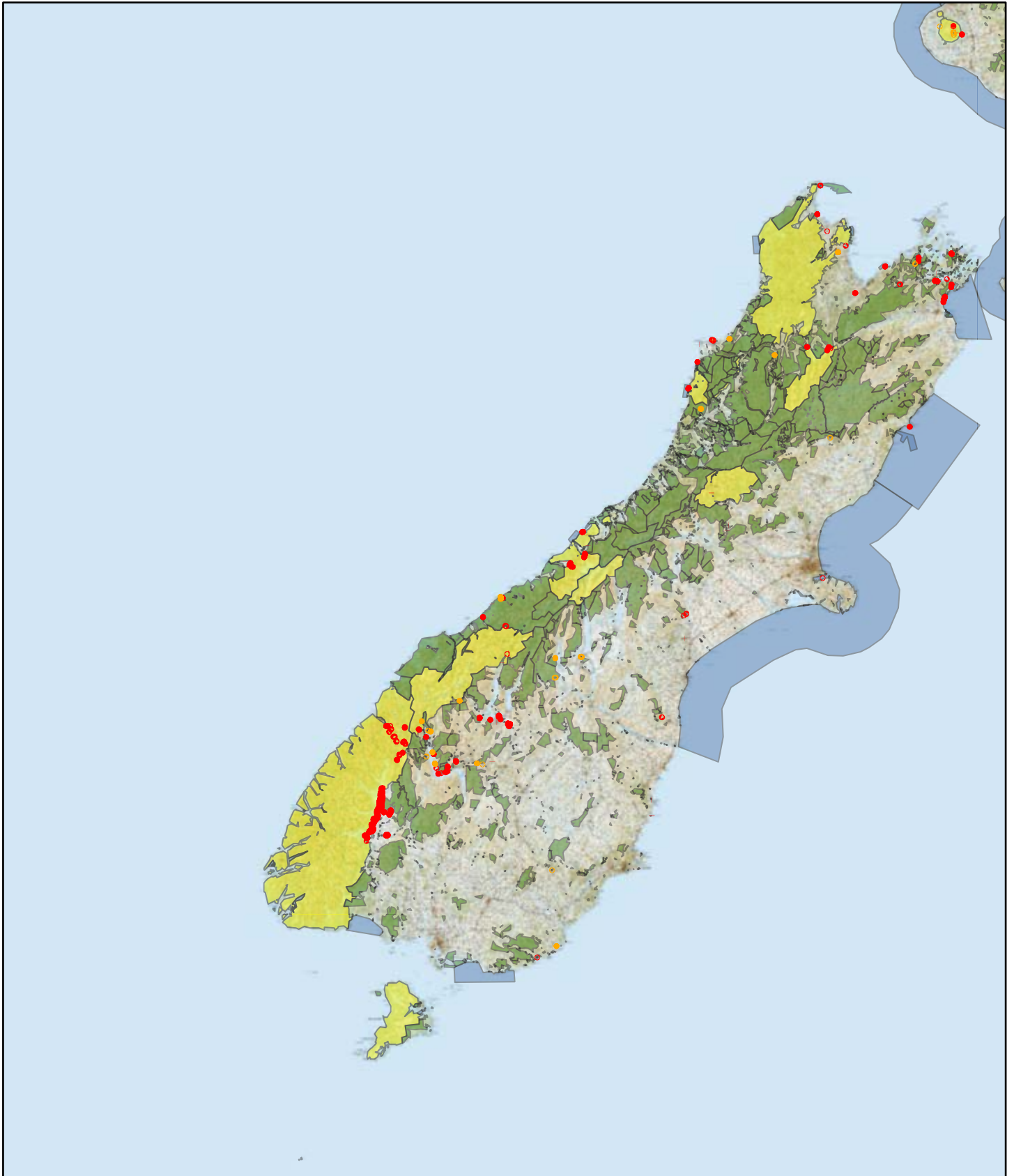
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 Restricted

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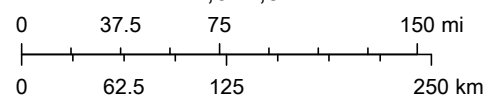
October 20, 2021

Freedom camping restrictions

 Prohibited

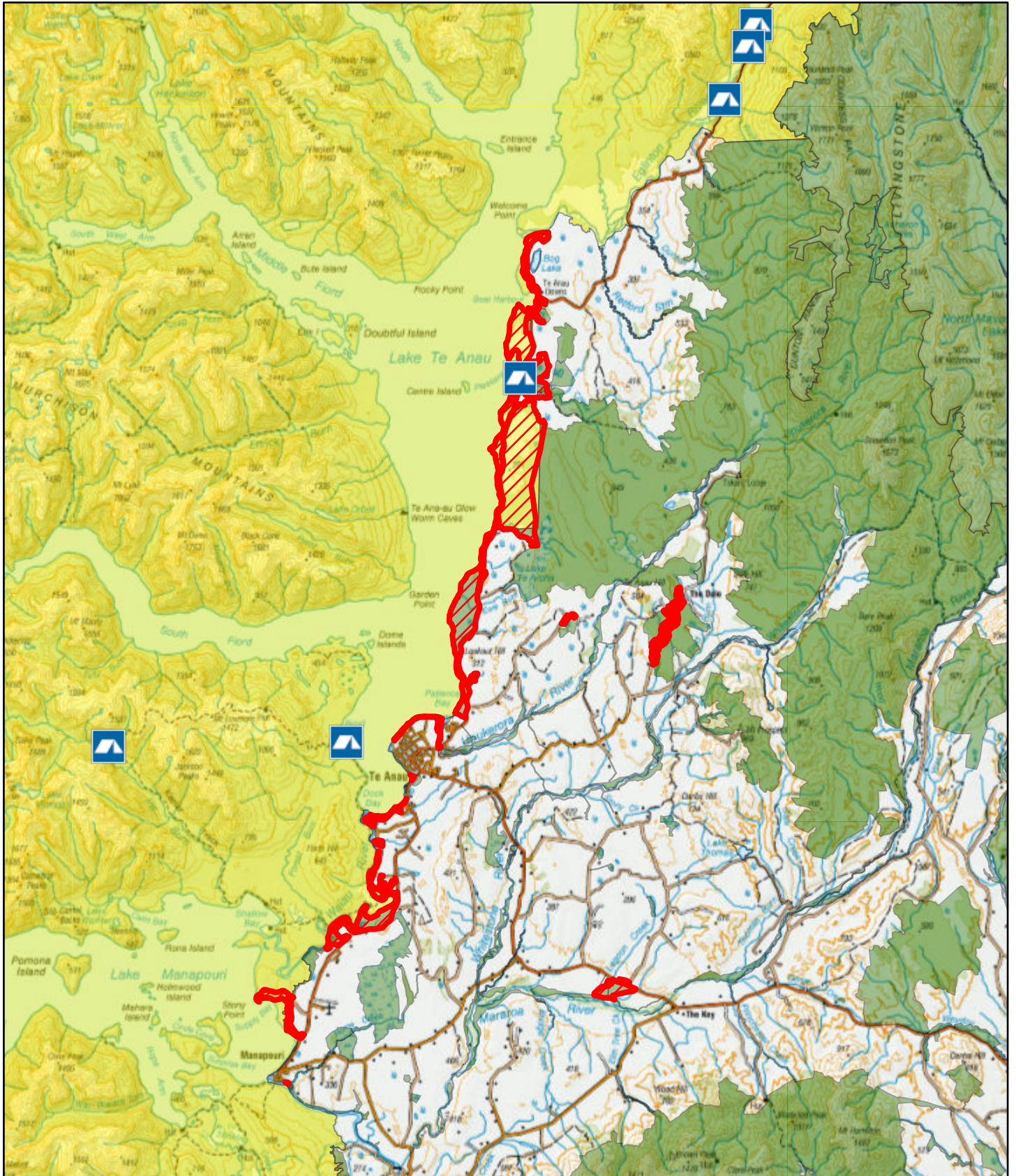
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Te Anau - Milford Road



October 20, 2021



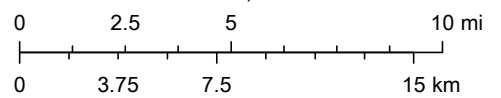
Managed campsites

Freedom camping restrictions



Prohibited

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