



## BRIEFING

### Further information to regulate freedom camping

<b>Date:</b>	30 November 2020	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-1524

Action sought		
	Action sought	Deadline
Hon Stuart Nash <b>Minister of Tourism</b>	<b>Discuss</b> the contents of this briefing with officials	2 December 2020
Hon Peeni Henare <b>Associate Minister of Tourism</b>	<b>Note</b> the contents of this briefing	N/A

#### Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
Danielle McKenzie	Policy Manager, Tourism Policy	04 896 5113	<small>Privacy of natural persons</small> ✓
Fraser Pearce	Senior Policy Advisor, Tourism Policy	04 897 5174	-

#### The following departments/agencies have been consulted

NA

#### Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

#### Comments



# BRIEFING

## Further information to regulate freedom camping

<b>Date:</b>	30 November 2020	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-1524

### Purpose

This briefing responds to your request for additional information on restricting the hire, lease, sale and purchase of vehicles used for freedom camping (with sleeping facilities), which has broadened from the original request to restrict the lease and hire of vehicles that are not self-contained.

### Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Note** this briefing provides you with further information on restricting the hire, lease, sale and purchase of vehicles used for freedom camping (with sleeping facilities) *Noted*
- b **Note** that we have identified two options for addressing self-containment:
- i. new legislation to restrict the hire, lease, sale and purchase of vehicles with sleeping facilities
  - ii. making the Self-Contained Vehicle Standard compulsory for vehicles being used for freedom camping *Noted*
- c **Note** that a package of options is required to address the issues associated with freedom camping, including pricing/funding mechanisms and improved enforcement *Noted*
- d **Agree** to discuss the contents of this paper with officials at your next meeting with officials *Agree / Disagree*
- e **Agree** to meet some members of the Responsible Camping Working Group prior to Christmas this year. *Agree / Disagree*

Danielle McKenzie  
**Policy Manager, Tourism Policy**  
Labour, Science and Enterprise, MBIE

30 / 11 / 2020

Hon Stuart Nash  
**Minister of Tourism**

..... / ..... / .....

## Background

---

1. Freedom camping is an attractive and growing option for people to visit and tour New Zealand. Overall, the challenge is to address the problems associated with freedom camping, while not impinging on legitimate activity, including hunting, tramping and people camping in places with full facilities.
2. On 19 November 2020 you received an aide memoire responding to your request for information on options to address touring vans that are not self-contained, and for restricting leased or rental vehicles that have sleeping facilities (Aide Memoire 2021-1432 refers).
3. You subsequently asked for further advice on the options available to restrict hire, lease, sale and purchase of vehicles used for freedom camping for the 2021/22 summer season. We note that you have requested urgency around providing advice on these matters.
4. We recommend reading this paper alongside the briefing which sets out how Government supports the management of freedom camping in New Zealand, which we provided you on 24 November 2020 (briefing 2021-1265 refers). That briefing discusses the current regime for the Self-Contained Vehicle Standard (SCVS) and options for enhancing it (both regulatory and non-regulatory).

## Discussion on the hire, lease, sale and purchase of vehicles

---

5. This paper identifies some of the main legal and policy considerations we would need to work through in order to restrict the hire, lease, sale and purchase of vehicles primarily used to sleep in. We include an initial analysis of this option, and note the range of options that officials and the Responsible Camping Working Group have been developing to address the issues presented by some freedom campers.
6. We can provide further advice to you following your meeting with officials on 2 December 2020.

## Benefits of restricting the hire, lease, sale and purchase of vehicles

7. There are a number of benefits associated with restricting the hire, lease, sale and purchase of vehicles with sleeping facilities. These include:
  - a. It would reduce the number of vehicles used to freedom camp, which may also have flow on benefits for reducing congestion at some freedom camping sites.
  - b. It will reduce (but not eliminate) the incidence of poor behaviour at freedom camping sites.
  - c. It is likely to get strong public support from those that perceive freedom camping negatively.

## Risks or unintended consequences

8. However, these changes could have unintended consequences on communities, and may not fully address the policy outcomes intended, including:
  - a. Restrictions will not cover all freedom campers, for example, those who camp in tents.
  - b. It will only address one aspect of the local government infrastructure issues generated by visitors.

- c. It will likely impact groups such as trampers and hunters, who freedom camp at the beginning or end of a trip, and/or as part of that activity.
- d. It will likely impact people who own non-self-contained vehicles (such as caravans) used primarily for camping in full-facility campgrounds; and those providing full-facility campgrounds, particularly commercial campground owners.
- e. Provision needs to be made for people sleeping in vehicles for purposes other than freedom camping (discussed further below).

*Restriction would not prevent people sleeping in vehicles*

9. People sleep in vehicles for a range of reasons:
  - a. As part of their work activity (for example some freight trucks include sleeping facilities).
  - b. To maintain road safety. This includes resting on the side of a road when they are too tired, or people who sleep in their car to avoid driving while under the influence.
  - c. People who do not have alternative accommodation (temporarily, or longer term).
10. A restriction on hire, lease, sale, and purchase may not prevent people sleeping in their vehicle in these circumstances, and nor would this be desirable. The difficulty would be in determining whether someone parked by the roadside was doing so as part of travel, or their intent was to freedom camp.
11. It is not unusual for travellers to under-estimate the length of time to travel between destinations in New Zealand, and therefore need to stop before, for example, they reach a campground.

**Legislative change is likely to impact some businesses and individuals**

12. As you are aware, these restrictions are likely to impact businesses who sell such vehicles, as well as individuals who may wish to, for example, on-sell the family caravan. We note that you have already indicated that you would compensate those businesses and individuals. This could either take the form of paying them to remove non-compliant vehicles from the road, or pay for conversion to comply with any new regime.
13. Depending on the changes you wish to make, other groups may be impacted, who are currently not contributing to freedom camping issues. This includes hunters, trampers, people camping in places with full facilities and homeless people.
14. The exact numbers of vehicles in scope of any changes is unknown, but the results of the 2019/20 summer research into responsible camping show that of those people who stayed at a freedom camping site, most did so in self-contained vehicles (see Table one below).

Table one: proportion of freedom campers who used a vehicle that was certified self-contained<sup>1</sup>

Campers	Share of self-contained (certified/stickered)	Share sleeping in vehicle overnight <sup>2</sup>
Domestic campers	93%	94.2%
International visitors in purchased vehicles	77%	
International visitors in budget rentals	77%	
International visitors in premium rentals	100%	100%

15. While based on a survey, this information suggests that just over 20% of international visitors that freedom camp do so in a vehicle that has not been certified self-contained.
16. Initial engagement with industry suggests that the number of budget vehicles that are hired for the purposes of responsible camping is in the low thousands. It is unclear as to how many New Zealanders or visitors choose to sleep in vehicles that are not certified as self-contained, or for which the main purpose of the vehicle is transportation. There are over 100,000 Motorhome Camping Association members.
17. Industry has advised that these types of vehicles are encouraged to, and often, stay in commercial and conservation campgrounds, or freedom camping sites with facilities.

## Legislative considerations

---

### Definition of vehicles

18. It will be necessary to define what vehicle types would be captured. There are no existing legislative definitions that identify types of vehicles at the level of granularity required. Options include:
  - a. All caravans, mobile homes, and motor caravans (for example, vehicles which can be used as a place of abode and have facilities for cooking, eating, sleeping and washing); and/or
  - b. [Other] vehicles designed or adapted for both transportation and sleeping in; or
  - c. Vehicles intended for freedom camping.
19. Option (a) will only provide partial coverage, options (a) and (b) are likely to be most effective, but will also affect camping activity that is not freedom camping. For example, those campers that stay in commercial camping grounds.
20. Option (c) is unlikely to prove practicable, as at point of sale, in particular, it is difficult to prove what either the seller or the purchaser intends to use the vehicle for and usage can change over time.

---

<sup>1</sup> The main findings of this research was drawn from a survey of 7,328 unique respondents. 6,283 responses came from New Zealand residents and 505 were from international visitors.

<sup>2</sup> As this information is based on a survey, it is likely that the actual proportion of freedom campers (both domestic and international) who sleep in a vehicle is lower.

21. None of the options would cover vans and other large vehicles which people can sleep in, but have not been specifically adapted (for example, people could simply have a mattress in the back); or cars that can be used in conjunction with tents (or other temporary structures).
22. Distinguishing between these types of vehicles may be challenging. For instance, caravans are easily identifiable, but vans would be more challenging. Extending further into station wagons and large people movers would be even more so.
23. It is worth noting that some of these vehicle types have been adapted to meet the standard set by the Self-Contained Vehicle Standard (SCVS). **Annex two** provides some examples of vehicles that currently meet and do not meet the SCVS, and how we think these vehicles would be impacted through the two options set out in this paper.

## **Defining self-containment**

24. It would be necessary to define what self-containment looks like in the legislation, in order to declare about the requirements that must be met in order to be certified self-contained. This could either be done by a stand-alone definition in the legislation itself, or by reference to the SCVS. Our tentative view, subject to discussions with Parliamentary Counsel Office, is the latter is preferable. This is because there is a high level of detail in the SCVS which may not be appropriate for primary legislation. For example, the SCVS sets out rules that stipulate you must be able to use the toilet while the bed is in place. The SCVS is discussed further in **Annex one**.

## **Liability and penalties for non-compliance**

### *Renting/leasing/selling*

25. The burden of responsibility would need to fall on both the seller/lessor and the buyer/leasee. We consider that both parties to the transaction should be held accountable for enforcement purposes.
26. We believe that the penalties for hiring, leasing, selling and purchasing would need to be higher than those currently allowed for under the Freedom Camping Act 2011 (currently \$200). We would recommend that penalties for companies be higher than for individuals, as this would minimise any incentives to knowingly rent or sell vehicles that are noncompliant. In addition, many international freedom campers may be unaware of the requirements for freedom camping, and would trust that a vehicle that they hire or purchase would be suitable for freedom camping.

### *Adapting a vehicle*

27. It would likely be necessary to create a penalty for adapting a mechanism to include sleeping facilities that are not self-contained. This would address the potential loophole of focussing on the state of the van at point of sale. It is likely that people would otherwise purchase a standard van, such as a delivery van, with the intent to convert it for freedom camping purposes.

## Legislative instrument

28. At this stage, we have considered three possible legislative vehicles to restrict the hire, lease, sale and purchase of certain vehicles with sleeping facilities for the purposes of freedom camping. This includes:
  - a. The Freedom Camping Act 2011
  - b. The Land Transport Act 1998 (or other transport regulations or legislation)
  - c. New legislation or regulations.

### *The Freedom Camping Act 2011*

29. The Freedom Camping Act 2011 (FCA) is intended to manage freedom camping. However, the FCA is limited to allowing local authorities and the Department of Conservation to create by-laws to manage and restrict activities on the land that they own. This means it does not regulate freedom camping on private land.
30. It is also likely that including restrictions on hire, lease, sale and purchase of vehicles would be considered out of scope because the prohibition on these vehicles would apply irrespective of whether the vehicle is intended to be used for freedom camping or for some other purpose.
31. However, we could amend the FCA to:
  - a. simplify councils' ability to restrict camping at specific freedom camping sites to certified self-contained vehicles only
  - b. increase the penalties to reduce the likelihood of non-compliance.
32. Any changes to the FCA would require engaging the Minister of Local Government and Minister of Conservation, who are the Ministers responsible for this Act.

### *Land Transport Management Act 2003*

33. The purpose of the Land Transport Management Act 2003 (LTMA) is *to contribute to an effective, efficient and safe land transport system*. As neither freedom camping or the self-contained standards of a vehicle are issues affecting the transport system, it is unlikely restrictions would be within scope. Further, as sleeping in vehicles is actively encouraged for tired drivers, these proposals may be seen as contrary to the purpose of the LTMA.
34. Any changes to the LTMA would require engagement with the Minister of Transport, who is the Minister responsible for this Act.

### *New legislation*

35. Given the above issues of scope, we consider specific legislation to be the best option. However, as this would need to be constructed, it will take the longest to develop and draft. If new legislation was to be introduced, consideration would need to be given as to which agency would administer the Act.

## **Timeframes would be tight to implement change for the 2021/22 summer season**

36. Introducing a new regulatory scheme through new legislation or amending existing legislation may present challenges to implement change by 2021/2022. The International Visitor Levy, for example, took twenty months from first briefing to first payment and this process included passage under urgency (removing 6 months from the process).

37. As the legislation would need to rely on the SCVS, we would also recommend a review of this Standard. This would address concerns – both real and perceived – about the application of the Standard in the current environment. Standards New Zealand, who administer the SCVS, have advised that changes to the SCVS would take a minimum of three to six months.
38. It is likely that legislation could be concurrently developed alongside a review of the SCVS. However, to ensure that the SCVS fully reflected the legislative intent, we would need to update the Standard first before passing any legislation.

### **Alternative / complimentary option – SCVS compulsory for freedom camping**

39. Based on the work to date with the Responsible Camping Working Group, our initial view is that your policy objective of managing behaviour of freedom campers could be better achieved by making the SCVS compulsory for all freedom campers.
40. This will provide an enforcement option to manage any non-certified vehicles and their occupants. It will also avoid imposing additional costs on people who are camping in full-facility campgrounds (with flow-on effects to those businesses).
41. We have also piloted options for funding/pricing mechanisms that would help address the pressures on local government infrastructure. You will shortly be receiving a briefing on pricing mechanisms that provides more detail.
42. Making the SCVS compulsory would:
  - a. Provide greater coverage and flexibility, as it would be activity-based (and therefore could be applied to vehicles that are otherwise difficult to define in legislation).
  - b. It would also likely support stronger management of freedom camping while ensuring the benefits of responsible camping continue to be experienced by businesses and communities.

### **Next steps**

---

#### **We recommend you meet with Responsible Camping Working Group representatives prior to Christmas**

43. The Responsible Camping Working Group met on 27 November to discuss the progress achieved since the last working group meeting on 25 June, and to discuss its priorities for Government. The Working Group is seeking a meeting with you prior to Christmas, which we understand is a priority for you as well.
44. We recommend that you meet the Working Group the week commencing 14 December 2020. We can work with your office to facilitate this, and provide you with a briefing in advance to support your attendance. This briefing can also update you on the outcomes of the Working Group meeting on 27 November 2020.

#### **Further advice**

45. We can continue to provide you with further details relating to strengthening the management of freedom camping, including through either restricting the hire, lease, sale and purchase of vehicles designed or adapted for sleeping in, or a prohibition on freedom camping in vehicles that are not self-contained.



46. Advancing the issues discussed in this briefing and implementing legislation is possible, but will likely require further analysis and testing with central and local government. We would also recommend discussions with industry stakeholders.
47. Should you wish to proceed further, we will prepare a legislative bid. Following that, we will develop a workplan which sets out milestones for a:
  - a. Cabinet paper seeking policy approval
  - b. Review of the SCVS
  - c. Public consultation document
  - d. Final Cabinet paper
  - e. Legislative drafting and submission of the Bill.

## **Annexes**

---

Annex one: Information on the Self-Contained Vehicle Standard  
Annex two: Examples of vehicles that are certified self-contained

## Annex one: Information on the Self-Contained Vehicle Standard

---

### How any legislative change might interact with the Standard for the Self-Containment of Motor Caravans and Caravans

1. There is a lot of complexity to the New Zealand Standard for the *Self-containment of motor caravans and caravans* (NZS 5465:2001), which is more commonly referred to as the Self-Contained Vehicle Standard (SCVS). We recommend that any change to the legislative settings for self-contained vehicles require a review of the existing standard.
2. The SCVS is designed to help provide a solution to the problems associated with the use of motor caravans and caravans in areas where there are no sewage disposal facilities.
3. The SCVS enables owners to get their vehicles certified that they meet certain requirements in terms of providing a water supply, sanitary plumbing and drainage and solid waste containment.
4. The SCVS could be simplified and strengthened to help provide greater clarity and trust in the Standard.

### Definitions in the SCVS

5. Caravan and Motor Caravan are defined in the SCVS. There are a number of vehicles that can fall into these definitions:
  - a. Caravan: any structure designed for human habitation, which is capable of being moved from one place to another, by being towed, or transported on another vehicle.
  - b. Motor Caravan: a motor caravan is a motor vehicle, which can be used as a place of abode and contains facilities for cooking, eating, sleeping and washing, and is not a passenger service vehicle.

### Toilet minimum requirements are broad



6. Currently the SCVS notes that the minimum requirement for a toilet is that it is adequately restrained or secured when travelling. It also requires that the toilet shall be useable within the vehicle, including sufficient head and elbow room whenever required, even with the bed made up.
7. This broad definition of a toilet means that both fixed toilets and portable toilets are possible to be certified under the standard, so long as the waste can be stored for three days.

### Process for certification

8. To become certified a vehicle must be inspected by one or two approved testing officers (depending on their experience and qualifications). If a vehicle passes these inspections, then an approved issuing authority can then issue:
  - a. **A self-containment certificate**, which lists the equipment fitted and the number of people the vehicle is capable of supporting. The standard sets out the form of the certificate, and it must be kept (but does not need to be displayed) inside the certified vehicle).
  - b. **A self-containment warrant**, which must be affixed to the inside left of the front window or windshield. The warrant must state:
    - i. The vehicle's registration number
    - ii. The date of issue

- iii. The issuing authority
- iv. The maximum number of occupants allowed
- v. The expiry date
- vi. The website where a copy of the certificate can be viewed (if applicable)

**How to know if a vehicle is certified as a self-contained**

	<p>The self-containment warrant is the primary mechanism used by enforcement officers to determine if a vehicle is certified self-contained.</p>
	<p>A certified self-contained vehicle may also display this sticker in the bottom right-hand corner of the rear window, or right hand side of the rear bumper.</p> <p>Failure to display this sticker is not a breach of the SCVS.</p>



- 9. An enforcement officer can request to see the self-containment certificate of a vehicle if they are not convinced of the authenticity of the self-containment warrant.




**Updating the SCVS**



- 10. It will take time to review the standard. Standards New Zealand have advised that it will take three to six months to make and consult on minor changes to the SCVS. It also advised that timeframes could be longer if more significant changes are required.

## Annex two: Examples of vehicles that are certified self-contained

1. This annex provides you with a high-level analysis of:
  - a. What types of vehicles are currently certified as self-contained
  - b. Whether these vehicles are currently used at some freedom camping sites
  - c. Whether these vehicles would be used at freedom camping sites if we banned the sale, lease, hire or purchase of non-certified vehicles with sleeping facilities
  - d. Whether these vehicles would be prevented from being used at freedom camping sites if the SCVS was made compulsory.

Vehicle	Can the vehicle be used...		
	...Currently at some freedom camping sites	...If we ban hire/sale of non-certified vehicles	... at freedom camping sites if we make the SCVS compulsory
 <p><b>This vehicle is not certified self-contained</b> as it does not provide a toilet. It can carry 12L of fresh water and 12L of waste water. It can sleep two, and provides some basic cooking facilities.</p>	Yes	No This vehicle is currently hired for the purpose of camping, but has no toilet.	No
 <p><b>This vehicle is not certified self-contained</b> as it does not provide a toilet or waste water facilities. It can carry 40L of fresh water and has cooking facilities. It can sleep two to three people.</p>	Yes	No This vehicle is currently rented for the purpose of camping, but has no toilet.	No

Vehicle	Can the vehicle be used...		
	...Currently at some freedom camping sites	...If we ban hire/sale of non-certified vehicles	... at freedom camping sites if we make the SCVS compulsory
 <p><b>This vehicle is would not be certified as self-contained</b> as it does not provide a toilet and is unlikely to provide cooking or waste water facilities.</p>	Yes	Potentially This appears to be a DIY conversion of a passenger vehicle with a mattress in the back.	No
 <p><b>This vehicle is certified as self-contained</b> for six adults. It can carry 140L of fresh water and 150L of waste water. It has cooking facilities, a shower and toilet.</p>	Yes	Yes	Yes
 <p><b>This vehicle is certified as self-contained</b> for two adults. It can carry 20L of fresh water and 24L of waste water. It has cooking facilities and a toilet.</p>	Yes	Yes	Yes

Vehicle	Can the vehicle be used...		
	...Currently at some freedom camping sites	...If we ban hire/sale of non-certified vehicles	... at freedom camping sites if we make the SCVS compulsory
 <p><b>This vehicle is certified as self-contained</b> for one adult. It can carry 17L of fresh water and 17.5L of waste water. It has cooking facilities, and a cassette (portable) toilet.</p>	Yes	Yes	Yes
 <p><b>This vehicle is unlikely to be certified as self-contained</b>, as it has no toilet facilities that are able to be used while a bed is fixed up. This is despite it having a self-contained vehicle standard sticker.</p>	Yes	Yes This appears to be a fake self-contained sticker for a vehicle whose primary purpose is not sleeping.	No