



BRIEFING

Improving responsible camping – revised draft discussion document

Date:	11 February 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2021-2302

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	<p>Forward this briefing and attached draft discussion document to the Minister of Local Government, Minister of Transport and Minister of Conservation</p> <p>Provide feedback on the draft discussion document</p>	15 February 2021

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Danielle McKenzie	Manager Tourism Policy, Tourism Branch	04 896 5113	Privacy of natural persons	✓
Tracey Black	Principal Policy Advisor, Tourism Policy	04 897 7681	Privacy of natural persons	
Fraser Pearce	Senior Advisor, Tourism Policy	04 897 5174	Privacy of natural persons	

The following departments/agencies have been consulted
N/A

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



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Purpose

To provide a revised version of your draft discussion document to improve responsible camping in New Zealand, for your feedback and as a basis for a discussion with your ministerial colleagues.

The draft discussion document is attached as **Annex One**.

Recommended actions

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

- a **Note** that officials have incorporated your feedback into a revised version of the draft discussion document
Noted
- b **Note** that the amended draft discussion document includes an additional fourth option for your consideration
Noted
- c **Provide** feedback to MBIE on the draft discussion document
Agree/Disagree
- d **Forward** this briefing and attached draft discussion document to the Minister of Local Government, Minister of Transport and Minister of Conservation
Agree/Disagree
- e **Discuss** the draft discussion document with the Minister of Local Government, Minister of Transport and Minister of Conservation in the week beginning 15 February 2021.
Agree/Disagree

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

11 / 02 / 2021

Hon Stuart Nash
Minister of Tourism

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Background

1. On 5 February 2021, we received your feedback on the first draft of a discussion document to strengthen the regulatory system for vehicle-based responsible camping (2021-2038 refers). Three options were included in the draft discussion document:
 - a. Require vehicles with purpose-built sleeping facilities to contain a toilet.
 - b. Require freedom campers to use a vehicle with a toilet, unless they are staying at a site with toilet facilities.
 - c. Improve the regulatory tools for government land managers.
2. The document also invites feedback on:
 - a. The current voluntary New Zealand Standard for self-containment of motor caravans and caravans, and whether the requirements for self-containment need to be higher.
 - b. Transition arrangements.
3. You directed us to make changes to the document that would ensure the options are presented neutrally and provided editorial feedback.
4. You agreed in response to briefing 2021-2038 that it and the draft discussion document be shared with the Ministers of Local Government, Transport and Conservation. However, given your directions about revisions to the document, your office indicated a preference to share the amended version as a better basis for discussion. We therefore intend to provide the revised draft discussion document with the Ministers' offices and their respective agencies.

We have revised the draft discussion document

5. A revised draft discussion document incorporating your feedback is attached for your feedback and, if you agree, circulation to the Ministers of Local Government, Transport and Conservation. We have also provided to your office a tracked-changes version if you would like to see the specific amendments we have made.
6. This version of the discussion document includes a substantive change that we have not yet had the opportunity to discuss with you. This is a new, fourth option, to support ongoing investment in responsible camping through user-pays. This option envisages a levy on freedom campers, and/or user-pays facilities at specific freedom camping sites.
7. The four options as presented are not mutually exclusive. Either or both of options 3 and 4 could support options 1 or 2; equally, any of the options could potentially stand alone. The discussion document is an opportunity to test the pros and cons of the range of proposals to achieve more sustainable management of responsible camping in New Zealand.

A new, fourth option

8. We developed this option as a potential mechanism to achieve the desired outcome you discussed with the Responsible Camping Working Group this morning of continued investment in facilities for freedom campers and day-trippers to use. It would also address the concerns you have expressed about the full costs of tourism not being priced into the visitor experience, and that currently ratepayers and taxpayers are funding the infrastructure used by visitors.

9. Previous Crown investment to address issues arising from freedom camping has been provided through the Tourism Infrastructure Fund (TIF) and the Responsible Camping Fund (RCF), as follows:
 - a. \$58 million over three years from the TIF for capital projects, including toilet facilities and carparks. Around \$13 million of the TIF is still be allocated. We will provide a briefing on this matter at a later date.
 - b. \$25 million over three years from the RCF to support education and enforcement activities, waste management operating costs, technology pilots and temporary infrastructure. Territorial authorities also jointly invested in these projects.
10. An option to secure continued funding would be to seek future appropriations through the Budget for Crown investment to support management of freedom camping. A source of this funding could be the International Visitor Conservation and Tourism Levy (IVL). This may be justified because businesses and the economy benefit from freedom camping through these domestic and international visitors consuming tourism activities, hospitality and food, and other accommodation options.¹
11. However, it may be preferable to recoup some of the costs from the group that imposes most of the burdens and enjoys most of the benefits of freedom camping. A levy is the most suitable mechanism to achieve this, and would require a lot of detailed work to design (eg collection mechanism, allocation to local authorities, potentially different levels of levy for location and length of freedom camping activity).
12. A freedom camping levy – even if set at a relatively low level – would be controversial. It would be a fundamental change to the premise of the Freedom Camping Act 2011 (the Act). Currently, the Act strikes a careful balance between providing that people may camp for free on public land that is within 200 metres of where you can drive or the coast, and enabling local authorities and the Department of Conservation to protect sensitive flora and fauna and to manage waste/litter and congestion on that land. The imposition of a freedom camping levy would mean that such camping would no longer be free.
13. We have not tested this option with any other agencies yet.
14. We are seeking your feedback on whether to include the fourth option in the suite of proposals for public consultation.

Matters arising from your feedback

15. You requested information about how many people have been issued an infringement notice and how many have been convicted of an offence. You also noted that there may be an issue of international visitors leaving the country without having paid their infringement fee, if it is not paid on the spot. We provide further background on these matters below.

Infringement notices (instant fines)

16. An instant fine is another name for an infringement notice – the ‘instant’ aspect is not that the fine must be paid on the spot (although it may be, if the enforcement officer has those facilities available), but rather that the enforcement body does not have to file proceedings in court in order to issue the fine. In accordance with the legal principle of natural justice, the recipient of an instant fine always has the right to challenge an infringement notice by

¹ A study MBIE commissioned for the camping season immediately preceding the closure of the border due to COVID-19 found that about half campers’ visitor nights during a trip were not spend freedom camping, but at other places, such as Department of Conservation huts, paid campgrounds, backpacker hostels, rented holiday homes, and hotels/motels. Source: FreshInfo, April 2020. *Responsible Camping Research 2019/20*. Page 20.

communicating with the enforcement body about the circumstances, or to deny their liability. In the latter case, they must request a hearing in the District Court.

17. The Act has in place instant fines of \$200 for the offences that would most commonly be enforced (while the Act provides for regulations to be made to set higher fines, to date none have been made). The Act currently provides that the offender may have up to 28 days to pay, but provides for a reminder notice to be sent if the fine has not been paid during that initial period. The reminder notice gives a further 28 days for payment to be made. The offender may challenge the notice at any point during these 56 days. If the offender has not paid after 56 days, they become liable to pay and the fine may be lodged with a district court for enforcement, ie by the issuing of a warrant for a collections officer or bailiff to seize property of the offender.
18. The timeframes outlined above compare with those for infringements at the border as follows:

	Initial period within which payment is required	Reminder notice period
Infringement notice under Freedom Camping Act 2011	28 days	28 days
Border infringement notice under Customs and Excise Act 2018	28 days	28 days
Border infringement notice under Biosecurity Act 1993 (eg for 'failure to declare' offence)	14 days	No reminder

19. Unfortunately, information about infringement notices and prosecutions issued under the Act is not readily available as it is held by the enforcement bodies and not centralised. However, we have a sense of general trends from research we recently commissioned, in which 16 local authorities with freedom camping bylaws participated. As may be expected, larger local authorities reported higher numbers of annual infringement notices issued (ranging from 100 to over 600 per year), while smaller local authorities reported lower numbers (ranging from 1 to 200 per year). The Department of Conservation advised us that they have issued approximately 100 infringement notices under the Act since it came into force.
20. In line with comments made by a local government member of the Responsible Camping Working Group at the 11 February 2021 meeting, local authorities who shared infringement information in the research generally noticed a decrease in the total number of infringements issued over the past three years. The decrease in issued infringements reportedly often coincided with a combined educational approach, such as the introduction of responsible camping 'ambassadors'.
21. Several local authorities reported relatively low infringement fee collection rates, with most reporting that about 60 percent or less of infringement fees are paid.

Non-payment of infringement fees by some international visitors

22. It is likely that some international visitors who have received an instant fine leave the country without paying it. Under the current settings in the Act, the offender has 56 days in which to pay or to challenge the fine. Some visitors may have left within this timeframe. District court enforcement action to collect the fine would rely on the visitor being able to be located.
23. The Act currently allows – but does not require – rental companies to pass on infringement fees to renters. Our recent research indicated that the 56 day timeframe may be hindering the effective implementation of this option, but we need to investigate this further. The draft

discussion document includes a proposal to amend the Act to require rental companies to pay the infringement fees (which they would collect from their customers).

24. It would be far more complex, for example, to seek to have a person (such as someone who bought a vehicle rather than renting one) stopped at the border in order to collect the fine. To address this issue, some kind of information-sharing provision would be required between enforcement bodies (Department of Conservation and local authorities) and Immigration NZ to enable identification of the person at the border. Information-sharing arrangements are operationally complex and involve a range of privacy issues. In addition, Immigration NZ does not have the power to prevent a person leaving the country because they are liable to pay an outstanding fine, although the Police could detain the person if a warrant had been issued for their arrest for non-payment of fines. We have limited information at present about when arrest warrants are issued for non-payment of fines, but we understand it may occur when the outstanding amount exceeds a significant threshold (eg \$1000).

Option two

25. Your feedback on the first draft of the discussion document indicated a concern that Option 2 as it was described appeared to be very similar to the status quo. The text has been refined to highlight the differences of this option from the status quo. Option 2 would require all freedom camping to be done in self-contained vehicles, or if using a non-self-contained vehicle or a tent, at places with suitable facilities available for those campers to use (with some exceptions).
26. Currently, the Act is permissive about the type of vehicle a camper may use. However, 32 of the 67 territorial authorities have made freedom camping bylaws under the Act to restrict or prohibit camping in certain areas. These bylaws often entail a requirement for campers to be in certified self-contained vehicles. Option 2 would introduce a higher order legislative requirement and set a national expectation that campers not in self-contained vehicles stay at sites with facilities. Local bylaws designating particular areas as prohibited or restricted in some way (eg to manage congestion, litter or waste disposal) would complement the national-level expectation.
27. We expect that this option would introduce clearer requirements for freedom campers in terms of type of facility they must have available to them. Lack of clarity about freedom camping rules has been criticised by some user groups as the reason for non-compliance in some circumstances.

Costs

28. We have started work on ballpark costings for a self-contained vehicle register and regulatory regime and will provide these to you as soon as possible.

Annex

Annex One: Draft Discussion Document

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