



BRIEFING

Improving responsible camping – draft Cabinet paper and discussion document

Date:	25 February 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2021-2457

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister of Tourism	Provide feedback, if any, on the Cabinet paper and draft discussion document prior to lodgement of the documents with Cabinet Office (scheduled for 4 March)	1 March 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
Department of Internal Affairs, Ministry of Transport, Waka Kotahi NZ Transport Agency, Department of Conservation, Land Information New Zealand

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 Withdrawn |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

Improving responsible camping – draft Cabinet paper and discussion document

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Purpose

To provide a draft Cabinet paper and revised draft discussion document on improving freedom camping in New Zealand for consultation with your ministerial colleagues and lodgement with the Cabinet Office.

The draft Cabinet paper is attached as **Annex One**. The draft discussion document is attached as **Annex Two**.

Recommended actions

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

- a **note** that officials have incorporated your most recent feedback into a revised version of the draft discussion document
Noted
- b **note** that officials have consulted other agencies on a draft Cabinet paper and the draft discussion document, and their comments have been reflected in the attached documents
Noted
- c **note** that you are meeting with the Minister of Local Government, Minister of Transport and Minister of Conservation on Monday 1 March to consult them about the proposals for public consultation
Noted
- d **provide** feedback to MBIE on any changes you require to the draft Cabinet paper and draft discussion document prior to lodgement with Cabinet Office.
Agree/Disagree

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

25 / 02 / 2021

Hon Stuart Nash
Minister of Tourism

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Background

1. On 15 February 2021, we received your feedback on the revised draft of a discussion document to strengthen the regulatory system for vehicle-based responsible camping (2021-2302 refers). You directed us to remove a proposal for a levy on freedom campers and provided editorial feedback for further revisions. An amended version of the discussion document is attached as **Annex Two**.
2. Your office has also scheduled a meeting between you and the Ministers of Local Government, Transport and Conservation for **Monday 1 March**, 9:30–10:00 am. This is necessary prior to Cabinet consideration as the proposals affect these Ministers' portfolio interests. This briefing outlines some of the issues that may be raised by Ministers, based on feedback we have received from agencies.
3. The Ministers have received from your office the earlier version of the draft discussion document (with a note that you had directed the levy option be removed), together with the accompanying briefings which provide context about what you wish to consult the public on and your intended timeframe for the new measures (briefings 2021-2302 and 2021-2038).

Changes to the discussion document

Updated outcomes for Proposal 3: Strengthen the regulatory tools for government land owners

4. In your comments on the last version of the discussion document, you noted that you were not sure whether improved regulatory tools for government would lead to improved camper behaviour.
5. We have amended the outcomes for this proposal. The key expected outcome is that territorial authorities and the Department of Conservation will be able to more readily enforce any freedom camping rules they may set. This will likely support improved visitor behaviour through a greater deterrent effect (such as higher penalties).
6. We also noted your comment that proposal 3 could result in more people illegally camping in hard-to-enforce places. We agree with this comment, and note that this is already happening within the current regulatory settings. However, we also consider that:
 - a. Freedom campers generally will have a stronger incentive to comply given the greater cost to them if caught.
 - b. In any regulatory system, there will always be individuals and businesses who do not want to comply and who look for loopholes or ways to avoid the law. Any successful regulatory regime requires a robust compliance strategy, including appropriate education activities, monitoring of regulated parties, and risk-based enforcement. Many local authorities consider that, with the education and infrastructure investment by Government already in place, the missing component of the system is the regulatory tools to adequately enforce freedom camping rules in their district or city.
 - c. Decision-making about where to camp is driven by a number of factors, and price is just one. Many people also freedom camp based on the natural environment and amenities available at place (for example, Fox Glacier, Rere rockslide in Gisborne). This means local authorities can make informed decisions about where to target education and enforcement activities, while also monitoring freedom campers' behaviour and responding appropriately with education and enforcement.

The report from the Parliamentary Commissioner for the Environment (PCE)

7. At your meeting with officials on 22 February 2021, you directed officials to reference the PCE's recent report *Not 100% – but four steps closer to sustainable tourism* in the discussion document.
8. The discussion document and draft Cabinet paper now reference the PCE's report and comments. It adds useful commentary about why Government efforts to support the management of freedom camping have not fully solved the problem, and why the requirements for self-contained vehicles may need be strengthened.

A draft Cabinet paper is attached

9. We attach for your consideration a draft Cabinet paper seeking approval for public consultation (**Annex One**). The relevant agencies have been consulted and their feedback incorporated. The Department of Prime Minister and Cabinet has been informed.

Recommended regulator for self-contained vehicle regulatory regime

10. As discussed at your meeting with officials on 22 February, we have been exploring the options for which organisation might carry out the regulatory functions within a new mandatory regime for self-containment of vehicles. At this stage, we consider that the most cost-effective approach is likely to be a hybrid model whereby:
 - a. The Plumbers, Gasfitters and Drainlayers Board (PGDB) is responsible for promoting and enforcing adherence with the new requirements for self-containment. The PGDB is a statutory board, established under the Plumbers, Gasfitters, and Drainlayers Act 2006 (the PGD Act). It would expand its monitoring of registered plumbers to include their work on vehicles (the PGD Act would be amended). This would entail restricting those who may do sanitary plumbing work on vehicles, and certification, to plumbers, in alignment with the Building Code.¹
 - b. Modification of the Motor Vehicle Register maintained by Waka Kotahi NZ Transport Agency (WK) to enable a record to be made that a vehicle has been certified as self-contained. Enforcement authorities would access the register, as they currently do, to check if a vehicle has the appropriate self-containment certification.
11. WK agrees with this approach. However, it has signalled that it has an existing work programme for changes to the register that will take approximately 18 months. It would therefore be necessary to develop an appropriate interim solution for use by plumbers to record certificates of self-containment while the vehicle register is updated. The records would then be imported to the Motor Vehicle Register once it has been modified. We consider this is feasible in principle, but need to start exploring how to achieve it and the costs that would be involved.

Issues the Ministers may raise with you

12. Agencies' feedback on the proposals is noted in the consultation section of the Cabinet paper. On the basis of this feedback, it is possible that your colleagues may raise the following points when you meet on Monday.

Role of WK in freedom camping

13. WK has indicated it would be interested to explore an amendment to the Freedom Camping Act 2011 (the Act) to enable it to work more effectively with local authorities to manage

¹ At present, under the voluntary standard for self-containment of vehicles anyone can do the plumbing work on a vehicle, and people other than plumbers can check the work.

WK-controlled land popular with freedom campers (this has been a particular issue for WK this summer at Waitapu Bridge). Currently WK does not have access to any powers under the Act, and this proposal is similar to an existing provision that enable land controlled by Auckland Transport to be included in freedom camping bylaws made by Auckland Council.

14. Both the Ministry of Transport (MOT) and WK have raised strong objections to the PCE's suggestion that WK should be the regulator for a new regime for self-contained vehicles. This is because WK is primarily dedicated to the safety of vehicles and the land transport system. MOT and WK consider that the current proposals in the discussion document would not fall within the Agency's regulatory functions.

Proposal to require all vehicles with purpose-built sleeping facilities to be self-contained

15. Several agencies have expressed concerns about this proposal.
16. MOT and WK consider that this proposal may raise Bill of Rights Act issues, particularly if this prohibits the use of non-compliant vehicles. This may have negative outcomes for mobility and accessibility if people cannot use the vehicles they own, and have no means to upgrade or purchase a vehicle.
17. Similarly, DOC has said it considers this proposal would limit New Zealanders' access to nature and to conservation lands. It also considers the proposal unnecessary, as many DOC campsites have toilet facilities, so can host visitors in vehicles with purpose-built sleeping facilities but without toilet facilities.
18. MOT and WK have also commented that confiscation of vehicles under this proposal is not proportionate with existing regulatory regimes. Removing vehicles from the road in land transport legislation is reserved for serious safety breaches or traffic offending (such as include driving while disqualified, failing to stop for police, participating in illegal street racing, or committing repeated drunk driving offences).

Timeframe for implementation of new regime

19. Both MOT and WK are concerned about the proposal for the new regulatory regime to be in effect by 1 January 2022. Their concerns include the timeframe to modify the Motor Vehicle Register, as noted above, but also the length of time needed for vehicle owners to be able to transition to a new regulatory regime.

Timeline

20. We are on track to meet the timeline you previously approved (see table below). The next milestone is lodgement of the Cabinet paper and draft discussion document with the Cabinet Office on Thursday 4 March, for consideration of the papers by Cabinet Economic Development Committee (DEV) on Wednesday 10 March. Assuming the recommendations are confirmed by Cabinet on 15 March, you would be able to launch the public consultation when you speak at the Otago Tourism Policy School event on Friday 19 March. You could also use the event as an opportunity to give a key address on your broader tourism priorities.

Timing	Milestone
Week of 22 February	Minister receives draft Cabinet paper, updated draft discussion document and regulatory impact statement by Thursday 25 February

Timing	Milestone
Week of 1 March	Minister reviews documents and consults with colleagues; directs officials to make any necessary amendments Cabinet paper and draft discussion document lodged Thursday 4 March
Week of 8 March	DEV Cabinet Committee Wednesday 10 March
Week of 15 March	Cabinet Monday 15 March Minister launches public consultation on Friday 19 March at Otago Tourism Policy School event
19 March to 18 April	Public consultation period Officials (and Minister, if you wish to attend) hold targeted and public meetings – a separate briefing will be provided on the proposed schedule of meetings
19 April to 14 May	Officials undertake submissions analysis
Late May	Officials to provide advice to the Minister and seek direction for Cabinet paper seeking final policy decisions
June	Cabinet makes final policy decisions Drafting instructions issued to PCO
June – August	Drafting by PCO and BORA vet
September	LEG Cabinet Committee
September	Introduction of the Bill and first reading (assumes priority)
October - November	Select Committee
December	Enactment
2022	Regulations developed and commence

Impact statement

21. MBIE consulted Treasury about the requirements for regulatory impact analysis at this stage of policy development. Treasury instructed us to produce an impact statement for the purpose of informing stakeholders on the discussion document, using the full impact statement template. The impact statement is attached as **Annex Three**. It is required to be submitted to Cabinet with your paper and published alongside the discussion document once.
22. MBIE's Regulatory Impact Analysis Review Panel has reviewed the impact statement and assessed that the analysis presented partially meets the quality assurance criteria, on the basis that there are identified gaps in evidence that need to be tested through public consultation.
23. The impact statement is in line with MBIE's advice to you from late 2020 about potential unintended consequences and implementation concerns arising from a proposal to ban the use, sale and lease of vehicles with purpose-built sleeping platforms that are not self-contained (2021-1524 and 2021-1738 refer). The impact statement indicates that, at this point in policy development, MBIE's preferred option to achieve better management of freedom camping is to package together proposals 2 and 3 as presented in the discussion document.

24. The regulatory impact analysis will be updated following public consultation and a revised impact statement will be submitted to Cabinet with the paper making final policy proposals.

Annexes

Annex One: Draft Cabinet paper

Annex Two: Draft Discussion Document

Annex Three: Impact Statement

Annex One: Draft Cabinet paper

Annex Two: Draft discussion document

Annex Three: Impact Statement
